

Status: Point in time view as at 31/03/2009.

Changes to legislation: Administration of Justice Act 1985 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1 **E+W**

Section 8.

MINOR AMENDMENTS OF SOLICITORS ACT 1974

- 1 In section 3 (admission as solicitor), in subsection (3), for “High Court” substitute “Supreme Court”.
- 2 In section 7 (entry of name and restoration of name struck off), omit “not exceeding £15”.
- 3 In section 8 (removal or restoration of name at solicitor’s request), in subsection (2), omit “not exceeding £15”.
- 4 **F1**

Textual Amendments

F1 Sch. 1 paras. 4, 11 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20

- 5 In section 13 (appeals in connection with issue of practising certificates), in subsection (2), for “issues”, in both places where it occurs, substitute “decides to issue”.
- 6 In section 21 (unqualified person not to pretend to be a solicitor), for the words from “a fine” onwards substitute “a fine not exceeding the fourth level on the standard scale.”
- 7 In section 24 (application of penal provisions to body corporate)—
 - (a) in subsection (1)(a), for the words from “a fine” onwards substitute “a fine not exceeding the fourth level on the standard scale, and”; and
 - (b) in subsection (1)(b), for the words from “a fine” onwards substitute “a fine not exceeding the fourth level on the standard scale.”
- 8 (1) Section 28 (regulations) shall be amended as follows.
(2) After subsection (3) insert—

“(3A) Regulations about the keeping of the roll may—

 - (a) provide for the Society, at such intervals as may be specified in the regulations, to enquire of solicitors of any class so specified whether they wish to have their names retained on the roll;
 - (b) require solicitors of any such class, at such intervals as aforesaid, to pay to the Society a fee in respect of the retention of their names on the roll of such amount as may be prescribed by the regulations; and
 - (c) authorise the Society to remove from the roll the name of any solicitor who—

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- (i) fails to reply to any enquiry made in pursuance of paragraph (a) or to pay any fee payable by virtue of paragraph (b), or
 - (ii) replies to any such enquiry by indicating that he does not wish to have his name retained on the roll;
 - (d) authorise the Society to remove from the roll the name of any solicitor who has died.”.
- (3) In subsection (4), for “The regulations may” substitute “Regulations about the keeping of the roll may also”.

- 9 In section 34 (accountants’ reports)—
- (a) in subsection (2), for “specified in” substitute “for the purposes of”; and
 - (b) after subsection (5) insert—
- “(5A) Without prejudice to the generality of subsection (5)(b), rules under this section may make provision requiring a solicitor in advance of delivering an accountant’s report to notify the Society of the period which is to be the accounting period for the purposes of that report in accordance with the preceding provisions of this section.”.

- 10 In section 43 (control of employment of certain clerks)—
- (a) in subsection (1)(b), for the words from “in respect of” onwards substitute “which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be employed by a solicitor in connection with his practice,”; and
 - (b) omit subsection (6).

11 F2

Textual Amendments
F2 Sch. 1 paras. 4, 11 repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#)

- 12 In section 87 (interpretation)—
- (a) in subsection (1)—
 - (i) in the definition of “contentious business”, for “section 175(1) of the ^{M1}Supreme Court of Judicature (Consolidation) Act 1925” substitute “section 128 of the Supreme Court Act 1981”;
 - (ii) after the definition of “solicitor in Scotland” insert—

““the standard scale” has the meaning given by section 37 of the Criminal Justice Act 1982;”;
 - (b) in subsection (2)—
 - (i) at the end of paragraph (a) insert “or in pursuance of regulations under section 28(3A);”
 - (ii) in paragraph (b), for “otherwise than at his own request” substitute “as a disciplinary sanction”.

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Marginal Citations

M1 1925 c. 49.

- 13 (1) Schedule 1 (intervention in solicitor’s practice) shall be amended as follows.
- (2) In paragraph 1(1), after paragraph (e), insert—
- “(ee) the Council are satisfied that a sole solicitor is incapacitated by illness or accident to such an extent as to be unable to attend to his practice;”.
- (3) In paragraph 5(2), after “bank” insert “or other financial institution”.
- (4) In paragraph 6(4), for “14” substitute “8”.
- (5) In paragraph 7—
- (a) in sub-paragraph (1), for “and any such person” substitute “or into a client account of a solicitor nominated on behalf of the Society, and any such person or solicitor”; and
- (b) in sub-paragraph (2), after “bank” insert “or other financial institution”.
- 14 In Schedule 2 (the Compensation Fund), in paragraph 2(1)(b), omit “not exceeding £50”.

SCHEDULE 2 E+W

Section 9.

[^{F3}LEGAL SERVICES PRACTICES]: SUPPLEMENTARY PROVISIONS

Textual Amendments

F3 Words in Sch. 2 heading substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 85 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

Commencement Information

II Sch. 2 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

Interpretation

- 1 (1) Subject to sub-paragraph (2), references in this Schedule to a recognised body are references to a body ^{F4} . . . for the time being recognised under section 9 of this Act.
- (2) References in this Schedule to a recognised body in relation to—
- (a) a complaint (other than such a complaint as is mentioned in paragraph 16(1)(a)); ^{F5} . . .
- (b) ^{F5} . . .
- include references to a body ^{F6} . . . that was recognised under section 9 of this Act at the time when the conduct to which the complaint ^{F7} . . . relates took place.

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- [^{F8}(2A) References in this Schedule to a manager or employee of a recognised body, in relation to a complaint (other than such a complaint as is mentioned in paragraph 16(1A)(a)), include references to a person who was such a manager or employee at the time when the conduct to which the complaint relates took place.]
- (3) ^{F9}
- (4) In section 87(1) of the 1974 Act the definitions of “client”, “contentious business” and “non-contentious business” shall apply for the purposes of—
- (a) this Schedule; and
- (b) any provision of the 1974 Act in so far as it has effect in relation to a recognised body by virtue of this Schedule,
- as if for any reference to a solicitor there were substituted a reference to a recognised body ^{F10}
- (5) Subject to sub-paragraphs [^{F11}sub-paragraphs (4) and (6)], any expression used in this Schedule which is also used in the 1974 Act has the same meaning as in that Act.
- [^{F12}(6) In this Schedule—
- “manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);
- “registered European lawyer” has the same meaning as in section 9A;
- “the 1974 Act” means the Solicitors Act 1974.]

Textual Amendments

- F4** Word in Sch. 2 para. 1(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 86(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**
- F5** Sch. 2 para. 1(2)(b) and preceding word repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 86(b)(i), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**
- F6** Word in Sch. 2 para. 1(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 86(b)(ii), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**
- F7** Words in Sch. 2 para. 1(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 86(b)(iii), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**
- F8** Sch. 2 para. 1(2A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 86(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F9** Sch. 2 para. 1(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 86(d), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**
- F10** Words in Sch. 2 para. 1(4) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 86(e), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**
- F11** Words in Sch. 2 para. 1(5) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 86(f)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F12** Sch. 2 para. 1(6) substituted (30.8.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 86(g)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(ii)**

Commencement Information

- I2** Sch. 2 para. 1 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

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[^{F13} Appeal against refusal of Society to grant recognition etc]

Textual Amendments

F13 Sch. 2 para. 2 and cross-heading substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 87 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

- ^{F142} (1) A body may appeal to the High Court against—
- (a) a decision to refuse an application by the body for recognition under section 9;
 - (b) a decision to impose a condition under subsection (2F) of that section on the body's recognition under that section;
 - (c) a decision to impose a condition under subsection (2G) of that section on the body's recognition under that section.
- (2) A recognised body whose recognition is subject to a condition within section 9(2H)(b) may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition.
- (3) Rules made by the Society may make provision, as respects any application for recognition that is neither granted nor refused by the Society within such period as may be specified in the rules, for enabling an appeal to be brought under this paragraph in relation to the application as if it had been refused by the Society.
- (4) On an appeal under sub-paragraph (1)(a) or (b), the High Court may—
- (a) affirm the decision of the Society,
 - (b) direct the Society to grant the body recognition under section 9 free from conditions or subject to such conditions as the High Court may think fit,
 - (c) direct the Society not to recognise the body,
 - (d) if the Society has recognised the body, by order suspend the recognition, or
 - (e) make such other order as the High Court thinks fit.
- (5) On an appeal under sub-paragraph (1)(c), the High Court may—
- (a) affirm the decision of the Society,
 - (b) direct that the body's recognition under section 9 is to have effect subject to such conditions as the High Court may think fit,
 - (c) by order revoke the direction given by the Society under section 9(2G), or
 - (d) make such other order as the High Court thinks fit.
- (6) On an appeal under sub-paragraph (2), the High Court may—
- (a) affirm the decision of the Society,
 - (b) direct the Society to approve the taking of one or more steps for the purposes of a condition within section 9(2H)(b), or
 - (c) make such other order as the High Court thinks fit.
- (7) In relation to an appeal under this paragraph, the High Court may make such order as it thinks fit as to payment of costs.
- (8) The decision of the High Court on an appeal under this paragraph is final.]

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Textual Amendments

- F14** Sch. 2 para. 2 and preceding cross-heading substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 87](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)

Commencement Information

- I3** Sch. 2 para. 2 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683](#), [art. 2](#)

Accounts rules

- [^{F15} (1) This paragraph applies where rules made under section 32(1) of the 1974 Act are applied—
- (a) to recognised bodies in accordance with section 9(2)(f) of this Act, or
 - (b) to managers or employees of such bodies in accordance with section 9(2)(fb) of this Act.
- (2) The Society may disclose a report on or information about the accounts of a recognised body, or a manager or employee of a recognised body, obtained in pursuance of such rules for use—
- (a) in investigating the possible commission of an offence by the body or any of its managers or employees, and
 - (b) in connection with any prosecution of the body or any of its managers or employees consequent on the investigation.]

Textual Amendments

- F15** Sch. 2 para. 3 substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 88](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)

Commencement Information

- I4** Sch. 2 para. 3 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683](#), [art. 2](#)

Interest on clients' money

- 4 (1) Where rules made under section 32 of the 1974 Act and containing any such provision as is referred to in [^{F16}section 33(1)] of that Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, then, except as provided by the rules [^{F17}, a recognised body is not liable to account to any client, other person or trust for interest received by the recognised body on money held at a bank or building society in an account which is for money received or held for, or on account of—
- (a) clients of the recognised body, other persons or trusts, generally, or
 - (b) that client, person or trust separately.]
- (2) ^{F18}

Textual Amendments

- F16** Words in [Sch. 2 para. 4\(1\)](#) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 89\(a\)\(i\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)

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- F17** Words in Sch. 2 para. 4(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 89(a)(ii) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)
- F18** Sch. 2 para. 4(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 89(b), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)(f)(v)(bb)

Commencement Information

- I5** Sch. 2 para. 4 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

- [^{F19}4ZA Where rules made under section 32 of the 1974 Act and containing any such provision as is referred to in section 33(1) of that Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb), then, except as provided by the rules, a manager or employee to whom the rules are applied is not liable to account to any client, other person or trust for interest received by the manager or employee on money held at a bank or building society in an account which is for money received or held for, or on account of—
- (a) clients of the recognised body, other persons or trusts, generally, or
 - (b) that client, person or trust, separately.]

Textual Amendments

- F19** Sch. 2 para. 4ZA inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 90 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

[^{F20} Inspection of bank accounts]

Textual Amendments

- F20** Sch. 2 para. 4A and cross-heading inserted (27.9.1999) by 1999 c. 22, s. 48, Sch. 7 para.5 (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)

- [^{F21}4A (1) This paragraph applies where rules made under section 33A(1) of the 1974 Act are applied—
- (a) to recognised bodies in accordance with section 9(2)(f) of this Act, or
 - (b) to managers or employees of such bodies in accordance with section 9(2)(fb) of this Act.
- (2) The Society may disclose information about the accounts of a recognised body, or a manager or employee of a recognised body, obtained in pursuance of such rules for use—
- (a) in investigating the possible commission of an offence by the body or any of its managers or employees, and
 - (b) in connection with any prosecution of the body or any of its managers or employees consequent on the investigation.]

Textual Amendments

- F21** Sch. 2 para. 4A substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 91 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

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Accountants' reports

- [^{F225} Where rules made under section 34 of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f), section 34(9) and (10) of that Act apply in relation to a recognised body as they apply in relation to a solicitor.]

Textual Amendments

- F22** Sch. 2 para. 5 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 92 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

Commencement Information

- I6** Sch. 2 para. 5 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

- [^{F235A} Where rules made under section 34 of the 1974 Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb), section 34(9) and (10) of that Act apply in relation to a manager or employee to which the rules are applied as they apply in relation to a solicitor.]

Textual Amendments

- F23** Sch. 2 para. 5A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 93 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

Compensation Fund

- [^{F246} (1) Section 36 of the 1974 Act applies in relation to recognised bodies as if for paragraphs (a) and (b) of subsection (1) there were substituted—
 “(a) an act or omission of a recognised body or former recognised body;
 (b) an act or omission of a manager or employee, or former manager or employee, of a recognised body or former recognised body;”.
- (2) Section 36A(2) and (3) of the 1974 Act applies in relation to recognised bodies as it applies in relation to solicitors.]

Textual Amendments

- F24** Sch. 2 para. 6 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 94 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii) (subject to art. 5)

Commencement Information

- I7** Sch. 2 para. 6 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

Solicitor who is justice of the peace not to act in certain proceedings

- 7 In section 38 of the 1974 Act references to any partner of a solicitor shall be construed, in relation to a solicitor who is [^{F25}a manager] of a recognised body, as references to any other solicitor who is [^{F25}a manager] of that body.

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Textual Amendments

F25 Words in [Sch. 2 para. 7](#) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 95](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)

Modifications etc. (not altering text)

C1 [Sch. 2 para. 7](#) applied (with modification) by S.I. 2000/1119, [Sch. 4 para. 24\(2\)](#) (as substituted (1.7.2009) by [The Legal Services Act 2007 \(Registered European Lawyers\) Order 2009 \(S.I. 2009/1587\)](#), arts. 1(1), [3\(17\)](#))

Commencement Information

I8 [Sch. 2 para. 7](#) wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, [art. 2](#)

PROSPECTIVE

8

F26

Textual Amendments

F26 [Sch. 2 para. 8](#) repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#)

Restriction on employment of person struck off roll or suspended

- 9 ^{F27}(1) Section 41 of the 1974 Act (except subsection (4)) shall apply to a recognised body ^{F28}(and any manager or employee of it) and its business as such as it applies to a solicitor and his practice as such.
- ^{F29}(2) No recognised body (or manager or employee of such a body) may, except in accordance with a written permission granted by the Society under this paragraph, permit a person to whom sub-paragraph (3) applies to—
- be a manager of the body, or
 - have an interest in the body;
- and for this purpose a person has an interest in the body if he has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).
- (3) This sub-paragraph applies to a person who to the knowledge of the recognised body (or, as the case may be, the manager or employee) is a person—
- who is disqualified from practising as a solicitor by reason of one of the facts mentioned in section 41(1)(a), (b) or (c) of the 1974 Act (name struck off the roll, suspension etc), or
 - in respect of whom there is a direction in force under section 47(2)(g) of that Act (prohibition on restoration to roll).
- (4) Permission granted for the purposes of sub-paragraph (2) may be granted for such period and subject to such conditions as the Society thinks fit.
- (5) A person aggrieved by the refusal of the Society to grant permission under sub-paragraph (4), or by any conditions attached by the Society to the grant of any such permission may appeal to the High Court which may—

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- (a) confirm the refusal or the conditions, as the case may be, or
 - (b) grant a permission under this paragraph for such period and subject to such conditions as it thinks fit.
- (6) In relation to an appeal under sub-paragraph (5) the High Court may make such order as it thinks fit as to payment of costs.
- (7) The decision of the High Court on an appeal under sub-paragraph (5) is final.]

Textual Amendments

- F27** Sch. 2 para. 9 renumbered (31.3.2009) as Sch. 2 para. 9(1) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 96(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F28** Words in Sch. 2 para. 9(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 96(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F29** Sch. 2 para. 9(2)-(7) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 96(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**

Modifications etc. (not altering text)

- C2** Sch. 2 para. 9 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), arts. 1(1), **6(a)**
- C3** Sch. 2 para. 9(3) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), **3(17)**)

Commencement Information

- I9** Sch. 2 para. 9 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

Failure to disclose fact of having been struck off or suspended

- 10^[F30](1) ^[F31]Section 42(1) and (1A) of the 1974 Act shall apply in relation to employment by a recognised body ^[F32](or any manager or employee of such a body) in connection with its business as it applies in relation to employment by a solicitor in connection with his practice.
- ^[F33](2) It is an offence for a person (“P”) to whom sub-paragraph (3) applies—
- (a) to seek or accept from any person an interest in a recognised body, without previously informing that person (and, if different, the recognised body) that P is a person to whom that sub-paragraph applies, or
 - (b) to seek or accept a position as a manager of a recognised body, without previously informing that body that P is such a person.
- (3) This sub-paragraph applies to a person—
- (a) who is disqualified from practising as a solicitor by reason of one of the facts mentioned in section 41(1)(a), (b) or (c) of the 1974 Act (name struck off the roll, suspension etc), or
 - (b) in respect of whom there is a direction in force under section 47(2)(g) of that Act (prohibition on restoration to roll).
- (4) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Status: Point in time view as at 31/03/2009.

Changes to legislation: Administration of Justice Act 1985 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Subsection (2) of section 42 of the 1974 Act applies in relation to an offence under sub-paragraph (2) as it applies in relation to an offence under that section.
- (6) For the purposes of sub-paragraph (2)(a) a person seeks or accepts an interest in a recognised body if the person seeks or accepts an interest which if it were obtained by the person would result in the person having an interest in that body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).]

Textual Amendments

- F30** Sch. 2 para. 10 renumbered (31.3.2009) as Sch. 2 para. 10(1) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 97(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F31** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), sS. 124(2)(C), 125(3), Sch. 18 para. 55
- F32** Words in Sch. 2 para. 10(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 97(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F33** Sch. 2 para. 10(2)-(6) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 97(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**

Modifications etc. (not altering text)

- C4** Sch. 2 para. 10 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), arts. 1(1), **6(b)**
- C5** Sch. 2 para. 10(3) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), **3(17)**)

Commencement Information

- I10** Sch. 2 para. 10 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

Control of employment of persons convicted of offences of dishonesty and certain other persons

11

F34

Textual Amendments

- F34** Sch. 2 para. 11 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 98, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**

Offences in connection with orders under section 43(2) of the 1974 Act

12

F35

Textual Amendments

- F35** Sch. 2 para. 12 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 99, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**

Status: Point in time view as at 31/03/2009.

Changes to legislation: Administration of Justice Act 1985 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Powers of Council in respect of inadequate professional services

- 13 (1) In ^{F36}Schedule 1A of the Act of 1974 (except paragraphs 5(1) and 9)—
- (a) any reference to a solicitor shall be construed as including a reference to a recognised body; and
 - (b) any reference to professional services provided by a solicitor in connection with any matter in which he or his firm had been instructed by a client shall be construed as including a reference to professional services provided by a recognised body in connection with any matter in which it had been instructed by a client.
- (2) The powers conferred on the Council by ^{F37}paragraph 2(1)(a) of Schedule 1A to the Act of 1974] shall be exercisable in relation to a body corporate in accordance with this paragraph notwithstanding that it is no longer a recognised body.
- (3) If a body corporate fails to comply with a direction given to it by the Council by virtue of this paragraph, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.

Textual Amendments

- F36** Words in Sch. 2 para. 13 substituted (*I. 4. 1991*) for limited purposes by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), [Sch. 18 para. 56\(a\)](#); S.I. 1991/608, [art. 2](#), Sch.
- F37** Words in Sch. 2 para. 13 substituted (*I. 4. 1991*) for limited purposes by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), [Sch. 18 para. 56\(b\)](#); S.I. 1991/608, [art. 2](#), [Sch.](#)

Commencement Information

- I11** Sch. 2 para. 13 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683](#), [art. 2](#)

^{F38}*information about suitability for recognition]*

Textual Amendments

- F38** [Sch. 2 para. 14](#) and cross-heading substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 101](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

- ^{F39}14 (1) The Society may give a notice under this paragraph if it is satisfied that it is necessary to do so for the purpose of investigating whether—
- (a) a recognised body continues to be suitable to be recognised under section 9, or
 - (b) a manager of a recognised body who is not legally qualified (within the meaning of section 9A) continues to be suitable to be a manager of a recognised body.
- (2) A notice under this paragraph is a notice which requires a person within subparagraph (3)—
- (a) to provide information, or information of a description, specified in the notice, or
 - (b) to produce documents, or documents of a description, specified in the notice.

Status: Point in time view as at 31/03/2009.

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- (3) The persons are—
- (a) the recognised body;
 - (b) an employee or manager of the recognised body;
 - (c) a person who has an interest in the recognised body (within the meaning of the Legal Services Act 2007 (see sections 72 and 109 of that Act)).
- (4) For the purposes of this paragraph, section 44B(4) to (7) of the 1974 Act applies—
- (a) in relation to a notice under this paragraph as if it were a notice under section 44B of that Act, and
 - (b) in relation to a person given a notice under this paragraph as if that person were a person given a notice under that section,
- and references in subsections (6) and (7) of that section to powers conferred by that section are to be read as references to powers conferred by this paragraph.
- (5) Where powers conferred by Part 2 of Schedule 1 to the 1974 Act are exercisable in relation to a person within paragraph (a), (b) or (c) of sub-paragraph (3), they continue to be so exercisable after the person has ceased to be a person within the paragraph in question.
- (6) Section 44BA of the 1974 Act (power to require explanation of document or information) applies in relation to a notice under this paragraph and the person to whom such a notice is given as it applies in relation to a notice under section 44B of the 1974 Act and the person to whom such a notice is given.
- (7) Subsection (1) of section 44BC of that Act (falsification of documents etc) applies in relation to an investigation of the kind mentioned in sub-paragraph (1) as it applies in relation to the investigations mentioned in that subsection, and subsections (2), (4) and (5) of that section apply accordingly.
- (8) Subsection (3) of that section (provision of false information etc) applies in relation to a requirement imposed under this paragraph as it applies in relation to a requirement imposed by section 44B of that Act, and subsections (4) and (5) of that section apply accordingly.]

Textual Amendments

F39 Sch. 2 para. 14 and preceding cross-heading substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 101](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)

Commencement Information

I12 Sch. 2 para. 14 wholly in force at 1.1.1992 see [s. 69\(2\)](#) and S.I. 1991/2683, [art. 2](#)

[^{F40}Power to charge for costs of investigation]

Textual Amendments

F40 Sch. 2 para. 14A and cross-heading substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 102](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)

^{F41}14A(1) The Society may make regulations prescribing charges to be paid to the Society by recognised bodies who are the subject of a discipline investigation.

Status: Point in time view as at 31/03/2009.

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- (2) A discipline investigation is an investigation carried out by the Society into a failure or apprehended failure by a recognised body to comply with any requirement imposed by or by virtue of this Act or any rules applicable to it by virtue of section 9.
- (3) Regulations under this paragraph may—
 - (a) make different provision for different cases or purposes;
 - (b) provide for the whole or part of a charge payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations.
- (4) Any charge which a recognised body is required to pay under regulations under this paragraph is recoverable by the Society as a debt due to the Society from the recognised body.
- (5) This paragraph applies in relation to a manager or employee of a recognised body as it applies in relation to a recognised body.]

Textual Amendments

F41 Sch. 2 para. 14A and preceding cross-heading substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 102](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

[^{F42}Disciplinary powers of the Society

Textual Amendments

F42 Sch. 2 paras. 14B, 14C and preceding cross-heading inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 103](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

- 14B (1) This paragraph applies where the Society is satisfied that a recognised body, or a manager or employee of a recognised body, has failed to comply with a requirement imposed by or by virtue of this Act or any rules applicable to that person by virtue of section 9 of this Act.
- (2) The Society may do one or both of the following—
 - (a) give the person a written rebuke;
 - (b) direct the person to pay a penalty not exceeding £2,000.
 - (3) The Society may publish details of any action it has taken under sub-paragraph (2) (a) or (b), if it considers it to be in the public interest to do so.
 - (4) Where the Society takes action against a person under sub-paragraph (2)(b), or decides to publish under sub-paragraph (3) details of such action under sub-paragraph (2)(a) or (b), it must notify the person in writing that it has done so.
 - (5) A penalty imposed under sub-paragraph (2)(b) does not become payable until—
 - (a) the end of the period during which an appeal against the decision to impose the penalty, or the amount of the penalty, may be made under paragraph 14C, or
 - (b) if such an appeal is made, such time as it is determined or withdrawn.

Status: Point in time view as at 31/03/2009.

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- (6) The Society may not publish under sub-paragraph (3) details of any action under sub-paragraph (2)(a) or (b)—
- (a) during the period within which an appeal against—
 - (i) the decision to take the action,
 - (ii) in the case of action under sub-paragraph (2)(b), the amount of the penalty, or
 - (iii) the decision to publish the details,may be made under paragraph 14C, or
 - (b) if such an appeal has been made, until such time as it is determined or withdrawn.
- (7) The Society must make rules—
- (a) prescribing the circumstances in which the Society may decide to take action under sub-paragraph (2)(a) or (b);
 - (b) about the practice and procedure to be followed by the Society in relation to such action;
 - (c) governing the publication under sub-paragraph (3) of details of action taken under sub-paragraph (2)(a) or (b);
- and the Society may make such other rules in connection with the exercise of its powers under this paragraph as it considers appropriate.
- (8) Before making rules under sub-paragraph (7), the Society must consult the Tribunal.
- (9) A penalty under this paragraph may be recovered as a debt due to the Society, and is to be forfeited to Her Majesty.
- (10) The Lord Chancellor may, by order, amend paragraph (b) of sub-paragraph (2) so as to substitute for the amount for the time being specified in that paragraph such other amount as may be specified in the order.
- (11) Before making an order under sub-paragraph (10), the Lord Chancellor must consult the Society.
- (12) An order under sub-paragraph (10) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (13) This paragraph is without prejudice to any power conferred on the Society, or any other person, to make an application or complaint to the Tribunal.
- 14C (1) A person may appeal against—
- (a) a decision by the Society to rebuke that person under paragraph 14B(2)(a) if a decision is also made to publish details of the rebuke;
 - (b) a decision by the Society to impose a penalty on that person under paragraph 14B(2)(b) or the amount of that penalty;
 - (c) a decision by the Society to publish under paragraph 14B(3) details of any action taken against that person under paragraph 14B(2)(a) or (b).
- (2) Subsections (9)(b), (10)(a) and (b), (11) and (12) of section 46 of the 1974 Act (Tribunal rules about procedure for hearings etc) apply in relation to appeals under this paragraph as they apply in relation to applications or complaints, except that subsection (11) of that section is to be read as if for “the applicant” to “application)” there were substituted any party to the appeal.

Status: Point in time view as at 31/03/2009.

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- (3) Rules under section 46(9)(b) of the 1974 Act may, in particular, make provision about the period during which an appeal under this paragraph may be made.
- (4) On an appeal under this paragraph, the Tribunal has power to make an order which—
 - (a) affirms the decision of the Society;
 - (b) revokes the decision of the Society;
 - (c) in the case of a penalty imposed under paragraph 14B(2)(b), varies the amount of the penalty;
 - (d) in the case of a recognised body, contains provision for any of the matters mentioned in paragraph 18(2);
 - (e) in the case of a manager or employee of a recognised body, contains provision for any of the matters mentioned in paragraph 18A(2);
 - (f) makes such provision as the Tribunal thinks fit as to payment of costs.
- (5) Where, by virtue of sub-paragraph (4)(e), an order contains provision for any of the matters mentioned in sub-paragraph (2)(c) of paragraph 18A, sub-paragraphs (5) and (6) of that paragraph apply as if the order had been made under sub-paragraph (2)(c) of that paragraph.
- (6) An appeal from the Tribunal shall lie to the High Court, at the instance of the Society or the person in respect of whom the order of the Tribunal was made.
- (7) The High Court shall have power to make such order on an appeal under this paragraph as it may think fit.
- (8) Any decision of the High Court on an appeal under this section shall be final.
- (9) This paragraph is without prejudice to any power conferred on the Tribunal in connection with an application or complaint made to it.]

Lay observers

15

F43

Textual Amendments

F43 Sch. 2 para. 15 repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), **Sch. 20**

Complaints to Tribunal with respect to recognised bodies

- 16 (1) The Tribunal shall have jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to a recognised body, namely—
 - (a) a complaint that the body has (while a recognised body) been convicted by any court ^{F44} . . . of a criminal offence which renders it unsuitable to be recognised under section 9 of this Act;
 - (b) a complaint that the body has failed to comply with [^{F45}any requirement imposed by or by virtue of this Act] or with any rules applicable to it by virtue of section 9 of this Act;
 - ^{F46}(c) a complaint that the body has acted in contravention of section 41 of the 1974 Act or paragraph 9(2) of this Schedule or of any conditions subject to

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which a permission has been granted under section 41 of that Act or that paragraph of this Schedule; or]

- (d) a complaint that the body has knowingly acted in contravention of any such order as is mentioned in section 44(2) of the 1974 Act or of any conditions subject to which a permission has been granted under such an order.

[^{F47}(1A) The Tribunal shall have jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to a manager or employee of a recognised body (“the relevant person”)—

- (a) a complaint that the relevant person has been convicted by any court of a criminal offence which renders that person unsuitable to be a manager or employee (or both) of a recognised body;
- (b) a complaint that the relevant person has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act;
- (c) a complaint that the relevant person has acted in contravention of section 41 of the 1974 Act or paragraph 9(2) of this Schedule or of any conditions subject to which a permission has been granted under that section or for the purposes of paragraph 9(2) of this Schedule;
- (d) a complaint that the relevant person has knowingly acted in contravention of an order under section 43(2) of the 1974 Act or of any conditions subject to which a permission has been granted under such an order.]

(2) A complaint may be made to the Tribunal under this paragraph by any person.

Textual Amendments

- F44** Words in Sch. 2 para. 16(1)(a) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 104\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(ii\)\(f\)\(v\)\(bb\)](#)
- F45** Words in Sch. 2 para. 16(1)(b) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 104\(b\)](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)
- F46** Sch. 2 para. 16(1)(c) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 104\(c\)](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)
- F47** Sch. 2 para. 16(1A) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 104\(d\)](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)

Commencement Information

- I13** Sch. 2 para. 16 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683](#), [art. 2](#)

Procedure on applications and complaints

17

In subsections [^{F48}(9)] to (11) of section 46 of the 1974 Act—

- (a) any reference to an application or complaint shall be construed as including a reference to any such application as is mentioned in paragraph ^{F49}... 21(1) or any such complaint as is mentioned in paragraph 13(3) or 16(1) [^{F50}or (1A)];
- (b) any reference to an application or complaint made under that Act shall be construed as including a reference to any such application or complaint as aforesaid made under this Schedule; and
- (c) in the case of subsection (10)(c), any reference to a solicitor shall be construed as including a reference to a recognised body [^{F51}or, in the case

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of such a complaint as is mentioned in paragraph 16(1A), to a manager or employee of such a body].

Textual Amendments

- F48** Words in Sch. 2 para. 17 substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 105\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F49** Words in Sch. 2 para. 17(a) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 105\(b\)\(i\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)\(f\)\(v\)\(bb\)](#)
- F50** Words in Sch. 2 para. 17(a) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 105\(b\)\(iii\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F51** Words in Sch. 2 para. 17(c) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 105\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)

Commencement Information

- I14** Sch. 2 para. 17 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683](#), [art. 2](#)

Powers of Tribunal with respect to recognised bodies

- 18 (1) Where on the hearing of any complaint made to it under this Schedule [^{F52}(other than paragraph 16(1A))] the Tribunal is satisfied that a recognised body—
- (a) has been convicted as mentioned in paragraph (a) of paragraph 16(1); or
 - (b) has failed to comply with [^{F53}any requirement imposed by or by virtue of this Act] or with any such rules as are mentioned in paragraph (b) of paragraph 16(1); or
 - (c) has acted as mentioned in paragraph (c) or (d) of that provision; or
 - (d) has failed to comply with any direction given to it by the Council by virtue of paragraph 13,
- the Tribunal may, if it thinks fit, make one or more of the orders referred to in sub-paragraph (2).
- (2) Those orders are—
- (a) an order revoking the recognition under section 9 of this Act of the body to which the complaint relates;
 - (b) an order directing the payment by that body of a penalty ^{F54} . . . , to be forfeited to Her Majesty;
 - (c) an order requiring that body to pay the costs incurred in bringing against it the proceedings before the Tribunal or a contribution towards those costs, being a contribution of such amount as the Tribunal considers reasonable.
- [^{F55}(2A) Where, on the hearing of any application or complaint made to it under this Schedule, the Tribunal is satisfied that more than one allegation is proved against the recognised body to whom the application or complaint relates, it may impose a separate penalty (by virtue of sub-paragraph (2)(b)) with respect of each such allegation.]
- (3) On the hearing of a complaint under paragraph 13(3) relating to a direction given by the Council, the Tribunal may, if it thinks fit (whether or not it makes any order on the hearing under this paragraph), direct that the Council's direction shall be treated, for the purpose of enforcement, as if it were contained in an order made by the High Court.

Status: Point in time view as at 31/03/2009.

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(4) ^{F56}

Textual Amendments

- F52** Words in Sch. 2 para. 18(1) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 106\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F53** Words in Sch. 2 para. 18(1)(b) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 106\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F54** Words in Sch. 2 para. 18(2) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 106\(d\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)\(f\)\(v\)\(bb\)](#)
- F55** Sch. 2 para. 18(2A) inserted (1.1.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), ss. 124(2)(c), 125(3), [Sch. 18 para. 57](#)
- F56** Sch. 2 para. 18(4) repealed (31.3.2009 for specified purposes, 1.10.2011 in so far as not already in force) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 106\(e\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)\(f\)\(v\)\(bb\)](#); S.I. 2011/2196, [art. 2\(1\)\(f\)\(h\)](#)

Commencement Information

- I15** Sch. 2 para. 18 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

[^{F57}18A(1) Where, on the hearing of any complaint made to it under paragraph 16(1A) of this Schedule, the Tribunal is satisfied that a manager or employee of a recognised body—

- (a) has been convicted as mentioned in paragraph (a) of paragraph 16(1A),
- (b) has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act, or
- (c) has acted as mentioned in paragraph (c) or (d) of paragraph 16(1A),

the Tribunal may, if it thinks fit, make one or more of the orders referred to in sub-paragraph (2).

(2) Those orders are—

- (a) an order directing the payment by the relevant person of a penalty to be forfeited to Her Majesty;
- (b) an order requiring the Society to consider taking such steps as the Tribunal may specify in relation to the relevant person;
- (c) if the person is not a solicitor, an order which states one or more of the matters mentioned in sub-paragraph (3);
- (d) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of the relevant person.

(3) The matters referred to in sub-paragraph (2)(c) are—

- (a) that as from the specified date—
 - (i) no solicitor or employee of a solicitor shall employ or remunerate, in connection with the practice carried on by that solicitor, the person with respect to whom the order is made, and
 - (ii) no recognised body, or manager or employee of such a body, shall employ or remunerate that person, in connection with the business of the recognised body,

except in accordance with a Society permission;

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- (b) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to be a manager of the body;
 - (c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to have an interest in the body.
- (4) For this purpose a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 the Legal Services Act 2007 (see sections 72 and 109 of that Act).
- (5) Subsections (1) to (1C), (3) and (4) of section 44 of the 1974 Act (offences in connection with orders under section 43(2) of that Act) apply in relation to an order under sub-paragraph (2)(c) as they apply in relation to an order under section 43(2) of that Act, except that references in those subsections to provision within section 43(2) (a), (b) or (c) of that Act are to be read as references to provision within sub-paragraph (3)(a), (b) or (c).
- (6) Section 44(2) of the 1974 Act, paragraph 16(1)(d) and (1A)(d) of this Schedule and paragraph 15(3A) of Schedule 14 to the Courts and Legal Services Act 1990 apply in relation to an order under sub-paragraph (2)(c) as they apply in relation to an order under section 43(2) of the 1974 Act.
- (7) For the purposes of sub-paragraph (2)(d) an “appropriate regulator” in relation to the relevant person means—
- (a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and
 - (b) if the person carries on activities which are not reserved legal activities, any body which regulates the carrying on of such activities by the person.]

Textual Amendments

F57 Sch. 2 para. 18A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 107 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii) (subject to art. 4)

Modifications etc. (not altering text)

C6 Sch. 2 para. 18A(2) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), 3(17))

C7 Sch. 2 para. 18A(3) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), 3(17))

Powers of Tribunal in respect of inadequate professional services

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Textual Amendments

- F58** Sch. 2 para. 19 repealed (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(6) (7), **Sch. 20** (with Sch. 19 para. 14(c)); S.I.1991/608, art. 2, **Sch.**

Powers of Tribunal in respect of legal aid complaints

- 20 (1) Where the Tribunal makes any such order as is referred to in subsection (2A) of section 47 of the 1974 Act in the case of a solicitor who is [^{F59}a manager] or employee of a recognised body, the Tribunal may, if it thinks fit, order that any solicitor who is for the time being a [^{F60}manager] of that body shall be excluded (either permanently or for a specified period) from [^{F61}providing representation funded by the Legal Services Commission as part of the Criminal Defence Service].
- (2) ^{F62}

Textual Amendments

- F59** Words in Sch. 2 para. 20(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 108(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F60** Word in Sch. 2 para. 20(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 108(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F61** Words in Sch. 2 para. 20(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 108(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F62** Sch. 2 para. 20(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 108, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(bb)**

Modifications etc. (not altering text)

- C8** Sch. 2 para. 20 applied (with modification) by S.I. 2000/1119, Sch. 4 para. 18A(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), **3(17)**)

Commencement Information

- I16** Sch. 2 para. 20 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

Revocation of recognition by reason of default by director

- 21 (1) Where—
- (a) any order is made by the Tribunal under section 47 of the 1974 Act in the case of a [^{F63}manager] of a recognised body; or
 - (b) an order is made by the High Court or the Court of Appeal that the name of a [^{F64}manager] of a recognised body be struck off the roll or that such a [^{F64}manager] be suspended from practice as a solicitor; or
 - (c) any such order as is mentioned in paragraph (a) or (b) is made in the case of a person employed by a recognised body and the act or omission constituting the ground on which the order was made was instigated or connived at by a [^{F65}manager] of the recognised body or, if the act or omission was a continuing act or omission, a [^{F65}manager] of the body had or reasonably ought to have had knowledge of its continuance,

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the Tribunal may, on an application made with respect to the recognised body by or on behalf of the Society, by order revoke its recognition under section 9 of this Act.

- (2) The Tribunal shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in sub-paragraph (1) being rendered inapplicable in that case, or while any such proceedings are pending.
- (3) Any reference to a [^{F66}manager] of a recognised body in any of paragraphs (a) to (c) of sub-paragraph (1) includes a reference to a person who was a [^{F66}manager] of the body at the time of the conduct leading to the making of the order referred to in that paragraph.
- [^{F67}(4) The reference in paragraph (c) of sub-paragraph (1) to a person employed by a recognised body includes a reference to a person who was so employed at the time of the conduct leading to the making of the order referred to in that paragraph.]

Textual Amendments

- F63** Word in Sch. 2 para. 21(1)(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 109(a) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)
- F64** Words in Sch. 2 para. 21(1)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 109(b) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)
- F65** Words in Sch. 2 para. 21(1)(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 109(c) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)
- F66** Words in Sch. 2 para. 21(3) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 109(d) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)
- F67** Sch. 2 para. 21(4) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 109(e) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

Modifications etc. (not altering text)

- C9** Sch. 2 para. 21(1) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), 3(17))
- C10** Sch. 2 para. 21(1)(b) extended (22.5.2000) by S.I. 2000/1119, reg. 37(3), Sch. 4 para. 24 (as amended (6.4.2001) by S.I. 2001/644, reg. 2(2))
- C11** Sch. 2 para. 21(1)(b) applied (16.9.2004) by S.I. 2000/1119, Sch. 4 para. 24(b) (as substituted by The European Communities (Lawyer's Practice) (Amendment) Regulations 2004 (S.I. 2004/1628), reg. 7(2))
- C12** Sch. 2 para. 21(1)(b) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), 3(17))

Commencement Information

- I17** Sch. 2 para. 21 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

Costs: general modification of provisions of Part III of 1974 Act

- 22 (1) In the provisions to which this paragraph applies—
- (a) any reference to a solicitor or to a client of a solicitor shall be construed as including a reference to a recognised body or to a client of such a body; and
- (b) any reference to a client's solicitor shall be construed as including a reference to any recognised body acting for a client.

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- (2) This paragraph applies to the following provisions of the 1974 Act (which relate to the remuneration of solicitors in respect of contentious and non-contentious business), namely—
- section 56 (except subsections (1)(e) and (5));
 - sections 57 to 59;
 - section 60 (except subsection (5));
 - sections 61 and 62;
 - sections 64 and 65;
 - section 67;
 - section 69(1); and
 - sections 70 to 74.

Commencement Information

I18 Sch. 2 para. 22 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

Orders as to remuneration for non-contentious business

23^[F68](1) In relation to an order under section 56 of the 1974 Act ^[F69]prescribing (by virtue of paragraph 22) general principles to be applied when determining] the remuneration of recognised bodies in respect of non-contentious business, subsection (5) of that section shall have effect as if—

- (a) in paragraph (a), for “the solicitor” there were substituted “the recognised body”; and
- ^[F70](b) in paragraph (d), the reference to the solicitor or any employee of the solicitor who is an authorised person were a reference to any manager or employee of the recognised body who is an authorised person.]

^[F71](2) In this paragraph “authorised person” means a person who is an authorised person in relation to an activity which is a reserved legal activity, within the meaning of the Legal Services Act 2007 (see section 18 of that Act).]

Textual Amendments

- F68** Sch. 2 para. 23 renumbered (31.3.2009) as Sch. 2 para. 23(1) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 110(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F69** Words in Sch. 2 para. 23(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 110(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F70** Sch. 2 para. 23(1)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 110(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F71** Sch. 2 para. 23(2) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 110(d)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**

Commencement Information

I19 Sch. 2 para. 23 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

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Effect of contentious business agreements

- [^{F72}24 (1) This paragraph applies in relation to a contentious business agreement made between a recognised body and a client.
- (2) A provision in the agreement that the body shall not be liable for the negligence of any of its managers or employees shall be void if the client is a natural person who, in entering that agreement, is acting for purposes which are outside his trade, business or profession.
- (3) A provision in the agreement that the body shall be relieved from any responsibility to which it would otherwise be subject in the course of carrying on its business as a recognised body shall be void.
- (4) A provision in the agreement that any manager of the body shall be relieved from any responsibility to which the manager would otherwise be subject in the course of the carrying on by the body of its business as a recognised body shall be void.]

Textual Amendments

F72 Sch. 2 para. 24 substituted (30.8.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 111 (with ss. 29, 192, 193); S.I. 2008/1436, art. 2(d)(ii)

Commencement Information

I20 Sch. 2 para. 24 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

Effect on contentious business agreement of supervening incapacity of recognised body to act for client

- 25 (1) If, after some business has been done under a contentious business agreement made between a recognised body and a client but before the body has wholly performed it, the body ceases to be capable of wholly performing it by reason of one of the following events, namely—
- (a) the body ceases (for any reason) to be a recognised body;
- [^{F73}(b) a relevant insolvency event occurs in relation to the body;]
- (c) the client terminates the retainer or employment of the body in favour of another recognised body or a solicitor (as, notwithstanding the agreement, he shall be entitled to do),
- any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the recognised body were still capable of wholly performing it.
- (2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by taxation, and in that case—
- (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and
- (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been wholly performed.

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- (3) If in such a case as is mentioned in sub-paragraph (1)(c) an order is made for the taxation of the amount due to the recognised body in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the termination of the body's retainer or employment has taken place, and the taxing officer, unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of [^{F74}any manager] or employee of the body affording the client reasonable ground for terminating its retainer or employment, shall not allow to the body the full amount of the remuneration agreed to be paid to it.
- [^{F75}(4) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if—
- (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
 - (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
 - (c) an administrative receiver within the meaning of section 251 of that Act is appointed;
 - (d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);
 - (e) an order for the winding up of the body is made.]

Textual Amendments

- F73** Sch. 2 para. 25(1)(b) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 112(a)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(ii)**
- F74** Words in Sch. 2 para. 25(3) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 112(e)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(ii)**
- F75** Sch. 2 para. 25(4) inserted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 112(d)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(ii)**

Commencement Information

- I21** Sch. 2 para. 25 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

Taxations with respect to contentious business

- 26 Subject to the provisions of any rules of court, on every taxation of costs in respect of any contentious business done by a recognised body, the taxing officer may—
- (a) allow interest at such rate and from such time as he thinks just on money disbursed by the body for the client, and on money of the client in the possession of, and improperly retained by, the body [^{F76}or any manager or employee of the body]; and
 - (b) in determining the remuneration of the body, have regard to the skill, labour and responsibility on the part of [^{F77}any authorised person, being a manager] or employee of the body, which the business involved.

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[^{F78}(2) In this paragraph “authorised person” means an authorised person, in relation to an activity which is a reserved legal activity, within the meaning of the Legal Services Act 2007.]

Textual Amendments

- F76** Words in Sch. 2 para. 26(1) inserted (30.6.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 113\(b\)\(iii\)](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(ii\)](#)
- F77** Words in Sch. 2 para. 26(1) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 113\(b\)\(iv\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F78** Sch. 2 para. 26(2) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 113\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)

Commencement Information

- I22** Sch. 2 para. 26 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

Power of court to order delivery of bill of costs, etc.

- 27 Any jurisdiction—
- (a) of the High Court to make any such orders as are referred to in subsection (1) of section 68 of the 1974 Act in relation to a solicitor (whether or not business has been done by him in the High Court); or
 - (b) of the county court to make any such orders as are referred to in subsection (2) of that section in relation to a solicitor,
- shall be exercisable in like manner in relation to a recognised body.

Commencement Information

- I23** [Sch. 2 para. 27](#) wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

Power of court to order recognised body to pay over clients' money

- 28 Any jurisdiction of the High Court to make, in the case of a solicitor who is acting or has acted as such for a client, an order requiring the payment or delivery up of, or otherwise relating to, money or securities which the solicitor has in his possession or control on behalf of the client shall be exercisable in like manner in the case of a recognised body which is acting or has acted as such for a client [^{F79}or any manager or employee of such a body].

Textual Amendments

- F79** Words in [Sch. 2 para. 28](#) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 114](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)

Commencement Information

- I24** [Sch. 2 para. 28](#) wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

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Actions to recover costs

- [^{F80}29 (1) Subsection (2A) of section 69 of the 1974 Act shall have effect in relation to a bill of costs delivered by a recognised body as if for paragraphs (a) and (b) there were substituted—
- “(a) signed on behalf of the recognised body by any manager or employee of the body authorised by it to do so, or
 - (b) enclosed in, or accompanied by, a letter which is so signed and refers to the bill.”
- (2) Subsection (2E) of that section shall have effect in relation to such a bill as if for “the solicitor” there were substituted “ the recognised body ”.]

Textual Amendments

F80 Sch. 2 para. 29 substituted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 115, (with ss. 29, 192, 193); S.I. 2008/222, art. 2(f)(j)(ii) (subject to art. 6)

Commencement Information

I25 Sch. 2 para. 29 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

Power of Society to inspect files relating to certain proceedings

- 30 Section 83 of the 1974 Act shall apply in relation to proceedings which have been brought with respect to a recognised body for any of the following purposes, namely—
- (a) for the winding-up of the body;
 - [^{F81}(b) for the appointment of an administrative receiver within the meaning of section 251 of the Insolvency Act 1986; or]
 - (c) for the [^{F82}appointment of an administrator under Schedule B1 to the Insolvency Act 1986],
- as it applies in relation to proceedings in bankruptcy which have been taken against a solicitor.

Textual Amendments

F81 Sch. 2 para. 30(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 116 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

F82 Words in Sch. 2 para. 30(c) substituted (15.9.2003) by The Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), arts. 1(1), 4, 5, Sch. Pt. 1 para. 6(a)

Commencement Information

I26 Sch. 2 para. 30 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

Bank accounts

- 31 Where rules made under section 32(1) ^{F83} . . . of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, section 85 of the 1974 Act shall apply in relation to a recognised body which keeps an account with a

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bank [^{F84}or building society] in pursuance of any such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.

Textual Amendments

- F83** Words in Sch. 2 para. 31 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 117\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)
- F84** Words in Sch. 2 para. 31 substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 117\(b\)](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)

Commencement Information

- I27** Sch. 2 para. 31 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683](#), [art. 2](#)

[^{F85}31A Where rules made under section 32(1) of the 1974 Act are applied to managers or employees in accordance with section 9(2)(fb) of this Act, section 85 of the 1974 Act shall apply in relation to a manager or employee to whom the rules are applied who keeps an account with a bank or building society in pursuance of any such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.]

Textual Amendments

- F85** [Sch. 2 para. 31A](#) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 118](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)

Intervention by Society

- 32 (1) Subject to sub-paragraph (2), where—
- (a) the [^{F86}Society is] satisfied that a recognised body [^{F87}or a manager of such a body] has failed to comply with any rules applicable to [^{F88}the body or manager] by virtue of section 9 of this Act; or
 - (b) a person has been appointed receiver or manager of property of a recognised body; or
 - [^{F89}(c) a relevant insolvency event occurs in relation to a recognised body; or]
 - (d) the [^{F90}Society has] reason to suspect dishonesty on the part of any [^{F91}manager] or employee of a recognised body in connection with [^{F92}(i) that body's business,
 - (ii) any trust of which that body is or was a trustee,
 - (iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or
 - (iv) the business of another body in which the manager or employee is or was a manager or employee or the practice (or former practice) of the manager or employee; or]
 - [^{F93}(e) the Society is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 1 to the 1974 Act (or any of them) in relation to a recognised body to protect—
 - (i) the interests of clients (or former or potential clients) of the recognised body,

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- (ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or
- (iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person's capacity as such a manager or employee;]

the powers conferred by Part II of Schedule 1 to the 1975 Act shall be exercisable in relation to the recognised body and its business in like manner as they are exercisable in relation to a solicitor and his practice.

[^{F94}(1A) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if—

- (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
- (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
- (c) an administrative receiver within the meaning of section 251 of that Act is appointed;
- (d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);
- (e) an order for the winding up of the body is made.]

(2) ^{F95}

Textual Amendments

- F86** Words in Sch. 2 para. 32(1)(a) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(2\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F87** Words in Sch. 2 para. 32(1)(a) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(2\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F88** Word in Sch. 2 para. 32(1)(a) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(2\)\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F89** Sch. 2 para. 32(1)(c) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(3\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F90** Words in Sch. 2 para. 32(1)(d) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(4\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F91** Word in Sch. 2 para. 32(1)(d) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(4\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F92** Words in Sch. 2 para. 32(1)(d) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(4\)\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F93** Sch. 2 para. 32(1)(e) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(5\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F94** Sch. 2 para. 32(1A) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 119\(6\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- F95** Sch. 2 para. 32(2) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 119\(7\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)\(f\)\(v\)\(bb\)](#)

Commencement Information

- I28** Sch. 2 para. 32 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, [art. 2](#)

33 The powers conferred by Part II of Schedule 1 to the 1974 Act shall also be exercisable as mentioned in paragraph 32(1) of this Schedule where—

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- [^{F96}(a) the Society is satisfied that there has been undue delay—
- (i) on the part of a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or
 - (ii) on the part of a person who is or was a manager or employee of a recognised body in connection with any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee;]
- (b) the Society by notice in writing invites the body to give an explanation within such period following the giving of the notice as may be specified in it, being a period of not less than eight days; and
- (c) the body fails within that period to give an explanation which the [^{F97}Society regards] as satisfactory; and
- (d) the Society gives notice of the failure to the body and (at the same or any later time) notice that the powers conferred by Part II of Schedule 1 to the 1974 Act are accordingly exercisable in its case by virtue of this paragraph.

Textual Amendments

F96 Sch. 2 para. 33(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 120(a) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

F97 Words in Sch. 2 para. 33(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 120(b) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

Commencement Information

I29 Sch. 2 para. 33 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

- 34 (1) Where the recognition of a body ^{F98} . . . under section 9 of this Act—
- (a) has been revoked [^{F99}in accordance with rules under that section 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 section,
- the powers conferred by Part II of Schedule 1 to the 1974 Act shall be exercisable in relation to the body ^{F98} . . . and its former business as a recognised body as they are exercisable in relation to a solicitor and his practice.
- (2) Where the powers conferred by Part II of Schedule 1 to the 1974 Act are exercisable in relation to a recognised body in accordance with paragraph 32 or 33 of this Schedule they shall continue to be so exercisable after that body's recognition under section 9 of this Act has been revoked or has otherwise ceased to be in force.

Textual Amendments

F98 Words in Sch. 2 para. 34(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 121(a), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)(f)(v)(bb)

F99 Words in Sch. 2 para. 34(1)(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 121(b) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

Commencement Information

I30 Sch. 2 para. 34 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

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- 35 In connection with the application of Part II of Schedule 1 to the 1974 Act for the purposes of this Schedule, in that Part of that Schedule—
- (a) any reference to the solicitor or to his practice shall be construed as including a reference to the body^{F100} . . . in relation to which the powers conferred by that Part of that Schedule are exercisable by virtue of paragraph 32, 33 or 34(1) of this Schedule or to its business (or former business) as a recognised body;
 - (b) any reference to paragraph 1 of that Schedule shall be construed as including a reference to paragraph 32 or 34(1) of this Schedule;^{F101} . . .
 - (c) any reference to paragraph 3 of that Schedule shall be construed as including a reference to paragraph 33 of this Schedule.
 - [^{F102}(d) paragraph 6(2)(a) of that Schedule is to be construed as including a reference to sums of money held by or on behalf of the recognised body in connection with any trust of which a person who is or was a manager of the recognised body is or was a trustee in his capacity as such a manager;
 - (e) paragraph 9 of that Schedule is to be construed—
 - (i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in his capacity as such a manager or employee, and
 - (ii) as applying to such a manager or employee and documents and property in his possession or under his control in connection with such a trust as it applies to a solicitor and documents and property in the possession or under the control of the solicitor;
 - (f) paragraph 11(1) of that Schedule is to be construed as including a power for the Society to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee, in his capacity as a manager or employee of the recognised body; and
 - (g) paragraph 13A of that Schedule is to be read as if the references to a former partner were references—
 - (i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and
 - (ii) in any other case to a manager or former manager of the recognised body.]

Textual Amendments

F100 Word in Sch. 2 para. 35(a) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 122(a), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)(f)(v)(bb)

F101 Word in Sch. 2 para. 35(b) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 122(b), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)(f)(v)(bb)

F102 Sch. 2 para. 35(d)-(g) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 122(b) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

Commencement Information

I31 Sch. 2 para. 35 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

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Privilege from disclosure etc.

- 36^{F103}(1) Where a recognised body acts as such for a client, any communication, document, material or information is privileged from disclosure in like manner as if the recognised body had at all material times been a solicitor acting for the client.]
- (2) Any enactment or instrument making special provision in relation to a solicitor or other legal representative as to the disclosure of information, or as to the production, seizure or removal of documents, with respect to which a claim to professional privilege could be maintained shall, with any necessary modifications, have effect in relation to a recognised body as it has effect in relation to a solicitor.
- ^{F104}(3) In ^{F105}[section] 778(3) of, and paragraph 14(5) of Schedule 15 to, the Income and Corporation Taxes Act 1988^{F106} and sections 749, 771(5) and (6) and 788(5) and (6) of the Income Tax Act 2007] any reference to a solicitor's client shall, in relation to a solicitor who is ^{F107}[a manager] or employee of a recognised body, be construed as a reference to a client of that body.
- ^{F108}(4) This paragraph does not apply to a recognised body which holds a licence under Part 5 of the Legal Services Act 2007 (alternative business structures).]

Textual Amendments

- F103** Sch. 2 para. 36(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 123(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F104** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, **Sch. 29 para. 30**
- F105** Words in Sch. 2 para. 36(3) substituted (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 272(a)** (with Sch. 2)
- F106** Words in Sch. 2 para. 36(3) inserted (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 272(b)** (with Sch. 2)
- F107** Words in Sch. 2 para. 36(3) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 123(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F108** Sch. 2 para. 36(4) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 123(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**

Commencement Information

- I32** Sch. 2 para. 36 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

Modification of enactments relating to conveyancing etc.

- 37 In the following provisions, namely—
- (a) sections 10(2), 48 and 182 of the ^{M2}Law of Property Act 1925;
- (b) ^{F109}
- (c) section 12 of the ^{M3}Land Charges Act 1972;
- (d) section 13 of the ^{M4}Local Land Charges Act 1975; ^{F110}
- (e) ^{F110}
- any reference to a solicitor shall be construed as including a reference to a recognised body, and any reference to a person's solicitor shall be construed as including a reference to a recognised body acting for that person.

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Textual Amendments

- F109** Sch. 2 para. 37(b) repealed (13.10.2003) by Land Registration Act 2002 (c. 9), ss. 135, 136(2), **Sch. 13** (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, **art. 2(1)**
- F110** Sch. 2 para. 37(e) and the word immediately preceding it repealed (1.10.1997) by 1996 c. 27, s. 66(3), **Sch.10** (with Sch. 9 para. 5); S.I. 1997/1892, **art. 3(1)(d)(iv)**

Commencement Information

- I33** Sch. 2 para. 37 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

Marginal Citations

- M2** 1925 c. 20.
M3 1972 c. 61.
M4 1975 c. 76.

SCHEDULE 3 **E+W**

Section 12.

THE COUNCIL FOR LICENSED CONVEYANCERS: SUPPLEMENTARY PROVISIONS

Status

- 1 The Council shall be a body corporate.

Constitution

- 2 (1) The Council shall consist of—
- (a) not more than eleven persons who are licensed conveyancers; and
 - (b) not more than ten persons who are not licensed conveyancers, being persons [^{F111}appointed] as members of the Council in accordance with a scheme under paragraph 4.
- (2) The Council shall in accordance with any such scheme [^{F112}appoint] one of its members to be chairman of the Council.
- (3) ^{F113}

Textual Amendments

- F111** Words in Sch. 3 para. 2(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F112** Words in Sch. 3 para. 2(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(3)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F113** Sch. 3 para. 2(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 29(4), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(cc)**

- 3 ^{F114}

Status: Point in time view as at 31/03/2009.

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Textual Amendments

F114 Sch. 3 para. 3 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 29(5), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(cc)**

- 4 (1) The Council shall prepare a scheme making provision as to—
- (a) the [^{F115}appointment] of persons for the purposes of paragraphs (a) and (b) of paragraph 2(1);
 - (b) the [^{F116}appointment of] a person as chairman under paragraph 2(2); and
 - (c) the tenure and vacation of office of persons [^{F117}appointed] as aforesaid, and the eligibility of persons for [^{F115}appointment].
- (2) A scheme under this paragraph shall secure that (except during any casual vacancy) —
- (a) the total number of persons [^{F118}appointed] for the purposes of paragraph (a) of paragraph 2(1) exceeds by one the total number of persons [^{F118}appointed] for the purposes of paragraph (b) of that provision; and
 - (b) the persons [^{F118}appointed] for the purposes of the said paragraph (b) include at least two persons who represent the interests of consumers.
- (3) A scheme under this paragraph shall not come into force until it has been approved by the [^{F119}Legal Services Board.]
- (4) The [^{F120}Legal Services Board] may approve a scheme under this paragraph either as submitted to [^{F121}it] or subject to such modifications as [^{F122}it] thinks fit; but where the [^{F120}Legal Services Board] proposes to approve a scheme subject to modifications [^{F122}it] shall notify the modifications to the Council and consider any observations of the Council on them.
- (5) A scheme under this paragraph may be varied or revoked by any subsequent such scheme.

Textual Amendments

- F115** Words in Sch. 3 para. 4(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(6)(a)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F116** Words in Sch. 3 para. 4(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(6)(b)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F117** Words in Sch. 3 para. 4(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(6)(c)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F118** Words in Sch. 3 para. 4(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(7)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F119** Words in Sch. 3 para. 4(3) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(8)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F120** Words in Sch. 3 para. 4(4) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(9)(a)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F121** Word in Sch. 3 para. 4(4) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(9)(b)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F122** Words in Sch. 3 para. 4(4) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 29(9)(c)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

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Remuneration of members

- 5 The Council shall have power to pay to the members of the Council or any of its committees such fees for attendance and such travelling, subsistence or other allowances as the Council may determine.

Incidental powers

- 6 The Council shall have power to do anything which in its opinion is calculated to facilitate the proper discharge of its functions, including the borrowing of money.

Officers and staff

- 7 (1) The Council shall have power to appoint such officers and servants as it may determine.
- (2) The Council shall pay to its officers and servants such remuneration as it may determine.
- (3) The Council shall, as regards any officers or servants in whose case it may determine to do so, pay to or in respect of them such pensions, allowances or gratuities, or provide and maintain for them such schemes (whether contributory or not) for the payment to or in respect of them of such pensions, allowances or gratuities, as it may determine.

Committees of the Council

- 8 F123

Textual Amendments

F123 Sch. 3 para. 8 repealed (1. 4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20; S.I.1991/608, art. 2, Sch.

Proceedings

- 9 (1) The powers of the Council and of any of its committees may be exercised notwithstanding any vacancy, and no proceedings of the Council or of any of its committees shall be invalidated by any defect in the [F124 appointment] of a member.
- (2) The Council may make standing orders for regulating the proceedings (including quorum) of the Council and of any of its committees other than the Discipline and Appeals Committee established under section 25.

Textual Amendments

F124 Words in Sch. 3 para. 9 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 29(10), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

Status: Point in time view as at 31/03/2009.

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Expenses of Council

- 10 (1) The expenses incurred by the Council in the discharge of its functions shall be defrayed out of sums received by it in respect of fees and out of any sums received by it by virtue of sub-paragraph (2).
- (2) The [^{F125}Lord Chancellor] may make grants to the Council towards meeting the expenses incurred, or to be incurred, by it in the discharge of its functions.
- (3) Any sums required by the [^{F125}Lord Chancellor] for making grants under sub-paragraph (2) shall be paid out of money provided by Parliament.

Textual Amendments

F125 Words in [Sch. 3 para. 10](#) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 29\(11\)](#), (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

Accounts

- 11 (1) The Council shall keep proper accounts of all sums received or paid by it and proper records in relation to those accounts.
- (2) The Council shall appoint auditors to the Council, each of whom shall be [^{F126}eligible for appointment as a [^{F127}statutory auditor under Part 42 of the Companies Act 2006]].
- (3) The Council shall cause their accounts to be audited annually by the auditors to the Council; and, as soon as is practicable after the accounts for any period have been audited, the Council shall cause them to be published and shall send a copy of them to the [^{F128}Lord Chancellor] together with a copy of any report of the auditors thereon.

Textual Amendments

F126 Words in [Sch. 3 para. 11\(2\)](#) substituted (1.10.1991) by [S.I. 1991/1997](#), regs. 1, 2, [Sch. para. 55\(4\)](#) (with reg. 4)

F127 Words in [Sch. 3 para. 11\(2\)](#) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1), [Sch. 1 para. 1\(ff\)\(ii\)](#) (with arts. 6,11,12)

F128 Words in [Sch. 3 para. 11\(3\)](#) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 29\(12\)](#), (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

Rules of procedure

- 1 (1) The Council shall make rules about the procedure and practice to be followed in relation to proceedings before the Discipline and Appeals Committee under this Part.

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- (2) As respects proceedings before the Committee under section 26, rules under this paragraph shall in particular make provision—
- (a) for securing that, where proceedings are to be brought against any person, notice that the proceedings are to be brought shall be given to that person at such time and in such manner as may be specified in the rules;
 - (b) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee;
 - (c) for enabling any party to the proceedings to be represented by counsel or solicitor, or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;
 - (d) for requiring proceedings before the Committee to be held in public so far as may be provided by the rules.
- (3) Rules made under this paragraph shall not come into force until approved by order of the [^{F129}Secretary of State]; and any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The [^{F129}Secretary of State] may approve rules made under this paragraph either as submitted to him or subject to such modifications as he thinks fit; but where the [^{F129}Secretary of State] proposes to approve any such rules subject to modifications he shall notify the modifications to the Council and consider any observations of the Council on them.
- (5) In this paragraph and [^{F130}paragraph 2]“party”, in relation to any proceedings, means—
- (a) the person against whom the proceedings are brought;
 - (b) a person on whose complaint the proceedings are brought; or
 - (c) a person appointed by the Council to represent the Council at the proceedings.

Textual Amendments

F129 Sch. 4: words substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), [arts. 1\(2\), 9](#), {Sch 2. para. 6(c)}

F130 Words in Sch. 4 para. 1(5) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 30\(2\)\(b\)](#), (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

Evidence etc.

- 2 (1) For the purposes of any proceedings before the Discipline and Appeals Committee under section 26—
- (a) the Committee may administer oaths; and
 - (b) any party to the proceedings may sue out writs of subpoena ad testificandum and of subpoena duces tecum;
- but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

Status: Point in time view as at 31/03/2009.

Changes to legislation: Administration of Justice Act 1985 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Section 36 of the ^{M5}Supreme Court Act 1981 (subpoena issued by High Court to run through United Kingdom) shall apply in relation to any such proceedings before the Committee as it applies in relation to causes or matters in the High Court.
- (3) Paragraph 1(5) applies for the purposes of this paragraph.

Marginal Citations
M5 1981 c. 54.

3 **F131**

Textual Amendments
F131 Sch. 4 para. 3 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 30(3), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(c)(i)(f)(v)(dd)}

Filing of orders of Committee

- 4 (1) Every order of the Discipline and Appeals Committee under this Part shall be filed with the Council, together with a statement of the Committee’s findings signed by the chairman or by some other member of the Committee authorised by him for the purpose.
- (2) Any file kept by the Council under this paragraph may be inspected during office hours without payment.
- (3) An order which has been filed shall be treated, for the purpose of enforcement, as if it had been made by the High Court.

SCHEDULE 5 **E+W**

Section 31.

INTERVENTION IN LICENSED CONVEYANCER’S PRACTICE

PART I E+W

CIRCUMSTANCES IN WHICH COUNCIL MAY INTERVENE

- 1 (1) Subject to sub-paragraph (2), the powers conferred by Part II of this Schedule shall be exercisable where—
 - (a) the Council has reason to suspect dishonesty on the part of—
 - (i) a licensed conveyancer, or
 - (ii) an employee or associate of a licensed conveyancer, or
 - (iii) the personal representatives of a deceased licensed conveyancer,
 in connection with that licensed conveyancer’s practice [^{F132}or former practice or in connection with any trust of which that licensed conveyancer is or was a trustee];

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- [^{F133}(aa) the Council has reason to suspect dishonesty on the part of a licensed conveyancer (“L”) in connection with—
 - (i) the business of any person of whom L is or was an employee, or of any body of which L is or was a manager, or
 - (ii) any business which is or was carried on by L as a sole trader;]
- (b) following the death of a licensed conveyancer who, immediately before his death was practising as a sole practitioner, the Council considers that there has been undue delay on the part of the personal representatives of that person in connection with his practice [^{F134}or in connection with any trust];
- (c) the Council is satisfied that a licensed conveyancer has failed to comply with any rules made by virtue of section [^{F135}20, 21(3)(c),] 22 or 23;
- (d) a licensed conveyancer has made a composition or arrangement with his creditors;
- (e) a licensed conveyancer has been committed to prison in any civil or criminal proceedings;
- [^{F136}(ea) the Council is satisfied that a licensed conveyancer has abandoned his practice;
- (eb) the Council is satisfied that a licensed conveyancer has been practising in breach of any conditions subject to which his licence has effect;]
- (f) the Council is satisfied that a licensed conveyancer practising as a sole practitioner is incapacitated by illness [^{F137}, injury] or accident to such an extent as to be unable to attend to his practice;
- [^{F138}(g) a licensed conveyancer lacks capacity (within the meaning of the Mental Capacity Act 2005) to act as a licensed conveyancer and powers under section 15 to 20 or section 48 of that Act are exercisable in relation to the licensed conveyancer;]
- (h) the licence held by any person—
 - (i) has been suspended or has terminated in accordance with section 18; or
 - (ii) has been revoked or suspended by an order of the Discipline and Appeals Committee under section 26; or
 - (iii) has expired and no further licence has been issued to him under this Part of this Act.
- [^{F139}(i) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a licensed conveyancer to protect—
 - (i) the interests of clients (or former or potential clients) of the licensed conveyancer or his firm, or
 - (ii) the interests of the beneficiaries of any trust of which the licensed conveyancer is or was a trustee.]
- (2) [^{F140}.....
- (3) For the purposes of the following provisions of this Schedule any person in relation to whom the powers conferred by Part II are exercisable by virtue of sub-paragraph (1) (h) shall be deemed to be a licensed conveyancer.

Status: Point in time view as at 31/03/2009.

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Textual Amendments

- F132** Words in Sch. 5 para. 1(1)(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(a), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F133** Sch. 5 para. 1(1)(aa) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(b), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F134** Words in Sch. 5 para. 1(1)(b) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(c), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F135** Words in Sch. 5 para. 1(1)(c) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(d), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F136** Sch. 5 para. 1(1)(ea)(eb) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(e), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F137** Words in Sch. 5 para. 1(1)(f) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(f), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F138** Sch. 5 para. 1(1)(g) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(g), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F139** Sch. 5 para. 1(1)(i) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(h), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F140** Sch. 5 para. 1(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(2)(i), Sch. 23, (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)(f)(v)(ee)

- 2 On the death of a licensed conveyancer who immediately before his death was practising as a sole practitioner paragraphs 6 to 8 shall apply to the client accounts of his practice.
- 3 The powers conferred by Part II of this Schedule shall also be exercisable, subject to paragraphs 5(4) and [F141 10(9)], where—
- (a) [F142 the Council is satisfied] that there has been undue delay on the part of a licensed conveyancer in connection with any matter in which he or his firm [F143 is or was acting] on behalf of a client [F144 or in connection with any trust]; and
 - (b) the Council by notice in writing invites the conveyancer to give an explanation within such period following the giving of the notice as may be specified in it, being a period of not less than eight days; and
 - (c) the conveyancer fails within that period to give an explanation which the Council regards as satisfactory; and
 - (d) the Council gives notice of the failure to the conveyancer and (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable in his case.

Textual Amendments

- F141** Words in Sch. 5 para. 3 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(3)(a), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F142** Words in Sch. 5 para. 3(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(3)(b), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F143** Words in Sch. 5 para. 3(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(3)(c), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F144** Words in Sch. 5 para. 3(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(3)(d), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

Status: Point in time view as at 31/03/2009.

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- 4 (1) Where the powers conferred by Part II of this Schedule are exercisable in relation to a licensed conveyancer, they shall continue to be exercisable after his death or after his licence has been revoked or suspended or has otherwise ceased to be in force under this Part of this Act.
- (2) The references to the licensed conveyancer or his firm in paragraphs 5(1), 6(2) and (3) [^{F145}, 6A], 8, 9(1) [^{F146}, (5) and (6)] and [^{F147}10(2) and (7)] include, in any case where the licensed conveyancer has died, references to his personal representatives.

Textual Amendments

- F145** Words in Sch. 5 para. 4(2) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(4)(a), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F146** Words in Sch. 5 para. 4(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(4)(b), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F147** Words in Sch. 5 para. 4(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(4)(c), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

PART II E+W

POWERS EXERCISABLE ON INTERVENTION

Modifications etc. (not altering text)

- C13** 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)
- C14** 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.

Status: Point in time view as at 31/03/2009.

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- (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 conferred by this Part of this Schedule and subject thereto [^{F148}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 [^{F149}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

F148 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\(c\)\(i\)](#)

F149 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\(c\)\(i\)](#)

[^{F150}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.

Status: Point in time view as at 31/03/2009.

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- (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.
- (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

F150 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

F150 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 ^{F151}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

F151 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 ^{F152}(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.]

Status: Point in time view as at 31/03/2009.

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Textual Amendments

F152 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)**

Documents

- 9 (1) The Council may give notice to the licensed conveyancer or his firm requiring the production or delivery to any person appointed by the Council at a time and place to be fixed by the Council—
- (a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession [^{F153}or under the control] of the licensed conveyancer or his firm in connection with his practice [^{F154}or former practice or with any trust of which the licensed conveyancer is or was a trustee]; and
 - (b) where they are exercisable by virtue of paragraph 3, of all documents in the possession [^{F155}or under the control] of the licensed conveyancer or his firm in connection with the matters [^{F156}of which the Council is satisfied](whether or not they relate also to other matters).
- (2) The person appointed by the Council may take possession of any such documents on behalf of the Council.
- (3) Except in a case where an application has been made to the High Court under sub-paragraph (4), if any person having possession [^{F157}or control] of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub-paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.
- (4) The High Court, on the application of the Council, may order a person required to produce or deliver documents under sub-paragraph (1) to produce or deliver them to any person appointed by the Council at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Council.
- (5) If on an application by the Council the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub-paragraph (1) are exercisable have come into the possession [^{F158}or are under the control] of some person other than the licensed conveyancer or his firm, the court may order that person to produce or deliver the documents to any person appointed by the Council at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Council.
- [^{F159}(5A) In the case of a document which consists of information which is stored in electronic form, the requirement imposed by a notice under sub-paragraph (1) or an order under sub-paragraph (4) or (5), is a requirement to produce or deliver the information in a form in which it is legible or from which it can readily be produced in a legible form.]
- (6) On making an order under this paragraph, or at any later time, the court, on the application of the Council, may authorise a person appointed by the Council to enter any premises (using such force as is reasonably necessary) to search for and take possession of
- [^{F160}(a)] any documents to which the order relates.

Status: Point in time view as at 31/03/2009.

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- [^{F161}(b) any property—
- (i) in the possession or under the control of the licensed conveyancer or his firm, or
 - (ii) in the case of an order under sub-paragraph (5), which was in the possession or under the control of such a person and has come into the possession or under the control of the person in respect of whom the order is made,
- which the Council reasonably requires for the purpose of accessing information contained in such documents,
- and to use property obtained under paragraph (b) for that purpose.]
- (7) The Council, on taking possession of any documents [^{F162}or other property] under this paragraph, shall serve upon the licensed conveyancer or personal representatives and upon any other person from whom they were received on the Council's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.
- (8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice 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 deliver the documents [^{F163}or other property] to such person as the applicant may require.
- (9) A notice under sub-paragraph (8) must be given within eight days of the service of the Council's notice under sub-paragraph (7).
- (10) Without prejudice to the foregoing provisions of this Schedule, the Council may apply to the High Court for an order as to the disposal or destruction of any documents [^{F164}or other property] in its possession by virtue of this paragraph or paragraph 10.
- (11) On an application under sub-paragraph (8) or (10), the court may make such order as it thinks fit.
- (12) Except so far as its right to do so may be restricted by an order on an application under sub-paragraph (8) or (10), the Council may take copies of or extracts from any documents in its possession by virtue of this paragraph or paragraph 10 and require any person to whom it is proposed that such documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Council.

Textual Amendments

- F153** Words in Sch. 5 para. 9(1)(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(a)(i), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F154** Words in Sch. 5 para. 9(1)(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(a)(ii), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F155** Words in Sch. 5 para. 9(1)(b) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(b)(i), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F156** Words in Sch. 5 para. 9(1)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(b)(ii), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F157** Words in Sch. 5 para. 9(3) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(c), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

Status: Point in time view as at 31/03/2009.

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- F158** Words in Sch. 5 para. 9(5) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(d), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F159** Sch. 5 para. 9(5A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(e), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F160** Words in Sch. 5 para. 9(6) renumbered (31.3.2009) as Sch. 5 para. 9(6)(a) by virtue of Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(f), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F161** Sch. 5 para. 9(6)(b) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(g), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F162** Words in Sch. 5 para. 9(7) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(h), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F163** Words in Sch. 5 para. 9(8) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(i), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F164** Words in Sch. 5 para. 9(10) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(9)(j), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

Modifications etc. (not altering text)

- C15** Sch. 5 Pt. II paras. 9(2)–(12), 11, 12 applied (1. 4. 1991 for certain purposes, otherwise 7.12.2004) for limited purposes by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, Sch. 8 para. 21(2) (with s. 59(1)); S.I.1991/608, art. 2, Sch; S.I. 2004/2950, art. 2(a)

[^{F165}Redirection of communications]

Textual Amendments

- F165** Sch. 5 para. 10 and cross-heading substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(10), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

- [^{F166}10(1) The High Court, on the application of the Council, may from time to time make a communications redirection order.
- (2) A communications redirection order is an order that specified communications to the licensed conveyancer or his firm are to be directed, in accordance with the order, to the Council, or any person appointed by the Council.
- (3) For the purposes of this paragraph—
- (a) “specified communications” means communications of such description as are specified in the order;
 - (b) the descriptions of communications which may be so specified include—
 - (i) communications in the form of a postal packet;
 - (ii) electronic communications;
 - (iii) communications by telephone.
- (4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.
- (5) Where a communications redirection order has effect, the Council or the person appointed by the Council may take possession or receipt of the communications redirected in accordance with the order.
- (6) Where a communications redirection order is made the Council must pay to—
- (a) in the case of an order relating to postal packets, the postal operator concerned, and

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- (b) in any other case, the person specified in the order, the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee had permanently ceased to occupy or use the premises or other destination of the communications and had applied to the postal operator or the specified person (as the case may be) to redirect the communications to him as mentioned in the order.
- (7) The High Court may, on the application of the Council, authorise the Council, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the licensed conveyancer or his firm if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the licensed conveyancer or his firm.
- (8) In this paragraph “postal operator” and “postal packet” have the meaning given by section 125(1) of the Postal Services Act 2000.
- (9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.]

Textual Amendments

F166 Sch. 5 para. 10 and preceding cross-heading substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 31\(10\)](#), (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

[^{F167}Trusts

Textual Amendments

F167 Sch. 5 para. 10 and preceding cross-heading inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 31\(11\)](#), (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

- 10A (1) If the licensed conveyancer or his personal representative is a trustee of a trust, the Council may apply to the High Court for an order for the appointment of a new trustee in substitution for him.
- (2) The Trustee Act 1925 has effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.]

General

- 11 The powers in relation to sums of money [^{F168}, documents and other property] conferred by this Part of this Schedule shall be exercisable notwithstanding any lien on them or right to their possession.

Textual Amendments

F168 Words in [Sch. 5 para. 11](#) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 31\(12\)](#), (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

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Modifications etc. (not altering text)

C16 Sch. 5 Pt. II paras. 9(2)-(12), 11, 12 applied (1.4 1991 for certain purposes, otherwise 7.12.2004) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, Sch. 8 para. 21(2) (with s. 59(1)); S.I. 1991/608, art. 2, Sch; S.I. 2004/2950, **art. 2(a)**

- 12 Subject to any order for the payment of costs that may be made on an application to the court under this Schedule, any costs incurred by the Council for the purposes of this Schedule, including, without prejudice to the generality of this paragraph, the costs of any person exercising powers under this Part of this Schedule on behalf of the Council, shall be paid by the licensed conveyancer or his personal representatives and shall be recoverable from him or them as a debt owing to the Council.

Modifications etc. (not altering text)

C17 Sch. 5 Pt. II paras. 9(2)-(12), 11, 12 applied (1. 4. 1991 for certain purposes, otherwise 7.12.2004) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, Sch. 8 para. 21(2) (with s. 59(1)); S.I.1991/608, art. 2, Sch; S.I. 2004/2950, **art. 2(a)**

- [^{F169}12(1)] The High Court, on the application of the Council, may order a former partner of the licensed conveyancer to pay a specified proportion of the costs mentioned in paragraph 12.
- (2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the licensed conveyancer was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.
- (3) In this paragraph “specified” means specified in the order made by the High Court.]

Textual Amendments

F169 Sch. 5 para. 12A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 31(13)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

SCHEDULE 6 **E+W**

Section 32.

BODIES RECOGNISED UNDER S.32: SUPPLEMENTARY PROVISIONS

Construction of references to recognised bodies

- 1 (1) Subject to sub-paragraph (2), references in this Schedule to a recognised body are references to a body ^{F170} . . . for the time being recognised under section 32.
- (2) In relation to any such allegation ^{F171} . . . as is mentioned in paragraph 3(1)(a)(ii) ^{F172} . . . of this Schedule references in this Schedule to a recognised body include references to a body ^{F170} . . . that was recognised under section 32 at the time when the conduct to which the allegation ^{F171} . . . relates took place.

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Textual Amendments

- F170** Word in Sch. 6 para. 1 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(2\)\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to art. 4)
- F171** Words in Sch. 6 para. 1(2) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(2\)\(b\)\(i\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to art. 4)
- F172** Words in Sch. 6 para. 1(2) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(2\)\(b\)\(ii\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to art. 4)

Disciplinary control of recognised bodies

- 2 In addition to the functions conferred on them by sections 24 [^{F173}, 24A] and 25 the Investigating Committee and the Discipline and Appeals Committee shall have the functions conferred on them by the following provisions of this Schedule.

Textual Amendments

- F173** Words in [Sch. 6 para. 2](#) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(3\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to art. 4)

- 3 (1) The Investigating Committee shall carry out a preliminary investigation of any case in which—
- (a) it is alleged that a recognised body—
 - (i) has (while a recognised body) been convicted ^{F174} . . . of a criminal offence which renders it unsuitable to be recognised under section 32; or
 - (ii) has failed to comply with any rules applicable to it by virtue of that section; or
 - ^{F175}(aa) it is alleged that a manager or employee of a recognised body who is not a licensed conveyancer has failed to comply with any rules applicable to him by virtue of section 32;
 - (ab) it is alleged that a recognised body (while a recognised body) has failed to comply with a condition subject to which its recognition has effect.]
 - (b) ^{F176}
- ^{F177}
- ^{F178}(1A) After making such an investigation, the Investigating Committee may—
- (a) hear and determine the allegation, or
 - (b) refer the allegation to the Discipline and Appeals Committee for hearing and determination by that Committee under paragraph 4.
- (1B) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.]
- ^{F179}(2)

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Textual Amendments

- F174** Words in Sch. 6 para. 3(1)(a)(i) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(4\)\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to art. 4)
- F175** Sch. 6 para. 3(1)(aa)(ab) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(4\)\(b\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to art. 4)
- F176** Sch. 6 para. 3(1)(b) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(4\)\(c\)\(i\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to art. 4)
- F177** Words in Sch. 6 para. 3(1) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(4\)\(c\)\(ii\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to art. 4)
- F178** Sch. 6 para. 3(1A)(1B) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(4\)\(d\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to art. 4)
- F179** Sch. 6 para. 3(2) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 210, 211, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(f\)\(v\)](#)

- [^{F180}3A(1) Where, on hearing an allegation by virtue of paragraph 3(1A)(a), the Investigating Committee are satisfied—
- (a) in a case within paragraph 3(1)(a), that a recognised body has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, or
 - (b) in a case within paragraph 3(1)(aa), that a manager or employee has failed to comply with any such rules as are mentioned in that paragraph, or
 - (c) in a case within paragraph 3(1)(ab), that a recognised body has failed to comply with any condition mentioned in that paragraph,
- the Committee may make an order directing the payment by the recognised body, manager or employee of a penalty to be forfeited to Her Majesty.
- (2) In relation to proceedings before the Investigating Committee by virtue of paragraph 3(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the recognised body, manager or employee against whom the proceedings were brought;
 - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
 - (3) In sub-paragraph (2), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.
 - (4) The amount of any penalty required to be paid under sub-paragraph (1) may not exceed such amount as is prescribed by rules made by the Council for the purposes of this sub-paragraph.
 - (5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—
 - (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and
 - (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.

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- (6) A person against whom an order is made by the Investigating Committee by virtue of sub-paragraph (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (7) If an order is made by the Investigating Committee by virtue of sub-paragraph (2), a person listed in paragraphs (a) to (c) of that sub-paragraph may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (8) Where an order is made by the Discipline and Appeals Committee under sub-paragraph (6) or (7)—
 - (a) a party to the appeal, or
 - (b) if not within paragraph (a), the Council,may appeal against the order to the High Court.
- (9) On an appeal under sub-paragraph (8) the High Court may make such order as it thinks fit.
- (10) The decision of the High Court on an appeal under sub-paragraph (8) shall be final.]

Textual Amendments

F180 Sch. 6 para. 3A inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(5\)](#), (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

- 4 (1) Where on the hearing of any allegation [^{F181}within paragraph 3(1)(a) or (ab)] the Discipline and Appeals Committee are satisfied that a recognised body—
- (a) has been convicted as mentioned in sub-paragraph (i) of paragraph (3)(1)(a); or
 - (b) has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph,
- [^{F182}, or
- (c) has failed to comply with any such condition as is mentioned in paragraph 3(1)(ab),]

the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2).

(2) Those orders are—

 - (a) an order revoking the recognition under section 32 of the body to which the allegation relates;
 - (b) an order directing the payment by that body of a penalty not exceeding [^{F183}such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph], to be forfeited to Her Majesty;
 - [^{F184}(ba) an order reprimanding that body;
 - (bb) an order that the recognition of that body under section 32 is to have effect subject to such conditions as may be specified in the order;]
 - (c) [^{F185}.....

[^{F186}(2A) Where on the hearing of any allegation within paragraph 3(1)(aa) the Discipline and Appeals Committee are satisfied that a manager or employee has failed to comply

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with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2B).

(2B) Those orders are—

- (a) an order directing the payment by the manager or employee of a penalty not exceeding such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph;
- (b) an order requiring the Council to consider taking such steps as the Committee may specify in relation to the manager or employee;
- (c) an order requiring the Council to refer to an appropriate regulator any matter relating to the conduct of the manager or employee.

(2C) For the purposes of sub-paragraph (2B)(c) an “appropriate regulator” in relation to a manager or employee means—

- (a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and
- (b) if the person carries on activities which are not reserved legal activities, any person who exercises regulatory functions in relation to the carrying on of such activities by the person.

(2D) In relation to proceedings under this paragraph, the Committee may make such order as they consider fit as to the payment of costs by—

- (a) the Council;
- (b) the recognised body or manager or employee against whom the proceedings were brought;
- (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.

(2E) In sub-paragraph (2D), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.]

[^{F187}(3) Where it appears to the Council that the professional services provided by a recognised body in connection with any matter in which that body has been instructed by a client have, in any respect, not been of the quality which it is reasonable to expect of that body, the Council may take any step with respect to that recognised body as it could take under paragraphs 14 to 20 of Schedule 8 of the Courts and Legal Services Act 1990 with respect to a licensed conveyancer in similar circumstances.

(3A) Those paragraphs shall have effect (with the necessary modifications) with respect to any steps taken against the recognised body under this sub-paragraph as they have effect with respect to any steps taken with respect to a licensed conveyancer under paragraph 14 of that Schedule.]

(4) ^{F188}

Textual Amendments

F181 Words in Sch. 6 para. 4(1) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(6\)\(a\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

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- F182** Sch. 6 para. 4(1)(c) and preceding word inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(6)(b)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F183** Words in Sch. 6 para. 4(2)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(6)(c)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F184** Sch. 6 para. 4(2)(ba)(bb) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(6)(d)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F185** Sch. 6 para. 4(1)(c) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 32(6)(e), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(ff)** (subject to art. 4)
- F186** Sch. 6 para. 4(2A)-(2E) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(6)(f)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F187** Sch. 6 para. 4(3)(3A) substituted (*I. 4. 1991*) for limited purposes by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(6), **Sch. 18, para. 58** (with s. 125(3), Sch. 19 para. 15(c,); S.I. 1991/608, art. 2, **Sch. 18**)
- F188** Sch. 6 para. 4(4) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 32(6)(g), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(ff)**

- 5 (1) Where—
- (a) any order is made by the Discipline and Appeals Committee under section 26 [F189 or paragraph 4] in the case of a [F190 manager] of a recognised body; or
 - (b) any such order is made in the case of a person employed by a recognised body and the act or omission constituting the ground on which the order was made was instigated or connived at by a [F190 manager] of the recognised body, or, if the act or omission was a continuing act or omission, a [F190 manager] of the body had or reasonably ought to have had knowledge of its continuance, the Discipline and Appeals Committee may, if they think fit, by order revoke the recognition of that body under section 32.
- (2) The Committee shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in sub-paragraph (1) being rendered inapplicable in that case, or while any such proceedings are pending.
- (3) The reference to a [F191 manager] of a recognised body in paragraph (a) or (b) of sub-paragraph (1) includes a reference to a person who was a [F191 manager] of the body at the time of the conduct leading to the making of the order referred to in that paragraph.
- [F192(4) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
 - (b) the body to whose recognition the proceedings relate.]

Textual Amendments

- F189** Words in Sch. 6 para. 5(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(a)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F190** Words in Sch. 6 para. 5(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(a)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(ii)**
- F191** Words in Sch. 6 para. 5(3) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

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F192 Sch. 6 para. 5(4) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

Appeals against orders of the Committee

- 6 (1) A [^{F193}person] in whose case an order is made by the Committee by virtue of paragraph 4(1) [^{F194}or (2A)] or [^{F195}5(1)] may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.
- [^{F196}(1A) Where an order is made by the Committee under paragraph 4(2D) or 5(4) a person listed in that paragraph may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.]
- (2) The decision of the High Court on an appeal under this paragraph shall be final.

Textual Amendments

- F193** Words in Sch. 6 para. 6(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(8)(a)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F194** Words in Sch. 6 para. 6(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(8)(a)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F195** Word in Sch. 6 para. 6(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(8)(a)(iii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F196** Sch. 6 para. 6(1A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(8)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

Revocation of recognition on grounds of fraud or error

- 7 (1) Where the Discipline and Appeals Committee are satisfied that the recognition of a body ^{F197}. . . under section 32 was granted as a result of any error, or as a result of fraud on the part of that body, the Committee may, if they think fit, by order revoke that body's recognition.
- (2) A body ^{F197}. . . may be granted recognition under that section notwithstanding that any recognition previously granted to it has been revoked under this paragraph; but if any such recognition was so revoked on the ground of fraud that body shall not be granted recognition under that section except on an application made in that behalf to the Committee.
- [^{F198}(3) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
- (b) the body to whose recognition the proceedings relate.
- (4) In relation to proceedings on an application under sub-paragraph (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
- (b) the applicant.]

Status: Point in time view as at 31/03/2009.

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Textual Amendments

- F197** Word in Sch. 6 para. 7(1)(2) repealed (31.3.2009) by **Legal Services Act 2007 (c. 29)**, ss. 182, 210, 211, Sch. 17 para. 32(9)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(ff)**
- F198** Sch. 6 para. 7(3)(4) inserted (31.3.2009) by **Legal Services Act 2007 (c. 29)**, ss. 182, 211, **Sch. 17 para. 32(9)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

Appeal against decision of Council in relation to grant of recognition

- 8 (1) Where, in the case of any body ^{F199} . . . , the Council—
- (a) refuses an application by that body for recognition under section 32; or
 - (b) decides to grant recognition of that body under that section subject to any [^{F200}conditions], [^{F201} or
 - (c) decides to give a direction in relation to that body under section 32(3B), or
 - (d) refuses an application by that body under section 32(3D),]
- that body may appeal to the Discipline and Appeals Committee against that refusal or decision within one month of being notified of it.
- (2) On an appeal under [^{F202}sub-paragraph (1)(a) or (b)] the Discipline and Appeals Committee may—
- (a) by order direct the Council to grant recognition of the body in question under section 32, either without [^{F203}conditions] or subject to such [^{F204}conditions] as may be specified by the Committee in the direction; or
 - (b) affirm the refusal or decision of the Council;
- and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.
- [^{F205}(2A) On an appeal under sub-paragraph (1)(c), the Discipline and Appeals Committee may—
- (a) revoke the direction of the Council under section 32(3B),
 - (b) direct that the body's recognition is to have effect subject to such conditions as may be specified by the Council in the direction, or
 - (c) affirm the decision of the Council,
- and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.
- (2B) On an appeal under sub-paragraph (1)(d), the Discipline and Appeals Committee may—
- (a) direct the Council to grant the application, or
 - (b) affirm the decision of the Council,
- and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.]
- (3) Rules made by the Council may make provision, as respects any application for recognition that is neither granted nor refused by the Council within such period as may be specified in the rules, for enabling an appeal to be brought under this paragraph in relation to the application as if it had been refused by the Council.

Status: Point in time view as at 31/03/2009.

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Textual Amendments

- F199** Word in Sch. 6 para. 8(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 32(10)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(ff)**
- F200** Word in Sch. 6 para. 8(1)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(10)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F201** Sch. 6 para. 8(1)(c)(d) and preceding word inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(10)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F202** Words in Sch. 6 para. 8(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(10)(d)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F203** Words in Sch. 6 para. 8(2)(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(10)(e)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F204** Words in Sch. 6 para. 8(2)(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(10)(e)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F205** Sch. 6 para. 8(2A)(2B) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(10)(f)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

Rules of procedure, etc.

- 9 (1) Paragraphs 1(2) [^{F206}and 2] of Schedule 4 shall have effect in relation to proceedings under [^{F207}paragraph 3A, 4 or 5] of this Schedule as they have effect in relation to proceedings under section 26.
- (2) Paragraph 4 of Schedule 4 applies to orders made by the Discipline and Appeals Committee under this Schedule.

Textual Amendments

- F206** Words in Sch. 6 para. 9(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(11)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F207** Words in Sch. 6 para. 9(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(11)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

Intervention by Council

- 10 (1) Subject to sub-paragraph (2), where—
- (a) the Council is satisfied that a recognised body [^{F208}or a manager of such a body] has failed to comply with any rules applicable to it by virtue of section 32; or
- [^{F209}(aa) the Council is satisfied that a recognised body has been carrying on business in breach of any condition subject to which the body's recognition under section 32 of this Act has effect; or]
- (b) a person has been appointed receiver or manager of property of a recognised body ; or
- [^{F210}(c) a relevant insolvency event occurs in relation to a recognised body; or]
- (d) the Council has reason to suspect dishonesty on the part of any [^{F211}manager] or employee of a recognised body in connection with
- [^{F212}(i) that body's business,
- (ii) any trust of which that body is or was a trustee,

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- (iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or
- (iv) the business of another body in which the manager or employee is or was a manager or employee or the practice (or former practice) of the manager or employee;]

[^{F213}or

- (e) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 5 (or any of them) in relation to a recognised body to protect—
 - (i) the interests of clients (or former or potential clients) of the recognised body,
 - (ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or
 - (iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person's capacity as such a manager or employee.]

the powers conferred by Part II of Schedule 5 shall be exercisable in relation to the recognised body and its business in like manner as they are exercisable in relation to a licensed conveyancer and his practice.

[^{F214}(1A) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if—

- (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
- (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
- (c) an administrative receiver within the meaning of section 251 of that Act is appointed;
- (d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);
- (e) an order for the winding up of the body is made.]

(2) ^{F215}.....

Textual Amendments

- F208** Words in Sch. 6 para. 10(1)(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(12)(a) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F209** Sch. 6 para. 10(1)(aa) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(12)(b) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F210** Sch. 6 para. 10(1)(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(12)(c) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F211** Word in Sch. 6 para. 10(1)(d) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(12)(d) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F212** Words in Sch. 6 para. 10(1)(d) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(12)(e) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)
- F213** Sch. 6 para. 10(1)(e) and preceding word inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(12)(f) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

Status: Point in time view as at 31/03/2009.

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F214 Sch. 6 para. 10(1A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(12)(g)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

F215 Sch. 6 para. 10(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 32(12)(h), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(ff)**

- 11 The powers conferred by Part II of Schedule 5 shall also be exercisable as mentioned in paragraph 10(1) of this Schedule where—
- [^{F216}(a) the Council is satisfied that there has been undue delay on the part of—
- (i) a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or
 - (ii) a person who is or was a manager or employee of a recognised body in connection with any trust of which he is or was a trustee in his capacity as such a manager or employee; and]
- (b) the Council by notice in writing invites the body to give an explanation within such period following the giving of the notice as may be specified in it, being a period of not less than eight days; and
 - (c) the body fails within that period to give an explanation which the Council regards as satisfactory; and
 - (d) the Council gives notice of the failure to the body and (at the same or any later time) notice that the powers conferred by Part II of Schedule 5 are accordingly exercisable in its case by virtue of this paragraph.

Textual Amendments

F216 Sch. 6 para. 11(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(13)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

- 12 (1) Where the recognition of a body ^{F217} . . . under section 32—
- (a) has been revoked by an order of the Discipline and Appeals Committee under this Schedule; or
 - (b) has expired and no further recognition of that body has been granted under that section,
- the powers conferred by Part II of Schedule 5 shall be exercisable in relation to the body ^{F217} . . . and its former business as a recognised body as they are exercisable in relation to a licensed conveyancer and his practice.
- (2) Where the powers conferred by Part II of Schedule 5 are exercisable in relation to a recognised body in accordance with paragraph 10 or 11 of this Schedule they shall continue to be exercisable after that body's recognition under section 32 has been revoked or has otherwise ceased to be in force.

Textual Amendments

F217 Words in Sch. 6 para. 12(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 32(14), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(ff)**

- 13 In connection with the application of Part II of Schedule 5 for the purposes of this Schedule, in that Part of that Schedule—

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- (a) any reference to the licensed conveyancer or to his practice shall be construed as including a reference to the body ^{F218} . . . in relation to which the powers conferred by that Part of that Schedule are exercisable by virtue of paragraph 10, 11 or 12(1) of this Schedule or to its business (or former business) as a recognised body;
- (b) any reference to paragraph 1 of that Schedule shall be construed as including a reference to paragraph 10 or 12(1) of this Schedule; ^{F219} . . .
- (c) any reference to paragraph 3 of that Schedule shall be construed as including a reference to paragraph 11 of this Schedule.
- ^{F220}(d) paragraph 6(2)(a) of that Schedule is to be construed as including a reference to sums of money held by or on behalf of the recognised body in connection with any trust of which a person who is or was manager or employee of that body is or was a trustee in his capacity as such a manager or employee;
- (e) paragraph 9 of that Schedule is to be construed—
 - (i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of that body is or was a trustee in his capacity as such a manager or employee, and
 - (ii) as applying to a person who is or was a manager or employee of the recognised body and documents and property in his possession or under his control in connection with such a trust as it applies to a recognised body and documents and property in the possession or under the control of that body;
- (f) paragraph 10A(1) of that Schedule is to be construed as including power for the Council to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee in his capacity as a manager or employee of the recognised body; and
- (g) paragraph 12A of that Schedule is to be read as if the references to a former partner were references—
 - (i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and
 - (ii) in any other case to a manager or former manager of the recognised body.]

Textual Amendments

F218 Word in Sch. 6 para. 13(a) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 32(15)(a), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)(f)(v)(ff)

F219 Word in Sch. 6 para. 13(b) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 32(15)(b), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)(f)(v)(ff)

F220 Sch. 6 para. 13(d)-(g) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(15)(b) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

Examination of files

- 14^{F221}(1) Where the Investigating Committee are satisfied that it is necessary to do so for the purpose of investigating any such allegation as is mentioned in paragraph 3(1)(a)(ii), (aa) or (ab), the Committee may give an information notice to a relevant person.

Status: Point in time view as at 31/03/2009.

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- (1A) An information notice is a notice requiring the production or delivery to any person appointed by the Committee, at a time and a place to be fixed by the Committee, of all documents in the possession or under the control of the relevant person in connection with the matters to which the allegation relates (whether or not they relate also to other matters).
- (1B) In this section “relevant person” means—
- (a) in the case of an allegation against a recognised body, the recognised body or any of its managers or employees, and
 - (b) in the case of an allegation against a manager or employee of a recognised body, the manager or employee, the recognised body or any other manager or employee of the recognised body.]
- (2) Sub-paragraphs (2) to (12) of paragraph 9 of Schedule 5, together with paragraphs 11 [^{F222}to 12A] of that Schedule, shall apply in relation to the powers conferred on the Investigating Committee by [^{F223}sub-paragraphs (1) and (1A) of this paragraph] as they apply in relation to the powers conferred on the Council by sub-paragraph (1) of paragraph 9, and accordingly in those provisions—
- (a) any reference to the Council shall be construed as including a reference to the Committee;
 - (b) any reference to the licensed conveyancer shall be construed as including a reference to the body [^{F224}, manager or employee] with respect to which the powers are exercisable by virtue of [^{F223}sub-paragraphs (1) and (1A) of this paragraph];
 - (c) any reference to a person appointed, or to a requirement, under paragraph 9(1) shall be construed as including a reference to a person appointed, or to a requirement, under [^{F223}sub-paragraphs (1) and (1A) of this paragraph]; and
 - (d) any reference to any such documents as are mentioned in paragraph 9(1) shall be construed as including a reference to any such documents as are mentioned in [^{F225}sub-paragraph (1A)] of this paragraph.

Textual Amendments

- F221** Sch. 6 para. 14(1)-(1B) substituted (31.3.2009) for Sch. 6 para. 14(1) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(16)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F222** Words in Sch. 6 para. 14(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(16)(b)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F223** Words in Sch. 6 para. 14(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(16)(b)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F224** Words in Sch. 6 para. 14(2)(b) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(16)(b)(iii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F225** Words in Sch. 6 para. 14(2)(d) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(16)(b)(iv)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

Application of rules relating to accounts and interest on client's money

15

^{F226}

- 16 (1) Where rules made under section 22(2) and containing any such provision as is referred to in section 23(1) are applied to recognised bodies [^{F227}or managers or

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employees of such bodies,] in accordance with section 32(3), then, except as provided by the rules and subject to sub-paragraph (2), a recognised body [^{F228}, manager or employee] which in pursuance of the rules maintains an account in which [^{F229}it or he keeps] money received or held for or on account of [^{F230}clients of the recognised body] generally shall not be liable to account to any person for interest received by it [^{F231}or him] on money in that account.

(2) Nothing in any such rules or in sub-paragraph (1) shall affect any arrangement in writing between a recognised body [^{F232}, or any manager or employee of such a body, and any of the clients of the recognised body] as to the application of the client's money or the payment of interest on it.

Textual Amendments

- F227** Words in Sch. 6 para. 16(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(18)(a)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F228** Words in Sch. 6 para. 16(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(18)(a)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F229** Words in Sch. 6 para. 16(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(18)(a)(iii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F230** Words in Sch. 6 para. 16(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(18)(a)(iv)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F231** Words in Sch. 6 para. 16(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(18)(a)(v)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F232** Words in Sch. 6 para. 16(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(18)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

SCHEDULE 7 E+W

Section 67(1).

CONSEQUENTIAL AMENDMENTS

Legal Aid Act 1974 (c.4)

1—3. ^{F233}

Textual Amendments

- F233** Sch. 7 paras. 1–3 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45(2), **Sch. 6**

Solicitors Act 1974 (c.47)

PROSPECTIVE

4 ^{F234}

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Textual Amendments

F234 Sch. 7 para. 4 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20

- 5 In section 48(2) (orders of Tribunal), for “section 47(2)” substitute “subsection (2) of section 47, or was made under subsection (2B) of that section . . .”.

PROSPECTIVE

- 6 In section 49(3) (appeals from Tribunal), at the end add “, and an appeal against an order under section 47 excluding any person or persons from legal aid work (within the meaning of that section) shall lie only at the instance of any person so excluded.”

County Courts Act 1984 (c.28)

- 7 In section 33 (effect of order of judge in probate proceedings)—
 (a) omit “a judge of”; and
 (b) for “him” substitute “the court”.
- 8 In section 58(1) (persons who may take affidavits for use in county courts)—
 (a) for “any person” substitute “a commissioner for oaths or any other person”; and
 (b) omit the words from “or a solicitor” onwards.

SCHEDULE 8 **U.K.**

Section 67(2).

REPEALS

PART I **U.K.**

REPEAL COMING INTO FORCE ON ROYAL ASSENT

| Chapter | Short title | Extent of repeal |
|----------------------|---|-------------------------------------|
| 12 & 13 Vict. c. 16. | Justices Protection (Ireland) Act 1849. | The whole Act so far as unrepealed. |

PART II **U.K.**

REPEALS COMING INTO FORCE TWO MONTHS AFTER ROYAL ASSENT

| Chapter | Short title | Extent of repeal |
|-------------|---|--|
| 1978 c. 23. | Judicature (Northern Ireland) Act 1978. | In section 70(2)(a), the words “and is in practice as such”. |

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| | | |
|-------------|-------------------------------------|--|
| 1981 c. 54. | Supreme Court Act 1981. | In section 40A(4), the word “and”. |
| 1982 c. 53. | Administration of Justice Act 1982. | Section 71. |
| 1984 c. 28. | County Courts Act 1984. | In section 58(1), the words from “or a solicitor” onwards. In section 109(4), the word “and”. Section 113(a)(i). |

PART III U.K.

REPEALS COMING INTO FORCE ON AN APPOINTED DAY

| Chapter | Short title | Extent of repeal |
|----------------|-------------------------|--|
| 1974 c. 4. | Legal Aid Act 1974. | Section 12(3) to (5). Section 38(2) to (6). |
| 1974 c. 47. | Solicitors Act 1974. | In sections 7 and 8(2), the words “not exceeding £15”. Section 43(6). In Schedule 2, in paragraph 2(1)(b) the words “not exceeding £50”. |
| 1981 c. 54. | Supreme Court Act 1981. | Section 106(2) to (4). |
| 1984 c. 28. | county Courts Act 1984. | In section 33, the words “a judge of”. In section 138(5), the words “Subject to subsection (6),”. |

SCHEDULE 9 U.K.

Section 69(5).

TRANSITIONAL PROVISIONS AND SAVINGS

Imposition of disciplinary sanctions by Council of Law Society

1 Section 1 applies in relation to services provided by a solicitor whether they were provided before or after the commencement of that section.

Examination of solicitors’ files in connection with complaints

2 F235

Status: Point in time view as at 31/03/2009.

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Textual Amendments

F235 Sch. 9 para. 2 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 210, 211, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(f)(v)(gg)

Powers of lay observers and Tribunal in relation to inadequate professional services

- 3 In section 3—
- (a) subsection (1) applies in relation to a complaint whether it was made before or after the commencement of that section; and
 - (b) subsection (2) applies in relation to services provided by a solicitor whether they were provided before or after that commencement.

Practising certificates

- 4 In section 4—
- (a) subsections (2) and (4) apply to applications for practising certificates made after the commencement of that section; and
 - (b) subsection (3) applies in relation to practising certificates issued after that commencement.

Restriction on preparation of contracts of sale etc.

- 5 In section 6—
- (a) subsection (3) applies to acts done before or after the commencement of that section; but
 - (b) subsection (4) does not apply to acts done before that commencement.

Restriction on preparation of papers for probate etc.

- 6 Where a person has committed an offence under section 23 of the Solicitors Act 1974 before the commencement of section 7 of this Act, he shall not be liable after that commencement to be proceeded against in respect of that offence unless the act constituting that offence would have constituted an offence under section 23, as substituted by section 7 of this Act, if it had been in force at the time when the act was done.

Orders modifying provisions so as to apply to incorporated practices

- 7 Any provision made by an order under subsection (7) of section 9 after the commencement of that section may be made with retrospective effect as from that commencement or any later date.

Legal aid complaints

- 8 The repeal by this Act of the provisions referred to in subsection (3) of section 40 shall not affect—

Status: Point in time view as at 31/03/2009.

Changes to legislation: Administration of Justice Act 1985 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the hearing and determination by any tribunal established pursuant to any of those provisions of any complaint or other matter where a reference or application was made to the tribunal in respect of the complaint or matter before the commencement of that subsection; or
 - (b) any appeal against the decision of such a tribunal with respect to any such complaint or matter.
- 9 Each of sections 41 to 44 applies in relation to conduct of a barrister or solicitor (as the case may be) whether it occurred before or after the commencement of that section.

Substitution or removal of personal representatives

- 10 Subsection (6) of section 50 applies to an application under section 1 of the ^{M6}Judicial Trustees Act 1896 whether it was made before or after the commencement of section 50.

Marginal Citations

M6 1896 c. 35.

Administrative and clerical expenses of garnishees

- 11 (1) Any order of the Lord Chancellor made, or having effect as if made, under section 40A of the Supreme Court Act 1981 or section 109 of the ^{M7}County Courts Act 1984 which is in force immediately before the commencement of section 52 of this Act shall have effect as if made under and for the purposes of that section as amended by section 52, and any reference in any such order to the sum which may be deducted by any deposit-taking institution shall be construed as a reference to the maximum sum which may be so deducted.
- (2) The provisions of section 52 shall not apply in relation to any order of the kind mentioned in subsection (1) of either of the said sections 40A and 109 which was made before the commencement of section 52.

Marginal Citations

M7 1984 c. 28.

Register of county court judgments

- 12 (1) Where immediately before the commencement of section 54 there is in force any entry in the register relating to—
- (a) any judgment of a county court, not being a judgment falling within section 73(1) of the County Courts Act 1984 as substituted by subsection (2) of section 54; or
 - (b) any order of a county court,

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nothing in subsection (2) of section 54 shall affect the continuation in force of that entry; but regulations under the said section 73 may make provision as to the cancellation of any such entry.

(2) In sub-paragraph (1) “the register” means the register kept under the said section 73.

Relief from forfeiture in county court

13 The provisions inserted by subsections (4) and (5) of section 55 shall not have effect in connection with any recovery of possession of land by a lessor which occurred before the commencement of that section.

Time limits for actions for libel or slander

14 Nothing in section 57 shall apply in relation to an action if the cause of action accrued before the commencement of that section.

Appointment of arbitrator by court

15 F236

Textual Amendments

F236 Sch. 9 para. 15 repealed (31.1.1997) by 1996 c. 23, s. 107(2), Sch.4; S.I. 1996/3146, art. 3 (with art. 4 Sch. 2)

Limitation of damages against resident magistrates etc. in Northern Ireland

16 Nothing in section 63 shall apply in relation to an action if the sentence or order in respect of which the action is brought was passed or made before the passing of this Act.

Increase of penalties under Solicitors Act 1974

17 Nothing in paragraph 6 or 7 of Schedule 1 shall affect the punishment for an offence committed before the commencement of that paragraph.

Status:

Point in time view as at 31/03/2009.

Changes to legislation:

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