

*Status: Point in time view as at 31/03/2009. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 16

Section 177

#### THE LAW SOCIETY, SOLICITORS, RECOGNISED BODIES AND FOREIGN LAWYERS

#### PART 1

#### THE SOLICITORS ACT 1974 (C. 47)

- 1 The Solicitors Act 1974 is amended in accordance with this Part of this Schedule.
- 2 In section 1A (practising certificates: employed solicitors)—
- (a) omit “or” at the end of paragraph (b),
  - (b) in paragraph (c) omit “by the Council of the Law Society”, and
  - (c) at the end of that paragraph insert “or
  - (d) by any other person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which is a reserved legal activity (within the meaning of that Act).”

#### Commencement Information

- II** Sch. 16 para. 2(b) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 2(a)(c) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

VALID FROM 01/07/2009

- 3 After section 1A insert—
- “1B Restriction on practice as sole solicitor**
- (1) Rules under section 31 (rules as to professional practice etc) must provide that a solicitor may not practise as a sole solicitor unless he has in force—
    - (a) a practising certificate, and
    - (b) an endorsement of that certificate by the Society authorising him to practise as a sole solicitor (a “sole solicitor endorsement”).
  - (2) The rules may provide that, for the purposes of the rules and this Act, a solicitor is not to be regarded as practising as a sole solicitor in such circumstances as may be prescribed by the rules.
  - (3) The rules must prescribe the circumstances in which a solicitor may be regarded by the Society as suitable to be authorised to practise as a sole solicitor.”

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- 4 In section 2 (training regulations)—
- (a) in subsection (1) omit “, with the concurrence of the Secretary of State, the Lord Chief Justice and the Master of the Rolls,”,
  - (b) in subsection (3)(a)—
    - (i) in sub-paragraph (i) omit “, whether by service under articles or otherwise,”,
    - (ii) in sub-paragraph (v) omit “articles may be discharged or”, and
    - (iii) in that sub-paragraph after “be” (in the second place) insert “started or”, and
  - (c) omit subsections (4) and (5).

**Commencement Information**

**I2** Sch. 16 para. 4(b) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 4(a)(c) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

VALID FROM 01/07/2009

- 5 In section 3 (admission as solicitor), in subsection (2)—
- (a) for “Master of the Rolls” (in each place) substitute “ Society ”, and
  - (b) for “his” substitute “ its ”.

VALID FROM 01/07/2009

- 6 In section 6 (keeping of the roll) omit subsections (2) to (4).

- 7 In section 7 (entry of name and restoration of name struck off)—
- (a) for paragraph (a) substitute—
    - “(a) of written evidence of admission of any person as a solicitor by the Society,”, and
  - (b) for “Council” substitute “ Society ”.

**Commencement Information**

**I3** Sch. 16 para. 7(b) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 7(a) in force at 1.7.2009 by [S.I. 2009/1365](#), [art. 2\(a\)\(i\)](#)

- 8 (1) Section 8 (removal or restoration of name at solicitor's request) is amended as follows.
- (2) In subsection (2) for “Council” substitute “ Society ”.
  - (3) In subsection (4) for “Master of the Rolls” substitute “ High Court ”.
  - (4) After that subsection insert—
    - “(4A) In relation to an appeal under subsection (4) the High Court may make such order as it thinks fit as to payment of costs.

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(4B) The decision of the High Court on an appeal under subsection (4) shall be final.”

(5) Omit subsection (5).

#### Commencement Information

**I4** Sch. 16 para. 8(1)(2) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 8(3)-(5) in force at 1.7.2009 by [S.I. 2009/1365](#), [art. 2\(a\)\(iii\)](#) (subject to [art. 4](#))

VALID FROM 01/07/2009

9 For sections 9 and 10 (applications for and issue of practising certificates) substitute—

#### “9 Applications for practising certificates

- (1) A person whose name is on the roll may apply to the Society to be issued with a practising certificate.
- (2) An application under this section may include an application for a sole solicitor endorsement.
- (3) An application under this section must be—
  - (a) made in accordance with regulations under section 28, and
  - (b) accompanied by the appropriate fee.
- (4) “The appropriate fee”, in relation to an application, means—
  - (a) any fee payable under subsection (1) of section 11 in respect of the practising certificate applied for, and
  - (b) any additional fee payable under subsection (4) of that section in respect of the application.

#### 10 The issue of practising certificates

- (1) Subject to the following provisions of this section, where an application is made in accordance with section 9, the Society must issue a practising certificate to the applicant if it is satisfied that the applicant—
  - (a) is not suspended from practice, and
  - (b) is complying with any prescribed requirements imposed on the applicant.
- (2) A practising certificate issued to an applicant of a prescribed description must be issued subject to any conditions prescribed in relation to applicants of that description.
- (3) In such circumstances as may be prescribed, the Society must, if it considers it is in the public interest to do so—
  - (a) refuse to issue a practising certificate under this section, or
  - (b) where it decides to issue a practising certificate, issue it subject to one or more conditions.

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- (4) The conditions which may be imposed include—
- (a) conditions requiring the person to whom the certificate is issued to take specified steps that will, in the opinion of the Society, be conducive to the carrying on by that person of an efficient practice as a solicitor (including, if the certificate has a sole solicitor endorsement, an efficient practice as a sole solicitor);
  - (b) conditions which prohibit that person from taking any specified steps, except with the approval of the Society.
- (5) In this section —
- “prescribed” means prescribed by regulations under section 28;
- “specified”, in relation to a condition imposed on a practising certificate, means specified in the condition.”

VALID FROM 01/07/2009

10 After section 10 (as inserted by paragraph 9) insert—

**“10A Register of holders of practising certificates**

- (1) The Society must keep a register of all solicitors who hold practising certificates.
- (2) The register must contain—
  - (a) the full name of each solicitor who holds a practising certificate,
  - (b) in relation to each solicitor who holds a practising certificate, a statement as to whether there is in force a sole solicitor endorsement, and
  - (c) such other information as may be specified in regulations under section 28(1)(d).”

VALID FROM 01/07/2009

11 For section 11 (fee payable on issue of practising certificate) substitute—

**“11 Fee payable on issue of practising certificates**

- (1) Before a practising certificate is issued, there must be paid to the Society in respect of the certificate a fee of such amount as the Society may from time to time determine.
- (2) Different fees may be specified for different categories of applicant and in respect of different circumstances.
- (3) Subsection (4) applies where a solicitor makes an application for a practising certificate if—
  - (a) the solicitor has failed to deliver an accountant's report required by rules under section 34(1) by such time or in such circumstances as may be prescribed by those rules, and

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(b) a practising certificate has not been issued by the Society to the solicitor since the Society became aware of the failure.

(4) Where this subsection applies, the solicitor's application must be accompanied by an additional fee of such amount as the Society from time to time determines.”

#### Commencement Information

**15** Sch. 16 para. 11 wholly in force at 1.7.2009, see s. 211 and S.I. 2009/1365, art. 2(a)(ii) (subject to art. 3)

VALID FROM 01/07/2009

12 Omit section 12 (discretion of Society with respect to issue of practising certificates in special cases).

VALID FROM 01/07/2009

13 Omit section 12A (additional fee payable by certain solicitors on applying for practising certificates).

VALID FROM 01/07/2009

14 For section 13 (appeals in connection with issue of practising certificates) substitute—

#### “13 Appeals etc in connection with the issue of practising certificates

(1) A person who makes an application under section 9 may appeal to the High Court against—

- (a) a decision to refuse the application for a practising certificate,
- (b) if the application included an application for a sole solicitor endorsement, a decision to refuse the application for the endorsement, or
- (c) a decision to impose a condition on a practising certificate issued in consequence of the application.

(2) A person who holds a practising certificate subject to a condition within section 10(4)(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) The Society may make rules which provide, as respects any application under section 9 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 section in relation to the application as if it had been refused by the Society.

(4) On an appeal under subsection (1), the High Court may—

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- (a) affirm the decision of the Society,
  - (b) direct the Society to make a sole solicitor endorsement on the applicant's practising certificate and to issue that certificate subject to such conditions (if any) as the High Court may think fit,
  - (c) direct the Society to issue a certificate to the applicant free from conditions or subject to such conditions as the High Court may think fit,
  - (d) direct the Society not to issue a certificate,
  - (e) if a certificate has been issued, by order suspend it,
  - (f) if the certificate has been endorsed with a sole solicitor endorsement, by order suspend the endorsement, or
  - (g) make such other order as the High Court thinks fit.
- (5) On an appeal under subsection (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 10(4)(b), or
  - (c) make such other order as the High Court thinks fit.
- (6) In relation to an appeal under this section 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 subsection (1) or (2) shall be final.”

#### Commencement Information

**I6** Sch. 16 para. 14 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365](#), [art. 2\(a\)\(iii\)](#) (subject to [art. 4](#))

VALID FROM 01/07/2009

15 After section 13 insert—

#### “13ZA Application to practise as sole practitioner while practising certificate in force

- (1) A solicitor whose practising certificate for the time being in force (his “current certificate”) does not have a sole solicitor endorsement, may apply to the Society for such an endorsement.
- (2) For the purposes of subsection (1) a practising certificate with a sole solicitor endorsement which is suspended is to be treated as having such an endorsement.
- (3) A solicitor may not apply under subsection (1) if he is suspended from practice as a sole solicitor.
- (4) An application must be—
  - (a) made in accordance with regulations under section 28, and
  - (b) accompanied by any fee payable under section 13ZB in respect of the endorsement applied for.

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- (5) Where a sole solicitor endorsement is granted to an applicant of a prescribed description, the applicant's practising certificate shall have effect subject to any conditions prescribed in relation to applicants of that description.

“Prescribed” means prescribed by regulations under section 28(3B)(f).

- (6) A person who makes an application under this section may appeal to the High Court against—
- (a) a decision to refuse the application, or
  - (b) a decision to impose a condition on a practising certificate in accordance with subsection (5).
- (7) The Society may by rules make provision, as respects any application under this section 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 section in relation to the application as if it had been refused by the Society.
- (8) On an appeal under this section the High Court may—
- (a) affirm the decision of the Society,
  - (b) direct the Society to grant a sole solicitor endorsement,
  - (c) direct that the applicant's practising certificate is to have effect subject to such conditions (if any) as the High Court thinks fit, or
  - (d) make such other order as the High Court thinks fit.
- (9) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs.
- (10) The decision of the High Court on an appeal under this section shall be final.

### **13ZB Fee payable on making of sole solicitor endorsement**

- (1) Before a sole solicitor endorsement is granted under section 13ZA, there must be paid to the Society in respect of the endorsement a fee of such amount as the Society may from time to time determine.
- (2) Different fees may be specified for different categories of applicant and in different circumstances.
- (3) If a fee payable under this section would not otherwise be a practising fee for the purposes of section 51 of the Legal Services Act 2007, it is to be treated for the purposes of that section as such a fee.
- (4) In subsection (3) “practising fee” has the meaning given by that section.”

#### **Commencement Information**

**I7** Sch. 16 para. 15 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365](#), [art. 2\(a\)\(ii\)](#) (subject to [art. 3](#))

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VALID FROM 01/07/2009

- 16 (1) Section 13A (imposition of conditions while practising certificates are in force) is amended as follows.
- (2) For subsections (2) to (5) substitute—
- “(2) The power conferred by subsection (1) is exercisable in relation to a solicitor at any time during the period for which the solicitor's current certificate is in force if—
- (a) under section 13ZA the Society grants a sole solicitor endorsement, or
- (b) it appears to the Society that the case is of a prescribed description.
- (3) “Prescribed” means prescribed by regulations under section 28.”
- (3) In subsection (6) for “Master” to the end substitute “ High Court against the decision of the Society. ”
- (4) In subsection (7)—
- (a) for “Master of the Rolls” (in both places) substitute “ High Court ”, and
- (b) for “he” substitute “ it ”.
- (5) After that subsection insert—
- “(7A) The decision of the High Court on an appeal under subsection (6) shall be final.”
- (6) For subsection (8) substitute—
- “(8) Subsections (4) and (5) of section 10 apply for the purposes of subsection (1) of this section as they apply for the purposes of that section.”
- (7) After that subsection insert—
- “(9) A solicitor who holds a practising certificate subject to a condition imposed under subsection (1) which prohibits that solicitor from taking any steps specified in the condition, except with the approval of the Society, 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.
- (10) On an appeal under subsection (9), 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 the condition, or
- (c) make such other order as the High Court thinks fit.
- (11) The decision of the High Court on an appeal under subsection (9) shall be final.
- (12) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs.”

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### Commencement Information

**18** Sch. 16 para. 16 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365](#), [art. 2\(a\)\(iii\)](#) (subject to [art. 4](#))

VALID FROM 01/07/2009

- 17 In section 13B (suspension of practising certificates where solicitors convicted of fraud or serious crime)—
- (a) in subsection (1), after “practising certificate” insert “ or sole solicitor endorsement ”,
  - (b) in subsection (6), after “practice” insert “ or from practice as a sole solicitor ”,
  - (c) in subsection (7) for “Master of the Rolls” substitute “ High Court ”,
  - (d) in subsection (8)—
    - (i) for “Master of the Rolls” (in both places) substitute “ High Court ”,
    - (ii) in paragraph (b), for “shall not be suspended but” substitute “ or sole solicitor endorsement shall not be suspended, but that the appellant's certificate ”, and
    - (iii) in paragraph (d) for “he” substitute “ it ”, and
  - (e) after that subsection insert—
 

“(9) In relation to an appeal under subsection (7) the High Court may make such order as it thinks fit as to payment of costs.

(10) The decision of the High Court on an appeal under subsection (7) shall be final.”

### Commencement Information

**19** Sch. 16 para. 17 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365](#), [art. 2\(a\)\(iii\)](#) (subject to [art. 4](#))

VALID FROM 01/07/2009

- 18 Omit section 14 (commencement, expiry and replacement of practising certificates).

VALID FROM 01/07/2009

- 19 In section 15 (suspension of practising certificates), in subsection (1A)—
- (a) after “6(1)” insert “ , 6A(1) ”,
  - (b) after “1(1)(a)(i),” insert “ (aa), ”, and
  - (c) after “section” insert “ 31 or ”.

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- 20 (1) Section 16 (duration of suspension of practising certificates) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Where a practising certificate is suspended, it expires on such date as may be prescribed by regulations under section 28.”
- (3) In subsection (3)(c) for “the replacement date of the certificate” substitute “ the date on which his certificate will expire ”.
- (4) In subsection (5)—
- (a) for “Master of the Rolls, who” substitute “ High Court, which ”, and
- (b) in paragraph (b) for “he” substitute “ it ”.
- (5) After that subsection insert—
- “(6) In relation to an appeal under subsection (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 subsection (5) shall be final.”

**Commencement Information**

**I10** Sch. 16 para. 20 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365](#), **art. 2(a)(iii)** (subject to [art. 4](#))

- 21 In section 17 (publicity in relation to suspension of practising certificates), in subsections (1) and (2) omit “in the London Gazette”.

VALID FROM 01/07/2009

- 22 After section 17 insert—
- “17A Suspension of sole solicitor endorsement**
- (1) The making by the Tribunal or by the court of an order suspending a solicitor from practice as a sole solicitor shall operate to suspend any sole solicitor endorsement of that solicitor for the time being in force.
- (2) For the purposes of this Act, a sole solicitor endorsement shall be deemed not to be in force at any time while it is suspended.
- (3) Subsection (2) is subject to section 13ZA(2).
- 17B Duration and publicity of suspension of sole solicitor endorsement**
- (1) Where a sole solicitor endorsement is suspended, it expires on such date as may be prescribed by regulations under section 28.
- (2) Where a solicitor's sole solicitor endorsement is suspended—
- (a) by an order under section 13(4), or

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(b) by virtue of section 17A(1) in circumstances where the period of that suspension expires before the date on which his endorsement will expire,

the solicitor may at any time before the endorsement expires apply to the Society to terminate the suspension.

(3) Section 16(4) to (7) apply in relation to an application under subsection (2) as they apply in relation to an application under section 16(3).

(4) Where a solicitor's sole solicitor endorsement is suspended by an order under section 13(4) or by virtue of section 17A(1), the Society shall forthwith cause notice of that suspension to be published and a note of it to be entered against the name of the solicitor on the roll.

(5) Where any suspension is terminated by virtue of section 16(4) or (5), as applied by subsection (3) of this section, the Society shall forthwith cause a note of that termination to be entered against the name of the solicitor on the roll and, if so requested in writing by the solicitor, a notice of it to be published.”

VALID FROM 01/07/2009

23 For section 18 (evidence as to holding of practising certificates) substitute—

**“18 Extracts from the roll or register etc as evidence**

(1) An extract from the roll, or an extract from the register kept under section 10A, which is certified as correct by the Society is evidence of the matters mentioned in it.

(2) A certificate from the Society stating that—

(a) a person's name is or was on the roll, or

(b) a person is or was registered in the register kept under section 10A,

is evidence of the matters stated.”

VALID FROM 01/01/2010

24 Omit section 19 (rights of practising and rights of audience).

VALID FROM 01/01/2010

25 For section 20 (unqualified person not to act as solicitor) substitute—

**“20 Unqualified person not to act as solicitor**

(1) No unqualified person is to act as a solicitor.

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(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction on indictment to imprisonment for not more than 2 years or to a fine, or to both.”

VALID FROM 01/01/2010

26 Omit—  
 (a) sections 22 and 22A (unqualified person not to prepare certain instruments etc), and  
 (b) section 23 (unqualified person not to prepare papers for probate etc).

**Commencement Information**

**I11** Sch. 16 para. 26 wholly in force at 1.1.2010, see s. 211 and [S.I. 2009/3250](#), **art. 2(f)(ii)** (subject to [art. 5](#) and with [art. 9](#))

VALID FROM 01/01/2010

27 In section 24 (application of penal provisions to body corporate), in subsection (2) from “sections” to the end substitute “ section 20 the reference to an unqualified person and the reference to a person both include a reference to a body corporate. ”

**Commencement Information**

**I12** Sch. 16 para. 27 wholly in force at 1.1.2010, see s. 211 and [S.I. 2009/3250](#), **art. 2(f)(ii)** (subject to [art. 5](#) and with [art. 9](#))

VALID FROM 01/01/2010

28 In section 26 (time limit for commencement of certain proceedings) omit “, 22 or 23”.

**Commencement Information**

**I13** Sch. 16 para. 28 wholly in force at 1.1.2010, see s. 211 and [S.I. 2009/3250](#), **art. 2(f)(ii)** (subject to [art. 5](#) and with [art. 9](#))

VALID FROM 01/01/2010

29 Omit section 27 (saving for persons authorised to conduct legal proceedings).

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- 30 (1) Section 28 (regulations) is amended as follows.
- (2) In subsection (1)—
- (a) for “Master of the Rolls” substitute “ Society ”,
  - (b) omit “, with the concurrence of the Secretary of State and the Lord Chief Justice,”,
  - (c) in paragraph (c) omit “and applications for them”,
  - (d) after that paragraph insert—
    - “(ca) sole solicitor endorsements and applications for them,”,
    - and
  - (e) in paragraph (d) for “section 9” substitute “ section 10A ”.
- (3) Omit subsections (2) and (3).
- (4) In subsection (3A)—
- (a) for “may—” insert “may (among other things)—
    - (za) make provision about the form in which the roll is to be kept and the manner in which entries are to be made, altered and removed;”,
  - (b) omit “and” at the end of paragraph (b), and
  - (c) after paragraph (d) insert—
    - “(e) require the information on the roll to be made available to the public;
    - (f) specify the manner in which information is to be made so available and require it to be made so available during office hours and without charge.”
- (5) After that subsection insert—
- “(3B) Regulations about practising certificates or sole solicitor endorsements may (among other things)—
- (a) prescribe the form and manner in which applications for, or relating to, practising certificates or sole solicitor endorsements are to be made;
  - (b) prescribe information which must be included in or accompany such applications;
  - (c) make provision about time limits for dealing with such applications, and confer on a person power to extend or bring forward such a time limit in prescribed circumstances;
  - (d) prescribe the requirements which applicants for practising certificates must satisfy before they may be issued with a practising certificate;
  - (e) prescribe descriptions of applicants, and conditions in relation to them, for the purposes of section 10(2) (circumstances in which practising certificates must be issued subject to prescribed conditions);
  - (f) prescribe descriptions of applicants, and conditions in relation to them, for the purposes of section 13ZA(5) (circumstances in which

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- a practising certificate endorsed with a sole solicitor endorsement after it was issued must be made subject to prescribed conditions);
- (g) prescribe circumstances for the purposes of section 10(3) (circumstances in which application may be refused etc in the public interest);
  - (h) make provision about when conditions imposed on practising certificates take effect (including provision conferring power on the Society to direct that a condition is not to have effect until the conclusion of any appeal in relation to it);
  - (i) make provision for the commencement, duration, replacement, withdrawal and expiry of practising certificates or sole solicitor endorsements;
  - (j) prescribe circumstances for the purposes of section 13A(2) (circumstances in which conditions can be imposed during period of practising certificate);
  - (k) require solicitors who hold practising certificates to notify the Society of such matters as may be prescribed, at such times, or in such circumstances as may be prescribed.
- (3C) Regulations about the keeping of the register under section 10A may (among other things)—
- (a) make provision about the form in which the register is to be kept and the manner in which entries are to be made, altered and removed;
  - (b) require information of a specified kind to be included in entries in the register;
  - (c) require information (or information of a specified description) on the register to be made available to the public;
  - (d) specify the manner in which it is to be made so available and require it to be made so available during office hours and without charge.
- (3D) Regulations under this section may make provision for appeals to the High Court against decisions made by the Society under the regulations.
- (3E) In relation to an appeal under regulations made by virtue of subsection (3D), the High Court may make such order as it thinks fit as to payment of costs.
- (3F) The decision of the High Court on such an appeal shall be final.
- (3G) Regulations under this section may—
- (a) provide for a person to exercise a discretion in dealing with any matter;
  - (b) include incidental, supplementary and consequential provision;
  - (c) make transitory or transitional provision and savings;
  - (d) make provision generally or only in relation to specified cases or subject to specified exceptions;
  - (e) make different provision for different cases.”
- (6) Omit subsections (4) and (5).

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*Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)*

#### Commencement Information

**I14** Sch. 16 para. 30 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365](#), [art. 2\(a\)\(iv\)](#) (subject to [arts. 3, 4](#))

31 (1) Section 31 (rules as to professional practice, conduct and discipline) is amended as follows.

(2) In subsection (1)—

- (a) for “Council may, if they think fit,” substitute “ Society may ”,
- (b) omit “, with the concurrence of the Master of the Rolls,”,
- (c) after “conduct” insert “, fitness to practise ”,
- (d) for “Council” (in the second place) substitute “ Society ”, and
- (e) after “being” insert “, or have been, ”.

(3) After that subsection insert—

“(1A) The powers conferred on the Society by subsection (1) include power to make, in relation to solicitors, provision of a kind which the Society would be prohibited from making but for section 157(5)(c) of the Legal Services Act 2007 (exception from prohibition on approved regulators making provision for redress).”

(4) Omit subsections (3) and (4).

#### Commencement Information

**I15** Sch. 16 para. 31(1)(2)(a)(d) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 31(2)(c)(e) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#); Sch. 16 para. 31(2)(b)(3)(4) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

32 (1) Section 32 (accounts rules and trust accounts rules) is amended as follows.

(2) In subsection (1)—

- (a) for “Council” (in the first place) substitute “ Society ”,
- (b) omit “, with the concurrence of the Master of the Rolls”,
- (c) for paragraphs (a) and (b) substitute—
  - “(a) as to the opening and keeping by solicitors of accounts at banks or with building societies for money within subsection (1A);
  - (aa) as to the operation by solicitors of accounts kept by their clients or other persons at banks or with building societies or other financial institutions;
  - (b) as to the keeping by solicitors of accounts containing information as to money received, held or paid by them for or on account of their clients or other persons (including money received, held or paid under a trust); and”
- (d) in paragraph (c) of that subsection—
  - (i) for “Council” substitute “ Society ”,
  - (ii) for “them” substitute “ it ”, and
  - (iii) after “being” insert “, or have been, ”, and

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- (e) omit from “and the rules” to the end.
- (3) After that subsection insert—
  - “(1A) The money referred to in subsection (1) is money (including money held on trust) which is received, held or dealt with for clients or other persons.”
- (4) Omit subsection (2).
- (5) In subsection (4)—
  - (a) for “Council” substitute “ Society ”,
  - (b) omit “or (2)”, and
  - (c) after “solicitor” (in both places) insert “ or any of his employees ”.
- (6) In subsection (5) for “by virtue” to the end substitute “ or a part of the rules. ”
- (7) Omit subsection (6).

#### **Commencement Information**

**I16** Sch. 16 para. 32(1)(2)(a)(c)-(e)(3)-(7) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#); Sch. 16 para. 32(2)(b) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

- 33 (1) Section 33 (interest on clients' money) is amended as follows.
  - (2) For subsection (1) substitute—
    - “(1) Rules under section 32 may require a solicitor to pay interest, or sums in lieu of and equivalent to interest, to a client, any other person or any trust, for whom the solicitor holds money.”
  - (3) In subsection (2), omit from “and the rules” to the end.
  - (4) For subsection (3) substitute—
    - “(3) Except as provided by the rules, a solicitor is not liable to account to any client, other person or trust for interest received by the solicitor 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) the solicitor's clients, other persons or trusts, generally, or
      - (b) that client, person or trust, separately.”
  - (5) For subsection (4) substitute—
    - “(4) Rules under section 32 may—
      - (a) prescribe the circumstances in which a solicitor may make arrangements to limit or exclude an obligation imposed on the solicitor by rules made by virtue of this section, and
      - (b) prescribe the requirements to be met by and in relation to those arrangements.”
- 34 (1) Section 33A (inspection of practice bank accounts etc) is amended as follows.
  - (2) In subsection (1)—
    - (a) for “Council” (in each place) substitute “ Society ”, and
    - (b) omit “, with the concurrence of the Master of the Rolls,”.

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(3) In subsection (2) for “Council” substitute “ Society ”.

**Commencement Information**

**I17** Sch. 16 para. 34(1)(2)(a)(3) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 34(2)(b) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

35 (1) Section 34 (accountants' reports) is amended as follows.

(2) For subsections (1) to (5A) substitute—

“(1) The Society may make rules requiring solicitors to provide the Society with reports signed by an accountant (in this section referred to as an “accountant's report”) at such times or in such circumstances as may be prescribed by the rules.

(2) The rules may specify requirements to be met by, or in relation to, an accountant's report (including requirements relating to the accountant who signs the report).”

(3) In subsection (6) for “this section or of any rules made under it” substitute “ any rules made under this section ”.

(4) Omit subsections (7) and (8).

(5) At the end insert—

“(9) Where an accountant, during the course of preparing an accountant's report—

(a) discovers evidence of fraud or theft in relation to money held by a solicitor for a client or any other person (including money held on trust) or money held in an account of a client of a solicitor, or an account of another person, which is operated by the solicitor, or

(b) obtains information which the accountant has reasonable cause to believe is likely to be of material significance in determining whether a solicitor is a fit and proper person to hold money for clients or other persons (including money held on trust) or to operate an account of a client of the solicitor or an account of another person, the accountant must immediately give a report of the matter to the Society.

(10) No duty to which an accountant is subject is to be regarded as contravened merely because of any information or opinion contained in a report under subsection (9).”

36 After section 34 insert—

*“Sole solicitors*

**34A Employees of solicitors**

(1) Rules made by the Society may provide for any rules made under section 31, 32, 33A or 34 to have effect in relation to employees of solicitors with such additions, omissions or other modifications as appear to the Society to be necessary or expedient.

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- (2) If any employee of a solicitor fails to comply with rules made under section 31 or 32, as they have effect in relation to the employee by virtue of subsection (1), any person may make a complaint in respect of that failure to the Tribunal.
- (3) If any employee of a solicitor fails to comply with rules made under section 34, as they have effect in relation to the employee by virtue of subsection (1), a complaint in respect of that failure may be made to the Tribunal by or on behalf of the Society.

### **34B Employees of solicitors: accounts rules etc**

- (1) Where rules made under section 32(1) have effect in relation to employees of solicitors by virtue of section 34A(1), section 85 applies in relation to an employee to whom the rules have effect who keeps an account with a bank or building society in pursuance of such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.
- (2) Subsection (3) applies where rules made under section 32—
  - (a) contain any such provision as is referred to in section 33(1), and
  - (b) have effect in relation to employees of solicitors by virtue of section 34A(1).
- (3) Except as provided by the rules, an employee to whom the rules are applied is not liable to account to any client, other person or trust for interest received by the 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 solicitor, other persons or trusts, generally, or
  - (b) that client, person or trust, separately.
- (4) Subsection (5) applies where rules made under section 33A(1) have effect in relation to employees of solicitors by virtue of section 34A(1).
- (5) The Society may disclose a report on or information about the accounts of any employee of a solicitor obtained in pursuance of such rules for use—
  - (a) in investigating the possible commission of an offence by the solicitor or any employees of the solicitor, and
  - (b) in connection with any prosecution of the solicitor or any employees of the solicitor consequent on the investigation.
- (6) Where rules made under section 34 have effect in relation to employees of solicitors by virtue of section 34A(1), section 34(9) and (10) apply in relation to such an employee as they apply in relation to a solicitor.”

37 For section 36 (compensation fund) substitute—

### **“36 Compensation grants**

- (1) The Society may make rules concerning the grant of compensation by the Society in respect of loss that a person has suffered, or is likely to suffer, as a result of—
  - (a) an act or omission of a solicitor or former solicitor;

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- (b) an act or omission of an employee or former employee of a solicitor or former solicitor;
  - (c) the exercise by the Society of any of its powers under Part 2 of Schedule 1.
- (2) The rules may (among other things) make provision—
  - (a) as to the circumstances in which such grants may and may not be made;
  - (b) as to the form and manner in which a compensation claim is to be made;
  - (c) as to the procedure for determining compensation claims;
  - (d) for the making of grants in respect of a compensation claim before it is finally determined;
  - (e) for a grant to be made by way of loan in such circumstances and on such terms as may be prescribed in, or determined in accordance with, the rules;
  - (f) for a grant to be made by way of making good a deficiency in monies held in trust by the Society under paragraph 6 or 6A of Schedule 1;
  - (g) as to the minimum and maximum grants payable in respect of a compensation claim (or a claim of a prescribed description);
  - (h) for the Society to be subrogated, to such extent as may be prescribed, to any rights and remedies of a person to whom a grant is made in relation to the loss in respect of which the grant is made.
- (3) The circumstances which may be prescribed by virtue of subsection (2)(a) include in particular—
  - (a) the nature of the loss;
  - (b) in a case within subsection (1)(a) or (b), the nature of the act or omission.
- (4) For the purposes of subsection (2)(f), there is a deficiency if the monies mentioned in that subsection are insufficient to satisfy the claims of all persons with a beneficial interest in the monies.
- (5) The Society may prepare and publish guidance as to the criteria it will apply in deciding whether to make a grant in respect of a compensation claim, or any part of a compensation claim.
- (6) Where the Society decides—
  - (a) not to make a grant in respect of a compensation claim or any part of a compensation claim, or
  - (b) to make a grant of less than the amount claimed,it must give reasons for its decision.
- (7) Rules under subsection (1) which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.
- (8) In this section—
  - “compensation claim” means a claim for the Society to make a grant of the kind mentioned in subsection (1);
  - “prescribed” means prescribed in rules under subsection (1).

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### **36A Compensation funds**

- (1) Compensation rules may require or authorise the Society to establish or maintain a fund or funds (“compensation funds”) for the purpose of making grants in respect of compensation claims.
- (2) Compensation rules may require solicitors, or solicitors of a description prescribed in the rules, to make contributions to compensation funds of such amounts, at such times and in such circumstances, as may be prescribed in or determined in accordance with the rules.
- (3) Any amount payable by virtue of such a requirement may be recovered as a debt due to the Society.
- (4) Subsection (2) does not apply to a solicitor who is a Crown Prosecutor.
- (5) The Society may invest any money which forms part of a compensation fund in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act).
- (6) The Society may insure with authorised insurers, in relation to compensation funds, for such purposes and on such terms as it considers appropriate.
- (7) The Society may, in such circumstances and subject to such conditions as may be prescribed in or determined in accordance with compensation rules—
  - (a) borrow for the purposes of a compensation fund;
  - (b) charge investments which form part of a compensation fund as security for borrowing by the Society for the purposes of that fund.
- (8) A compensation fund may be applied by the Society for the purposes mentioned in subsection (9) (in addition to the making of grants in respect of compensation claims).
- (9) The purposes are—
  - (a) payment of premiums on insurance policies effected under subsection (6);
  - (b) repayment of money borrowed by the Society for the purposes of the fund and payment of interest on any money so borrowed;
  - (c) payment of any other costs, charges or expenses incurred by the Society in establishing, maintaining, protecting administering or applying the fund;
  - (d) payment of any costs, charges or expenses incurred by the Society in exercising its powers under Part 2 of Schedule 1;
  - (e) payment of any costs or damages incurred by the Society, its employees or agents as a result of proceedings against it or them for any act or omission of its or theirs in good faith and in the exercise or purported exercise of such powers.
- (10) In this section—
  - “compensation claim” has the same meaning as in section 36;
  - “compensation fund” has the meaning given by subsection (1);

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“compensation rules” means rules under section 36(1).”

**Commencement Information**

**I18** Sch. 16 para. 37 wholly in force at 31.3.2009, see s. 211 and [S.I. 2009/503](#), **art. 2(b)(i)** (subject to [arts. 4, 5](#))

- 38 In section 37 (professional indemnity)—
- (a) in subsection (1) for “Council, with the concurrence of the Master of the Rolls,” substitute “ Society ”, and
  - (b) in subsection (3)(h)—
    - (i) for “Council” substitute “ Society ”,
    - (ii) for “they consider” substitute “ it considers ”, and
    - (iii) after “being” insert “ , or have been, ”.

**Commencement Information**

**I19** Sch. 16 para. 38(a) in force for certain purposes and Sch. 16 para. 38(b)(i)(ii) in force at 7.3.2008 by [S.I. 2008/222](#), **art. 2(j)(i)**; Sch. 16 para. 38(b)(iii) in force at 30.6.2008 by [S.I. 2008/1436](#), **art. 2(d)(i)**; Sch. 16 para. 38(a) in force at 1.1.2010 by [S.I. 2009/3250](#), **art. 2(f)(ii)**

VALID FROM 06/10/2010

- 39 Omit section 37A (redress for inadequate professional services).

VALID FROM 01/07/2009

- 40 Omit section 40 (solicitor not to commence or defend actions while in prison).

- 41 (1) Section 41 (employment by solicitor of person struck off or suspended) is amended as follows.
- (2) After subsection (1A) insert—
- “(1B) Where—
- (a) a solicitor (“the employed solicitor”) is employed by another solicitor in accordance with a written permission granted under this section, and
  - (b) the employed solicitor is disqualified from practising as a solicitor by reason of a fact mentioned in subsection (1)(b) or (c),
- section 20(1) does not apply in relation to anything done by the employed solicitor in the course of that employment.”
- (3) In subsection (3)—
- (a) for “Master of the Rolls who” substitute “ High Court which ”, and
  - (b) in paragraph (b) for “he” substitute “ it ”.
- (4) In subsection (4) for “shall” to the end substitute “may—
- (a) order that his name be struck off the roll,

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- (b) order that he be suspended from practice for such period as the Tribunal or court thinks fit, or
- (c) make such other order in the matter as it thinks fit.”

(5) After that subsection insert—

“(4A) In relation to an appeal under subsection (3) the High Court may make such order as it thinks fit as to payment of costs.

(4B) The decision of the High Court on an appeal under subsection (3) shall be final.”

(6) Omit subsection (5).

#### **Commencement Information**

**I20** Sch. 16 para. 41(1)(2) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#); Sch. 16 para. 41(3)-(6) in force at 1.7.2009 by [S.I. 2009/1365](#), [art. 2\(a\)\(iii\)](#) (subject to [art. 4](#))

42 (1) Section 43 (control of solicitors' employees and consultants) is amended as follows.

(2) For subsections (1), (1A) and (2) substitute—

“(1) Where a person who is or was involved in a legal practice but is not a solicitor—

- (a) has been convicted of a criminal offence which is such that in the opinion of the Society it would be undesirable for the person to be involved in a legal practice in one or more of the ways mentioned in subsection (1A), or
- (b) has, in the opinion of the Society, occasioned or been a party to, with or without the connivance of a solicitor, an act or default in relation to a legal practice 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 involved in a legal practice in one or more of the ways mentioned in subsection (1A),

the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to that person.

(1A) A person is involved in a legal practice for the purposes of this section if the person—

- (a) is employed or remunerated by a solicitor in connection with the solicitor's practice;
- (b) is undertaking work in the name of, or under the direction or supervision of, a solicitor;
- (c) is employed or remunerated by a recognised body;
- (d) is employed or remunerated by a manager or employee of a recognised body in connection with that body's business;
- (e) is a manager of a recognised body;
- (f) has or intends to acquire an interest in such a body.

(2) An order made by the Society or the Tribunal under this subsection is an order which states one or more of the following—

- (a) that as from the specified date—

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- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor, the person with respect to whom the order is made,
- (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice, the person with respect to whom the order is made,
- (iii) no recognised body shall employ or remunerate that person, and
- (iv) no manager or employee of a recognised body shall employ or remunerate that person in connection with the business of that body,

except in accordance with a Society permission;

- (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.

(2A) The Society may make regulations prescribing charges to be paid to the Society by persons who are the subject of an investigation by the Society as to whether there are grounds for the Society—

- (a) to make an order under subsection (2), or
- (b) to make an application to the Tribunal for it to make such an order.

(2B) Regulations under subsection (2A) 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.

(2C) Any charge which a person is required to pay under regulations under subsection (2A) is recoverable by the Society as a debt due to the Society from the person.”

(3) In subsection (5) omit—

- (a) “by any solicitor”, and
- (b) the words from “but” to the end.

(4) After that subsection insert—

“(5A) In this section—

“manager”, in relation to a recognised body, has the same meaning as it has in relation to a body in the Legal Services Act 2007 (see section 207 of that Act);

“recognised body” means a body recognised under section 9 of the Administration of Justice Act 1985;

“specified date” means such date as may be specified in the order;

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“Society permission” means permission in writing granted by the Society for such period and subject to such conditions as the Society may think fit to specify in the permission.

(5B) A person has an interest in a recognised body for the purposes of this section if the person has 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).”

#### Commencement Information

**I21** Sch. 16 para. 42 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, art. 2(b)(i) (subject to art. 4)

- 43 In section 44 (offences in connection with orders under section 43(2))—
- (a) for subsection (1) substitute—
- “(1) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(a)—
- (a) to seek or accept any employment or remuneration from a solicitor, or an employee of a solicitor, in connection with the practice carried on by that solicitor without previously informing the solicitor or employee of the order;
- (b) to seek or accept any employment or remuneration from a recognised body, or a manager or employee of a recognised body, in connection with that body's business, without previously informing the body, or manager or employee, of the order.
- (1A) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(b) to seek or accept a position as a manager of a recognised body, without previously informing that body of the order.
- (1B) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(c) to seek or accept an interest in a recognised body from any person, without previously informing that person and (if different) the recognised body of the order.
- (1C) A person guilty of an offence under subsection (1), (1A) or (1B) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (b) in subsection (2) for “the employment of that person” substitute “the taking of any action”, and
- (c) after subsection (4) insert—
- “(5) In this section—
- “manager” has the same meaning as in section 43;
- “recognised body” means a body recognised under section 9 of the Administration of Justice Act 1985;
- and for the purposes of subsection (1B) a person seeks or accepts an interest in a recognised body if the person seeks or accepts an

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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).”

44 For section 44B (examination of files) substitute—

**“44B Provision of information and documents by solicitors etc**

- (1) The Society may by notice require a person to whom this section applies—
  - (a) to provide information, or information of a description, specified in the notice, or
  - (b) produce documents, or documents of a description, specified in the notice.
- (2) This section applies to—
  - (a) a solicitor;
  - (b) an employee of a solicitor;
  - (c) a recognised body;
  - (d) an employee or manager of, or a person with an interest in, a recognised body.
- (3) The Society may give a notice under this section only if it is satisfied that it is necessary to do so for the purpose of investigating—
  - (a) whether there has been professional misconduct by a solicitor;
  - (b) whether a solicitor, or an employee of a solicitor, has failed to comply with any requirements imposed by or by virtue of this Act or any rules made by the Society;
  - (c) whether a recognised body, or any of its managers or employees has failed to comply with any requirement imposed by or by virtue of the Administration of Justice Act 1985 or any rules made by the Society and applicable to the body, manager or employee by virtue of section 9 of that Act;
  - (d) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was involved in a legal practice (within the meaning of section 43(1A)).
- (4) A notice under this section—
  - (a) may specify the time and place at which, and manner and form in which, the information is to be provided or document is to be produced;
  - (b) must specify the period within which the information is to be provided or the document produced;
  - (c) may require the information to be provided or document to be produced to the Society or to a person specified in the notice.
- (5) The Society may pay to any person such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to a notice under this section.

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*Status: Point in time view as at 31/03/2009. This version of this schedule contains provisions that are not valid for this point in time.*  
**Changes to legislation:** *There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)*

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- (6) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to the powers to obtain information conferred by this section, but for this purpose—
- (a) paragraph 9 of that Schedule has effect as if—
    - (i) in sub-paragraph (3) for “such documents” there were substituted “ information to which a notice given to him under section 44B applies ”,
    - (ii) in that sub-paragraph for “sub-paragraph (1)” there were substituted “ the notice ”, and
    - (iii) in sub-paragraph (4) for “produce” (in the first place) to the end there were substituted “ provide information pursuant to a notice under section 44B to provide the information to any person appointed by the Society at such time and place as may be specified in the order. ”, and
  - (b) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.
- (7) Paragraphs 9 (other than sub-paragraphs (1) and (3)), 12, 13, 15 and 16 of Schedule 1 apply in relation to the powers to obtain documents conferred by this section as they apply in relation to the powers conferred by paragraph 9(1) of that Schedule, except that for this purpose—
- (a) any reference in paragraph 9 of that Schedule to a person appointed, or to a requirement, under sub-paragraph (1) of that paragraph is to be construed as a reference to a person appointed, or to a requirement to produce documents, under this section,
  - (b) any reference in that paragraph to any such documents as are mentioned in paragraph 9(1) of that Schedule is to be construed as a reference to any documents to which a notice under this section applies,
  - (c) the references to the solicitor or his firm in paragraph 9(5) and (6) of that Schedule, and the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule, are to be construed as references to the person to whom the notice was given under this section, and
  - (d) the reference in paragraph 9(12) of that Schedule to the Society is to be construed as including a reference to a person specified under subsection (4)(c).
- (8) Where powers conferred by Part 2 of Schedule 1 to the 1974 Act are exercisable in relation to a person within paragraph (a), (b), (c) or (d) of subsection (2), they continue to be so exercisable after the person has ceased to be a person within the paragraph in question.
- (9) In this section—
- “manager” has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);
- “recognised body” means a body recognised under section 9 of the Administration of Justice Act 1985;

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and the reference to a person who has an interest in a recognised body is to be construed in accordance with sections 72 and 109 of the Legal Services Act 2007.

#### **44BA Power to require explanation of document or information**

- (1) The Society may, by notice, require a person to whom a notice is given under section 44B (or a representative of the person) to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced pursuant to the notice.
- (2) The Society may pay to any person such reasonable costs as may be incurred by that person in connection with that person's compliance with a requirement imposed under subsection (1).
- (3) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to a notice under this section, except that for this purpose—
  - (a) paragraph 9 of that Schedule has effect as if—
    - (i) in sub-paragraph (3) for “having” to “sub-paragraph (1)” there were substituted “refuses, neglects or otherwise fails to comply with a requirement under section 44BA(1)”, and
    - (ii) in sub-paragraph (4) for “produce” (in the first place) to the end there were substituted “provide an explanation of any information provided or document produced pursuant to a notice under section 44B (or a representative of such a person) to attend at a time and place specified in the order to provide an explanation of any information so provided or document so produced.”, and
  - (b) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

#### **44BB Provision of information and documents by other persons**

- (1) The High Court, on the application of the Society, may order a person to whom section 44B does not apply—
  - (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.
- (2) The High Court may make an order under this section only if it is satisfied—
  - (a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and
  - (b) that there is reasonable cause to believe that the information or document is likely to be of material significance to an investigation into any of the matters mentioned in section 44B(3)(a) to (d).
- (3) An order under this section may direct the Society to pay to a person specified in the order such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to the order.

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- (4) Section 44B(4) applies in relation to an order under this section as it applies in relation to a notice under section 44B.
- (5) Paragraphs 9(5A) and (7) to (12), 12, 13, 15 and 16 of Schedule 1 apply in relation to an order under this section as they apply in relation to an order under paragraph 9(4) of that Schedule, except that for this purpose—
  - (a) the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule is to be construed as a reference to the person in respect of whom the order under this section is made,
  - (b) the reference in paragraph 9(12) of that Schedule to the Society is to be read as including a reference to a person specified under section 44B(4)(c) (as applied by subsection (4) of this section), and
  - (c) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

#### **44BC Information offences**

- (1) It is an offence for a person who knows or suspects an investigation into any of the matters mentioned in section 44B(3)(a) to (d) is being or is likely to be conducted—
  - (a) to falsify, conceal, destroy or otherwise dispose of a document which the person knows or suspects is or would be relevant to the investigation, or
  - (b) to cause or permit the falsification, concealment, destruction or disposal of such a document.
- (2) In proceedings for an offence under subsection (1) it is a defence for the accused to show that the accused had no intention of concealing facts disclosed by the documents from the person conducting the investigation.
- (3) It is an offence for a person, in purported compliance with a requirement imposed on the person under section 44B, 44BA or 44BB—
  - (a) to provide information which the person knows to be false or misleading in a material particular, or
  - (b) recklessly to provide information which is false or misleading in a material particular.
- (4) A person who is guilty of an offence under subsection (1) or (3) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.
- (5) In relation to an offence under subsection (1) or (3) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (4)(a) to 12 months is to be read as a reference to 6 months.”

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**Commencement Information**

**I22** Sch. 16 para. 44 wholly in force at 31.3.2009, see s. 211 and [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#) (subject to [art. 4](#))

45 For section 44C (payment of costs of investigations) substitute—

**“44C Power to charge for costs of investigations**

- (1) The Society may make regulations prescribing charges to be paid to the Society by solicitors who are the subject of a discipline investigation.
- (2) A “discipline investigation” is an investigation carried out by the Society into—
  - (a) possible professional misconduct by a solicitor, or
  - (b) a failure or apprehended failure by a solicitor to comply with any requirement imposed by or by virtue of this Act or any rules made by the Society.
- (3) Regulations under this section 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 solicitor is required to pay under regulations under this section is recoverable by the Society as a debt due to the Society from the solicitor.
- (5) This section (other than subsection (2)(a)) applies in relation to an employee of a solicitor as it applies in relation to a solicitor.”

**Commencement Information**

**I23** Sch. 16 para. 45 wholly in force at 31.3.2009, see s. 211 and [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#) (subject to [art. 4](#))

46 After that section insert—

*“Disciplinary powers of the Society*

**44D Disciplinary powers of the Society**

- (1) This section applies where the Society is satisfied—
  - (a) that a solicitor or an employee of a solicitor has failed to comply with a requirement imposed by or by virtue of this Act or any rules made by the Society, or
  - (b) that there has been professional misconduct by a solicitor.
- (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.

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- (3) The Society may publish details of any action it has taken under subsection (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 subsection (2)(b), or decides to publish under subsection (3) details of any action taken under subsection (2)(a) or (b), it must notify the person in writing that it has done so.
- (5) A penalty imposed under subsection (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 section 44E, or
  - (b) if such an appeal is made, such time as it is determined or withdrawn.
- (6) The Society may not publish under subsection (3) details of any action under subsection (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 subsection (2)(b), the amount of the penalty, or
    - (iii) the decision to publish the details,
 may be made under section 44E, 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 subsection (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 subsection (3) of details of action taken under subsection (2)(a) or (b);
 and the Society may make such other rules in connection with the exercise of its powers under this section as it considers appropriate.
- (8) Before making rules under subsection (7), the Society must consult the Tribunal.
- (9) A penalty payable under this section 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 subsection (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 subsection (10), the Lord Chancellor must consult the Society.
- (12) An order under subsection (10) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (13) This section is without prejudice to any power conferred on the Society or any other person to make an application or complaint to the Tribunal.

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#### **44E Appeals against disciplinary action under section 44D**

- (1) A person may appeal against—
  - (a) a decision by the Society to rebuke that person under section 44D(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 section 44D(2)(b) or the amount of that penalty;
  - (c) a decision by the Society to publish under section 44D(3) details of any action taken against that person under section 44D(2)(a) or (b).
- (2) Subsections (9)(b), (10)(a) and (b), (11) and (12) of section 46 (Tribunal rules about procedure for hearings etc) apply in relation to appeals under this section 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 ”.
- (3) Rules under section 46(9)(b) may, in particular, make provision about the period during which an appeal under this section may be made.
- (4) On an appeal under this section, the Tribunal has power to make such order as it thinks fit, and such an order may in particular—
  - (a) affirm the decision of the Society;
  - (b) revoke the decision of the Society;
  - (c) in the case of a penalty imposed under section 44D(2)(b), vary the amount of the penalty;
  - (d) in the case of a solicitor, contain provision for any of the matters mentioned in paragraphs (a) to (d) of section 47(2);
  - (e) in the case of an employee of a solicitor, contain provision for any of the matters mentioned in section 47(2E);
  - (f) make such provision as the Tribunal thinks fit as to payment of costs.
- (5) Where by virtue of subsection (4)(e) an order contains provision for any of the matters mentioned in section 47(2E)(c), section 47(2F) and (2G) apply as if the order had been made under section 47(2E)(c).
- (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 section as it may think fit.
- (8) Any decision of the High Court on an appeal under this section shall be final.
- (9) This section is without prejudice to any power conferred on the Tribunal in connection with an application or complaint made to it.”

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#### **Commencement Information**

**I24** Sch. 16 para. 46 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, art. 2(b)(i) (subject to art. 4)

- 47 (1) Section 46 (solicitors disciplinary tribunal) is amended as follows.
- (2) For subsection (5) substitute—

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“(5) The Tribunal may pay its members such remuneration, fees or allowances as it may determine with the approval of the Legal Services Board.”

(3) After that subsection insert—

“(5A) The Tribunal may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.”

(4) Omit subsections (6) to (8).

(5) In subsection (9)—

- (a) for “Subject to subsections (6) to (8), the” substitute “ The ”,
- (b) omit “, with the concurrence of the Master of the Rolls,”, and
- (c) in paragraph (b) after “complaints” insert “ (including provision about the composition of the Tribunal) ”.

**Commencement Information**

**I25** Sch. 16 para. 47 wholly in force at 30.6.2008, see s. 211 and [S.I. 2008/1436](#), **art. 2(d)** (subject to [art. 4](#))

48 After that section insert—

**“46A Funding of the Tribunal**

- (1) The Tribunal must submit to the Society in respect of each year a budget for the year approved by the Legal Services Board.
- (2) A budget for a year is a statement of the amount of money which the Tribunal estimates is required to enable it to meet all of its expenditure in that year (having regard to any amounts received but not spent in previous years).
- (3) Before approving a statement for the purposes of subsection (1) the Legal Services Board must consult the Society.
- (4) The budget for a year must be submitted to the Society under subsection (1) no later than the date in the preceding year specified by the Society for the purposes of this subsection.
- (5) Before specifying a date for this purpose the Society must consult the Tribunal.
- (6) The amount specified in a budget submitted under subsection (1) must be paid by the Society to the Tribunal—
  - (a) in such instalments and at such times as may be agreed between the Society and the Tribunal, or
  - (b) in the absence of such agreement, before the beginning of the year to which the budget relates.
- (7) The Society may pay the Tribunal such other amounts as the Society considers appropriate.
- (8) In this section “year” means a calendar year.”

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**Commencement Information**

**I26** Sch. 16 para. 48 wholly in force at 30.6.2008, see s. 211 and [S.I. 2008/1436](#), **art. 2(d)(i)** (subject to [art. 4](#))

- 49 In section 47 (jurisdiction and powers of Tribunal)—
- (a) in subsection (1), after paragraph (e) insert—
    - “(ea) by a solicitor who has been suspended from practice as a sole solicitor for an unspecified period, by order of the Tribunal, for the termination of that suspension;”
  - (b) in subsection (2) for “subsection” (where it first occurs) substitute “subsections (2E) and ”,
  - (c) after subsection (2)(b) insert—
    - “(ba) the revocation of that solicitor's sole solicitor endorsement (if any);
    - (bb) the suspension of that solicitor from practice as a sole solicitor indefinitely or for a specified period;”
  - (d) in subsection (2)(c) omit “not exceeding £5,000”,
  - (e) after subsection (2)(e) insert—
    - “(ea) the termination of that solicitor's unspecified period of suspension from practice as a sole solicitor;”
  - (f) after subsection (2D) insert—
    - “(2E) On the hearing of any complaint made to the Tribunal by virtue of section 34A(2) or (3), the Tribunal shall have power to make one or more of the following—
      - (a) an order directing the payment by the employee to whom the complaint relates 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 that employee;
      - (c) if that employee is not a solicitor, an order which states one or more of the matters mentioned in paragraphs (a) to (c) of section 43(2);
      - (d) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of that employee.
    - (2F) Subsections (1) to (1C), (3) and (4) of section 44 apply in relation to an order under subsection (2E)(c) as they apply in relation to an order under section 43(2).
    - (2G) Section 44(2), paragraph 16(1)(d) and (1A)(d) of Schedule 2 to the Administration of Justice Act 1985 and paragraph 15(3A) of Schedule 14 to the Courts and Legal Services Act 1990 apply in relation to an order under subsection (2E)(c) as they apply in relation to an order under section 43(2).
    - (2H) For the purposes of subsection (2E)(d) an “appropriate regulator” in relation to an employee means—
      - (a) if the employee is an authorised person in relation to a reserved legal activity (within the meaning of the

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- Legal Services Act 2007), any relevant approved regulator (within the meaning of that Act) in relation to that employee, and
- (b) if the employee carries on activities which are not reserved legal activities (within the meaning of that Act), any body which regulates the carrying on of such activities by the employee.”,
- (g) after subsection (3A) insert—
- “(3B) For the avoidance of doubt, nothing in this section permits the Tribunal to make an order requiring redress to be made in respect of any act or omission of any person.”, and
- (h) omit subsections (4) and (5).

#### Commencement Information

**I27** Sch. 16 para. 49(b)(d)(f)(h) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#) (subject to [art. 4](#)); Sch. 16 para. 49(a)(c)(e) in force at 1.7.2009 by [S.I. 2009/1365](#), [art. 2\(a\)\(i\)](#)

- 50 In section 48 (orders of Tribunal)—
- (a) in subsection (2)(b)—
- (i) after “(e),” insert “(ea),”, and
- (ii) omit “in the London Gazette”,
- (b) in subsection (3) for “Subject to section 43(5), any” substitute “Any”, and
- (c) after subsection (4) insert—
- “(5) In the case of orders of the Tribunal under section 44E, the reference in subsection (2)(a) to the application or complaint is to be read as a reference to the Tribunal's order.”

#### Commencement Information

**I28** Sch. 16 para. 50(a)(ii) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 50(b)(c) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#); Sch. 16 para. 50(a)(i) in force at 1.7.2009 by [S.I. 2009/1365](#), [art. 2\(a\)\(i\)](#)

VALID FROM 01/07/2009

- 51 (1) Section 49 (appeals from Tribunal) is amended as follows.
- (2) In subsection (1) for “lie—” to the end substitute “ lie to the High Court ”.
- (3) In subsection (2), after “(3)” insert “ and to section 43(5) of the Administration of Justice Act 1985 ”.
- (4) In subsection (3) for “legal aid work (within the meaning of that section)” substitute “ providing representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.
- (5) In subsection (4)—
- (a) omit “and the Master of the Rolls”, and

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(b) for “they” substitute “ it ”.

(6) For subsection (6) substitute—

“(6) Any decision of the High Court—

- (a) on an application under section 43(3) or 47(1)(d), (e), (ea) or (f), or
  - (b) against an order under section 43(3A),
- shall be final.”

(7) Omit subsection (7).

#### Commencement Information

**I29** Sch. 16 para. 51 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365](#), [art. 2\(a\)\(iii\)](#) (subject to [art. 4](#))

VALID FROM 01/07/2009

52 After that section insert—

#### “49A Appeals to the Tribunal instead of the High Court

- (1) The Society may, with the approval of the Tribunal, make rules which provide that in such circumstances as may be prescribed by the rules an appeal under any of the provisions listed in subsection (2) lies to the Tribunal and not to the High Court.
- (2) Those provisions are—
  - (a) section 8(4);
  - (b) section 13A(6);
  - (c) section 16(5);
  - (d) section 28(3D);
  - (e) section 41(3);
  - (f) paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990 (foreign lawyers: appeals against conditions or refusals).
- (3) Any decision of the Tribunal on an appeal by virtue of rules made under this section shall be final.”

53 In section 54 (restrictions on powers to strike names off roll)—

- (a) in subsection (1) for “service under articles” substitute “ persons seeking admission as solicitors ”, and
- (b) in subsection (2) for paragraphs (a) and (b) substitute—
  - “(a) that a solicitor who undertook a training responsibility for him under training regulations neglected or omitted to take out a practising certificate; or
  - (b) that the name of a solicitor who undertook such a responsibility for a period has been removed from or struck off the roll after the end of that period.”

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- 54 (1) Section 56 (orders as to remuneration for non-contentious business) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) for “Secretary of State” substitute “ Lord Chancellor ”,
- (b) after paragraph (d) insert—
- “(da) a member of the Legal Services Board nominated by that Board;”, and
- (c) in paragraph (e) for “Secretary of State” substitute “ Lord Chancellor ”.
- (3) In subsection (2) for “(the Secretary of State” to “think fit” substitute “ (the Lord Chancellor being one), may make general orders prescribing the general principles to be applied when determining ”.
- (4) In subsection (3)—
- (a) for “Secretary of State” substitute “ Lord Chancellor ”, and
- (b) for “Council” (in both places) substitute “ Society ”.
- (5) In subsection (4) for “An order” to the end of paragraph (a) substitute— “ The principles prescribed by an order under this section may provide that solicitors should be remunerated— ”.
- (6) In subsection (5)—
- (a) for “An order” to “reference” substitute— “ The general principles prescribed by an order under this section may provide that the amount of such remuneration is to be determined by having regard ”, and
- (b) in paragraph (d) after “solicitor” insert “ , or any employee of his who is an authorised person, ”.
- (7) After that subsection insert—
- “(5A) In subsection (5) “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).”
- (8) In subsection (6)(a) for “taxation” substitute “ assessment ”.
- (9) In subsection (7)—
- (a) for “taxation” substitute “ assessment ”, and
- (b) for “regulated by” substitute “ subject to ”.

#### Commencement Information

**I30** Sch. 16 para. 54(1)(4)(b) in force for certain purposes at 7.3.2008 by [S.I. 2008/222](#), **art. 2(j)(i)**; Sch. 16 para. 54(2)(a)(c)(3)(4)(a)(5)(6)(a)(9)(b) in force at 30.6.2008 by [S.I. 2008/1436](#), **art. 2(d)(i)**; Sch. 16 para. 54(6)(b)(7) in force at 31.3.2009 by [S.I. 2009/503](#), **art. 2(b)(i)** (subject to [art. 4](#)); Sch. 16 para. 54(2)(b) in force at 1.7.2009 by [S.I. 2009/1365](#), **art. 2(a)(i)**; Sch. 16 para. 54(8)(9)(a) in force at 1.1.2010 by [S.I. 2009/3250](#), **art. 2(f)(ii)**

VALID FROM 01/01/2010

- 55 In section 57 (non-contentious business agreements)—
- (a) in subsection (2) for “stamps” substitute “ taxes ”,

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- (b) in subsection (5)—
  - (i) for “taxation” substitute “ assessment ”, and
  - (ii) for “taxing officer” substitute “ costs officer ”, and
- (c) in subsection (7)—
  - (i) for “taxation” substitute “ assessment ”, and
  - (ii) for “taxing officer” substitute “ costs officer ”.

VALID FROM 01/01/2010

- 56 In section 60 (effect of contentious business agreements)—
- (a) in subsection (1) for “taxation” substitute “ assessment ”,
  - (b) in subsection (2)—
    - (i) for “taxed” substitute “ assessed ”, and
    - (ii) for “taxation” substitute “ assessment ”, and
  - (c) for subsection (5) substitute—
    - “(5) A provision in a contentious business agreement that the solicitor shall not be liable for his negligence, or that of any employee of his, 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.
    - (6) A provision in a contentious business agreement that the solicitor shall be relieved from any responsibility to which he would otherwise be subject as a solicitor shall be void.”

#### Commencement Information

**I31** Sch. 16 para. 56(c) in force at 30.6.2008 by [S.I. 2008/1436](#), [art. 2\(d\)\(i\)](#); Sch. 16 para. 56(a)(b) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

VALID FROM 01/01/2010

- 57 In section 61 (enforcement of contentious business agreements)—
- (a) in subsection (2)(b) for “taxed” substitute “ assessed ”,
  - (b) in subsection (3) for “taxing officer” substitute “ costs officer ”,
  - (c) in subsection (4)—
    - (i) for “taxing officer” substitute “ costs officer ”, and
    - (ii) for “taxed” substitute “ assessed ”,
  - (d) in subsection (4B)—
    - (i) for “taxation” substitute “ assessment ”, and
    - (ii) for “taxing officer” substitute “ costs officer ”, and
  - (e) in subsection (5) for “taxed” substitute “ assessed ”.

*Status: Point in time view as at 31/03/2009. This version of this schedule contains provisions that are not valid for this point in time.*  
**Changes to legislation:** There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)

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- 58 In section 62 (contentious business agreements by certain representatives)—
- (a) in subsection (1) for “taxing officer” substitute “ costs officer ”, and
  - (b) in subsection (2)—
    - (i) for “taxing officer” substitute “ costs officer ”, and
    - (ii) for “taxed” substitute “ assessed ”.
- 59 In section 63 (effect on contentious business agreement of death etc)—
- (a) in subsection (2)—
    - (i) for “taxation” substitute “ assessment ”, and
    - (ii) for “taxing officer” substitute “ costs officer ”, and
  - (b) in subsection (3)—
    - (i) for “taxation” substitute “ assessment ”,
    - (ii) for “taxing officer” (in both places) substitute “ costs officer ”, and
    - (iii) after “solicitor” (in the third place) insert “ , or any of his employees, ”.

#### Commencement Information

**I32** Sch. 16 para. 59(b)(iii) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#); Sch. 16 para. 59(a)(b)(i)(ii) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

VALID FROM 01/01/2010

- 60 In section 64 (form of bill of costs for contentious business)—
- (a) in subsection (3) for “taxed” substitute “ assessed ”, and
  - (b) in subsection (4)—
    - (i) for “taxed” substitute “ assessed ”,
    - (ii) for “taxation” substitute “ assessment ”, and
    - (iii) for “taxing officer” (in both places) substitute “ costs officer ”.

VALID FROM 01/01/2010

- 61 In section 65 (security for costs and termination of retainer), in subsection (1) for “taxation” substitute “ assessment ”.
- 62 In section 66 (taxations with respect to contentious business)—
- (a) in the section heading for “Taxations” substitute “ Assessments ”,
  - (b) for “taxation” substitute “ assessment ”,
  - (c) for “taxing officer” substitute “ costs officer ”,
  - (d) in paragraph (a), after “solicitor” (in the second place) insert “ or an employee of the solicitor ”, and
  - (e) in paragraph (b), after “him” insert “ or by any employee of his who is an authorised person (within the meaning of section 56(5A)) ”.

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*Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)*

#### Commencement Information

**I33** Sch. 16 para. 62(d)(e) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)** (subject to **art. 4**); Sch. 16 para. 62(a)-(c) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with **art. 9**)

VALID FROM 01/01/2010

- 63 In section 67 (inclusion of disbursements in bill of costs), in paragraph (b)—
- (a) for “taxed” substitute “ assessed ”,
  - (b) for “taxing officer” substitute “ costs officer ”, and
  - (c) for “taxation” substitute “ assessment ”.
- 64 (1) Section 69 (action to recover solicitor's costs) is amended as follows.
- (2) In subsection (1) for “taxed” substitute “ assessed ”.
  - (3) For subsection (2) substitute—
    - “(2) The requirements referred to in subsection (1) are that the bill must be—
    - (a) signed in accordance with subsection (2A), and
    - (b) delivered in accordance with subsection (2C).
  - (2A) A bill is signed in accordance with this subsection if it is—
    - (a) signed by the solicitor or on his behalf by an employee of the solicitor authorised by him to sign, or
    - (b) enclosed in, or accompanied by, a letter which is signed as mentioned in paragraph (a) and refers to the bill.
  - (2B) For the purposes of subsection (2A) the signature may be an electronic signature.
  - (2C) A bill is delivered in accordance with this subsection if—
    - (a) it is delivered to the party to be charged with the bill personally,
    - (b) it is delivered to that party by being sent to him by post to, or left for him at, his place of business, dwelling-house or last known place of abode, or
    - (c) it is delivered to that party—
      - (i) by means of an electronic communications network, or
      - (ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible, and that party has indicated to the person making the delivery his willingness to accept delivery of a bill sent in the form and manner used.
  - (2D) An indication to any person for the purposes of subsection (2C)(c)—
    - (a) must state the address to be used and must be accompanied by such other information as that person requires for the making of the delivery;
    - (b) may be modified or withdrawn at any time by a notice given to that person.

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- (2E) Where a bill is proved to have been delivered in compliance with the requirements of subsections (2A) and (2C), it is not necessary in the first instance for the solicitor to prove the contents of the bill and it is to be presumed, until the contrary is shown, to be a bill bona fide complying with this Act.
- (2F) A bill which is delivered as mentioned in subsection (2C)(c) is to be treated as having been delivered on the first working day after the day on which it was sent (unless the contrary is proved).”
- (4) At the end insert—
- “(5) In this section references to an electronic signature are to be read in accordance with section 7(2) of the Electronic Communications Act 2000 (c. 7).
- (6) In this section—
- “electronic communications network” has the same meaning as in the Communications Act 2003 (c. 21);
- “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c. 80).”

#### Commencement Information

**I34** Sch. 16 para. 64(1)(3)(4) in force at 7.3.2008 by [S.I. 2008/222](#), **art. 2(j)(i)**; Sch. 16 para. 64(2) in force at 1.1.2010 by [S.I. 2009/3250](#), **art. 2(f)(ii)** (with **art. 9**)

VALID FROM 01/01/2010

- 65 In section 70 (taxation on application of party chargeable or solicitor)—
- (a) in the section heading for “Taxation” substitute “ Assessment ”,
  - (b) in subsection (1)—
    - (i) for “taxed” substitute “ assessed ”, and
    - (ii) for “taxation” substitute “ assessment ”,
  - (c) in subsection (2)—
    - (i) for “taxation” (in both places) substitute “ assessment ”, and
    - (ii) for “taxed” substitute “ assessed ”,
  - (d) in subsections (3) to (5) for “taxation” (in each place) substitute “ assessment ”,
  - (e) in subsection (6)—
    - (i) for “taxation” substitute “ assessment ”, and
    - (ii) for “taxed” substitute “ assessed ”,
  - (f) in subsection (7)—
    - (i) for “taxation” (in each place) substitute “ assessment ”,
    - (ii) for “taxing officer” substitute “ costs officer ”, and
    - (iii) for “tax” substitute “ assess ”,
  - (g) in subsection (8) for “taxation” (in each place) substitute “ assessment ”,
  - (h) in subsection (9)—

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- (i) for “for taxation” (in both places) substitute “ for assessment ”,
  - (ii) for “the taxation” (in both places) substitute “ the assessment ”,
  - (iii) for “a taxation” substitute “ an assessment ”, and
  - (iv) for “one fifth of the amount of the bill is taxed off” substitute “ the amount of the bill is reduced by one fifth ”,
- (i) in subsection (10)—
    - (i) for “taxing officer” substitute “ costs officer ”, and
    - (ii) for “taxation” (in both places) substitute “ assessment ”,
  - (j) omit subsection (11), and
  - (k) in subsection (12)—
    - (i) for “of the bill taxed off” substitute “ of the reduction in the bill ”,
    - (ii) for “taxation” substitute “ assessment ”, and
    - (iii) for “taxed” (in the second place) substitute “ assessed ”.

VALID FROM 01/01/2010

- 66 In section 71 (taxation on application of third parties)—
- (a) in the section heading for “Taxation” substitute “ Assessment ”,
  - (b) in subsection (1) for “taxation” substitute “ assessment ”,
  - (c) in subsection (3) —
    - (i) for “taxed” substitute “ assessed ”, and
    - (ii) for “taxation” substitute “ assessment ”,
  - (d) in subsection (4) for “taxation” substitute “ assessment ”,
  - (e) in subsection (6)—
    - (i) for “taxation” substitute “ assessment ”, and
    - (ii) for “taxed” substitute “ assessed ”, and
  - (f) in subsection (7) for “taxed” substitute “ assessed ”.

VALID FROM 01/01/2010

- 67 In section 72 (supplementary provisions as to taxations)—
- (a) in the section heading for “taxations” substitute “ assessments ”,
  - (b) in subsection (1) for “taxation” substitute “ assessment ”,
  - (c) in subsection (2)—
    - (i) for “taxing officer” (in each place) substitute “ costs officer ”,
    - (ii) for second and fourth “taxing” substitute “ assessing ”, and
    - (iii) for “tax” substitute “ assess ”,
  - (d) in subsection (3)—
    - (i) for “taxing officer” (in both places) substitute “ costs officer ”,
    - (ii) for “tax” substitute “ assess ”, and
    - (iii) for “taxing” (in second place) substitute “ assessing ”, and
  - (e) in subsection (4)—
    - (i) for “taxing officer” substitute “ costs officer ”, and

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(ii) for “taxed” substitute “ assessed ”.

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- 68 In section 73 (charging orders), in subsection (1)—
- (a) for “taxed” substitute “ assessed ”, and
  - (b) for “taxation” substitute “ assessment ”.

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- 69 In section 74 (special provisions as to contentious business done in county courts)—
- (a) in subsection (2)—
    - (i) for “registrar” substitute “ district judge ”,
    - (ii) for “taxing officer” substitute “ costs officer ”, and
    - (iii) for “taxation” (in both places) substitute “ assessment ”, and
  - (b) in subsection (3) for “taxation” substitute “ assessment ”.

- 70 Omit the following provisions—
- section 76 (non-practising solicitors eligible for membership of Society),
  - section 77 (annual subscription to Society), and
  - section 78 (cessation and suspension of membership of Society).

- 71 For section 79 (committees and sub-committees of the Council) substitute—

**“79 Discharge of the Council's functions**

- (1) The Council may arrange for any function of the Council (including any function exercisable by the Council by virtue of section 80) to be exercised by—
  - (a) a committee of the Council,
  - (b) a sub-committee of such a committee,
  - (c) a body corporate which is established for the purpose of providing services to the Council (or any committee of the Council) and is a wholly-owned subsidiary of the Society, or
  - (d) an individual (whether or not a member of the Society's staff).
- (2) Where by virtue of subsection (1) any function may be discharged by a committee, the committee may arrange for the discharge of the function by—
  - (a) a sub-committee of that committee,
  - (b) a body corporate which is established for the purpose of providing services to the Council (or any committee of the Council) and is a wholly-owned subsidiary of the Society, or
  - (c) an individual (whether or not a member of the Society's staff).
- (3) Where, by virtue of subsection (1) or (2), any function may be discharged by a sub-committee, that sub-committee may arrange for the discharge of the function by an individual (whether or not a member of the Society's staff).

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- (4) Arrangements made under this section in respect of a function may provide that the function is to be exercised in accordance with the arrangements only (and not by the delegating body).
- (5) In subsection (4) “the delegating body” means—
  - (a) in the case of arrangements under subsection (1), the Council;
  - (b) in the case of arrangements under subsection (2), the committee;
  - (c) in the case of arrangements under subsection (3), the sub-committee.
- (6) Subsections (2) and (3) have effect subject to any contrary direction given by the Council.
- (7) Where arrangements under subsection (3) relate to a function delegated by a committee under subsection (2), subsection (3) also has effect subject to any contrary direction given by that committee.
- (8) Any power given by subsection (1), (2) or (3) may be exercised so as to impose restrictions or conditions on the body or individual by whom the function is to be discharged.
- (9) A committee or sub-committee may include or consist of individuals other than—
  - (a) members of the Council;
  - (b) members of the Society;
  - (c) solicitors.
- (10) A sub-committee of a committee may also include or consist of individuals other than members of the committee.
- (11) The Council may make arrangements for the appointment and removal of members of any committee to be made other than by the Council.
- (12) A committee or sub-committee may regulate its own procedure, including quorum.
- (13) The validity of any proceedings of a committee or sub-committee is not affected by any vacancy among its members.
- (14) In this section “wholly-owned subsidiary” has the meaning given by section 1159 of the Companies Act 2006.
- (15) This section is subject to any provision to the contrary made by or under any enactment.”

72 In section 80 (powers to act on behalf of Society)—

- (a) in subsection (1) for “of any instrument made under it” substitute “ any other enactment (or of any instrument made under this Act or any other enactment) ”, and
- (b) omit subsection (2).

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**Commencement Information**

**I35** Sch. 16 para. 72(a) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 72(b) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#)

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73 Omit sections 81 and 81A (administration of oaths and taking of affidavits).

**Commencement Information**

**I36** Sch. 16 para. 73 wholly in force at 1.1.2010 see s. 211 and [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (subject to [art. 9](#))

74 Before section 87 (interpretation) insert—

**Rules**

“86A(1) Rules made by the Society under this Act may —

- (a) make provision generally or subject to exceptions or only in relation to specified cases;
- (b) make different provision for different cases or circumstances or for different purposes.

(2) Without prejudice to the generality of subsection (1), any rules prescribing a fee may provide for that fee to be reduced or waived in such circumstances as may be specified in the rules.”

75 In section 87(1) (interpretation)—

- (a) in the definition of “client account”, for “in” to the end substitute “ subject to rules under section 32(1)(a) ”,
- (b) after the definition of “sole solicitor” insert—
  - ““sole solicitor endorsement” has the same meaning as in section 1B;”, and
- (c) omit the following definitions—
  - “articles”
  - “controlled trust”
  - “duly certificated notary public”
  - “employee”
  - “indemnity conditions”
  - “replacement date”
  - “training conditions”.

**Commencement Information**

**I37** Sch. 16 para. 75(c) in force for certain purposes at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(i\)](#); Sch. 16 para. 75(a) in force and Sch. 16 para. 75(c) in force for certain purposes at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#); Sch. 16 para. 75(b)(c) in force for certain purposes at 1.7.2009 by [S.I. 2009/1365](#), [art. 2\(a\)\(i\)](#); Sch. 16 para. 75(c) in force for certain purposes at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

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76 In section 89 (consequential amendments etc.), omit subsection (7).

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- 77 (1) Schedule 1 (intervention in solicitor's practice) is amended as follows.
- (2) In paragraph 1 (grounds for intervention)—
- (a) in sub-paragraph (1)(a)—
    - (i) for “Council have” substitute “ Society has ”,
    - (ii) after “solicitor's practice” insert “ or former practice ”, and
    - (iii) after “trustee” insert “ or that employee is or was a trustee in his capacity as such an employee ”,
  - (b) after that sub-paragraph insert—
    - “(aa) the Society has reason to suspect dishonesty on the part of a solicitor (“S) in connection with—
      - (i) the business of any person of whom S is or was an employee, or of any body of which S is or was a manager, or
      - (ii) any business which is or was carried on by S as a sole trader;”,
  - (c) in sub-paragraph (1)(b)—
    - (i) for “Council consider” substitute “ Society considers ”, and
    - (ii) for “controlled trust” substitute “ trust ”,
  - (d) in sub-paragraph (1)(c) for “Council are” substitute “ Society is ”,
  - (e) in sub-paragraph (1)(ee)—
    - (i) for “Council are” substitute “ Society is ”, and
    - (ii) after “illness” insert “ , injury ”,
  - (f) in sub-paragraph (1)(h)—
    - (i) for “Council are” substitute “ Society is ”, and
    - (ii) omit “sole”,
  - (g) in sub-paragraph (1)(i) and (k) for “Council are” substitute “ Society is ”,
  - (h) in sub-paragraph (1)(l)—
    - (i) for “Council are” substitute “ Society is ”,
    - (ii) in sub-paragraph (iii) for “an officer” substitute “ a manager ”, and
    - (iii) in that sub-paragraph for “Council of the Law Society” substitute “ Society ”,
  - (i) after sub-paragraph (1)(l) insert—
    - “(m) the Society 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 solicitor to protect—
      - (i) the interests of clients (or former or potential clients) of the solicitor or his firm, or
      - (ii) the interests of the beneficiaries of any trust of which the solicitor is or was a trustee.”,
  - (j) after sub-paragraph (1) insert—
    - “(1A) In sub-paragraph (1) “manager” has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act).”, and
  - (k) omit sub-paragraph (2).
- (3) In paragraph 3 (intervention following an undue delay)—
- (a) for “10(3)” substitute “ 10(9) ”,
  - (b) for paragraph (a) substitute—

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- “(a) the Society is satisfied that there has been undue delay—
    - (i) on the part of a solicitor in connection with any matter in which the solicitor or his firm is or was acting on behalf of a client or with any trust, or
    - (ii) on the part of an employee of a solicitor in connection with any trust of which the employee is or was a trustee in his capacity as such an employee; and”
  - (c) in paragraph (c) for “Council regard” substitute “ Society regards ”.
- (4) In paragraph 4(2) (continuation of powers after death etc of solicitor)—
- (a) after “6(2) and (3)” insert “ , 6A ”,
  - (b) for “and (5)” substitute “ , (5) and (6) ”, and
  - (c) for “10(1)” substitute “ 10(2) and (7) ”.
- (5) In paragraph 6 (vesting of sums in Society)—
- (a) in sub-paragraph (1)—
    - (i) for “Council pass” substitute “ Society passes ”,
    - (ii) for “Council's” substitute “ Society's ”, and
    - (iii) after “thereto” insert “ and to rules under paragraph 6B ”,
  - (b) in sub-paragraph (2)(a) for “his practice” to the end substitute—
    - “(i) his practice or former practice,
    - (ii) any trust of which he is or formerly was a trustee, or
    - (iii) any trust of which a person who is or was an employee of the solicitor is or was a trustee in the person's capacity as such an employee;”, and
  - (c) in sub-paragraph (2)(c) for “to which the complaint relates” substitute “ in connection with which the Society is satisfied there has been undue delay as mentioned in sub-paragraph (a) of that paragraph ”.
- (6) After paragraph 6 insert—
- “6A (1) Without prejudice to paragraph 5, if the Society passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Society, those rights shall vest accordingly.
  - (2) This paragraph applies to any right to recover or receive debts due to the solicitor or his firm in connection with his practice or former practice.
  - (3) Any sums recovered by the Society by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Society 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 Society shall serve on the solicitor or his firm, and any person who owes a debt to which the order applies, a certified copy of the Society's resolution.
- 6B (1) The Society 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 Society, having taken such steps to do so as are reasonable in all

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the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Society under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of compensation funds (within the meaning of section 36A)).”

(7) In paragraph 7(1) (holding of sums vested in Society)—

- (a) after “paragraph 6” insert “ or 6A(3) ”, and
- (b) after “thereto” insert “ and to rules under paragraph 6B ”.

(8) In paragraph 8 (information as to money held) for “holds money” to the end substitute—

- “(a) holds money on behalf of the solicitor or his firm, or
- (b) has information which is relevant to identifying any money held by or on behalf of the solicitor or his firm,

the court may require that person to give the Society information as to any such money and the accounts in which it is held. ”

(9) In paragraph 9 (documents)—

- (a) in sub-paragraph (1)(a)—
  - (i) after “possession” insert “ or under the control ”, and
  - (ii) for “or with any controlled trust” substitute “ or former practice or with any trust of which the solicitor is or was a trustee ”,
- (b) in sub-paragraph (1)(b)—
  - (i) after “possession” insert “ or under the control ”, and
  - (ii) for “to which the complaint relates” substitute “ of which the Society is satisfied ”,
- (c) in sub-paragraph (3) after “possession” insert “ or control ”,
- (d) in sub-paragraph (5) after “the possession” insert “ or under the control ”,
- (e) after sub-paragraph (5) insert—

“(5A) In the case of a document which consists of information which is stored in electronic form, a 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.”,

- (f) in sub-paragraph (6) after “possession of” insert “ (a) ”,
- (g) at the end of that sub-paragraph insert—
  - “(b) any property—
    - (i) in the possession of or under the control of the solicitor 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 Society reasonably requires for the purpose of accessing information contained in such documents,

and to use property obtained under paragraph (b) for that purpose. ”,

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 the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)*

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- (h) in sub-paragraph (7) after “documents” insert “ or other property ”,
- (i) in sub-paragraph (8) after “documents” insert “ or other property ”, and
- (j) in sub-paragraph (10) after “documents” insert “ or other property ”.

(10) For paragraph 10 (mail) substitute—

*“Mail and other forms of communication*

- 10 (1) The High Court, on the application of the Society, may from time to time make a communications redirection order.
- (2) A communications redirection order is an order that specified communications to the solicitor or his firm are to be directed, in accordance with the order, to the Society or any person appointed by the Society.
- (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 Society or the person appointed by the Society may take possession or receipt of the communications redirected in accordance with the order.
- (6) Where a communications redirection order is made, the Society must pay to—
- (a) in the case of an order relating to postal packets, the postal operator concerned, and
  - (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 Society, authorise the Society, 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 solicitor 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 solicitor 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.

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*Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)*

- (9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.”
- (11) In paragraph 11(1) (trusts) for “controlled trust” substitute “ trust ”.
- (12) In paragraph 12 (liens) for “and documents” substitute “ , documents and other property ”.
- (13) After paragraph 13 (costs) insert—
- “13A(1) The High Court, on the application of the Society, may order a former partner of the solicitor to pay a specified proportion of the costs mentioned in paragraph 13.
- (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 solicitor 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.”

**Commencement Information**

**I38** Sch. 16 para. 77 wholly in force at 31.3.2009 see s. 211 and [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#) (subject to [art. 4](#))

VALID FROM 06/10/2010

78 Omit Schedule 1A (inadequate professional services).

79 Omit Schedule 2 (the compensation fund).

**Commencement Information**

**I39** Sch. 16 para. 79 wholly in force at 31.3.2009 see s. 211 and [S.I. 2009/503](#), [art. 2\(b\)\(i\)](#) (subject to [art. 5](#))

**PART 2**

THE ADMINISTRATION OF JUSTICE ACT 1985 (C. 61)

80 The Administration of Justice Act 1985 is amended in accordance with this Part of this Schedule.

81 (1) Section 9 (incorporated practices) is amended as follows.

(2) In subsection (1)—

- (a) for “Council” (in both places) substitute “ Society ”,
- (b) in paragraph (a) for “by solicitors” to the end substitute “ of legal services bodies; ”,
- (c) in paragraph (b) for “any such services” substitute “ any solicitor services or other relevant legal services ”, and

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- (d) in paragraph (c)—
- (i) for “conditions” substitute “ requirements ”, and
  - (ii) omit “corporate”.
- (3) After that subsection insert—
- “(1A) Where the Society makes rules under subsection (1), it must by rules under subsection (1)(c) prescribe the requirement that (subject to any exceptions provided by the rules) recognised bodies must not provide services other than—
- (a) solicitor services, or
  - (b) solicitor services and other relevant legal services.
- (1B) “Relevant legal services” means—
- (a) solicitor services, and
  - (b) where authorised persons other than solicitors or registered European lawyers are managers or employees of, or have an interest in, a recognised body, services of the kind provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007).
- (1C) The Society may by rules under this section provide that services specified, or of a description specified, in the rules are not to be treated as solicitor services or other relevant legal services.”
- (4) In subsection (2)—
- (a) for “Council” (in both places) substitute “ Society ”,
  - (b) in paragraph (a) for “are to be” to the end substitute “ , or for the renewal of such recognition, are to be made, and requiring such applications to be accompanied by a fee of such amount as the Society may from time to time determine; ”,
  - (c) after that paragraph insert—
    - “(aa) for the manner and form in which other applications under the rules are to be made, and requiring such applications to be accompanied by a fee of such amount as the Society may from time to time determine;”,
  - (d) for paragraphs (c) to (e) substitute—
    - “(c) about the time when any recognition, or renewal of recognition, takes effect and the period for which it is (subject to the provisions made by or under this Part) to remain in force;
    - (d) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed by the rules;
    - (e) about the effect on the recognition of a partnership or other unincorporated body (“the existing body”) of any change in the membership of the existing body, including provision for the existing body's recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business;

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- (ea) for the keeping by the Society of a register containing the names and places of business of all bodies which are for the time being recognised under this section, and such other information relating to those bodies as may be specified in the rules;
- (eb) for information (or information of a specified description) on such a register to be made available to the public, including provision about the manner in which, and times at which, information is to be made so available;”, and
- (e) after paragraph (f) insert—
  - “(fa) about the education and training requirements to be met by managers and employees of recognised bodies;
  - (fb) for rules made under any provision of the 1974 Act to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other modifications as appear to the Society to be necessary or expedient;
  - (fc) requiring recognised bodies to appoint a person or persons to monitor compliance, by the recognised body, its managers and its employees, with requirements imposed on them by or by virtue of this Act or any rules applicable to them by virtue of this section;”.

(5) After subsection (2) insert—

“(2A) If rules under this section provide for the recognition of legal services bodies which have one or more managers who are not legally qualified, the rules must make provision—

- (a) for the recognition of such bodies to be suspended or revoked, on such grounds and in such circumstances as may be prescribed by the rules;
- (b) as to the criteria and procedure for the Society's approving, as suitable to be a manager of a recognised body, an individual who is not legally qualified (and for the Society's withdrawing such approval).

(2B) Rules under this section may make provision for appeals to the High Court against decisions made by the Society under the rules—

- (a) to suspend or revoke the recognition of any body;
- (b) not to approve, as suitable to be the manager of a recognised body, an individual who is not legally qualified (or to withdraw such approval).

(2C) The rules may provide for appeals against decisions within subsection (2B) (b) to be brought by the individual to whom the decision relates (as well as the body).

(2D) In relation to an appeal under rules made by virtue of subsection (2B), the High Court may make such order as it thinks fit as to payment of costs.

(2E) The decision of the High Court on such an appeal shall be final.

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- (2F) Where the Society decides to recognise a body under this section it must grant that recognition subject to one or more conditions if—
- (a) the case is of a kind prescribed for the purposes of this section by rules made by the Society, and
  - (b) the Society considers that it is in the public interest to do so.
- (2G) While a body is recognised under this section, the Society—
- (a) must direct that the body's recognition is to have effect subject to one or more conditions if—
    - (i) the case is of a prescribed kind, and
    - (ii) the Society considers that it is in the public interest to do so;
  - (b) may, in such circumstances as may be prescribed, direct that the body's recognition is to have effect subject to such conditions as the Society may think fit.

“Prescribed” means prescribed by rules made by the Society.

- (2H) The conditions which may be imposed under subsection (2F) or (2G) include—
- (a) conditions requiring the body to take specified steps that will, in the opinion of the Society, be conducive to the carrying on by the body of an efficient business;
  - (b) conditions which prohibit the body from taking any specified steps except with the approval of the Society;
  - (c) if rules under this section provide for the recognition of legal services bodies which have one or more managers who are not legally qualified, a condition that all the managers of the body must be legally qualified.

“Specified” means specified in the condition.

- (2I) Rules made by the Society may make provision about when conditions imposed under this section take effect (including provision conferring power on the Society to direct that a condition is not to have effect until the conclusion of any appeal in relation to it).
- (2J) Section 86A of the 1974 Act applies to rules under this section as it applies to rules under that Act.
- (2K) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Society considers necessary or expedient.”

- (6) For subsection (3) substitute—

“(3) Despite section 24(2) of the 1974 Act, section 20 of that Act (prohibition on unqualified person acting as solicitor) does not apply to a recognised body; and nothing in section 24(1) of that Act applies in relation to such a body.”

- (7) Omit subsection (4).
- (8) In subsection (5) omit “corporate”.
- (9) In subsection (7)—

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- (a) for “Secretary of State” (in both places) substitute “ Lord Chancellor ”, and
  - (b) for “the commencement of this section” substitute “ or in the same session as the Legal Services Act 2007 was passed ”.
- (10) In subsection (8)—
- (a) after the definition of “the 1974 Act” insert—

““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);”,
  - (b) for “ “the Council” and “the Society” have” substitute “ “the Society” has ”,
  - (c) after the definition of “the Society” insert—

““legally qualified” and “legal services body” have the meaning given by section 9A;

“manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);”,
  - (d) omit the definition of “officer”,
  - (e) in the definition of “recognised body” omit “corporate”, and
  - (f) after the definition of “registered European lawyer” insert—

““solicitor services” means professional services such as are provided by individuals practising as solicitors or lawyers of other jurisdictions;

and a person has an interest in a body if the person 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). ”

(11) Omit subsection (9).

#### Commencement Information

**I40** Sch. 16 para. 81(1)(9) in force at 30.6.2008 by [S.I. 2008/1436](#), [art. 2\(d\)\(ii\)](#); Sch. 16 para. 81 in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

82 After that section insert—

#### “9A Legal services bodies

- (1) For the purposes of section 9, a “legal services body” means a body (corporate or unincorporate) in respect of which —
  - (a) the management and control condition, and
  - (b) the relevant lawyer condition,are satisfied.
- (2) The management and control condition is satisfied if—
  - (a) at least 75% of the body's managers are legally qualified,
  - (b) the proportion of shares in the body held by persons who are legally qualified is at least 75%,

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- (c) the proportion of voting rights in the body which persons who are legally qualified are entitled to exercise, or control the exercise of, is at least 75%,
  - (d) all the persons with an interest in the body who are not legally qualified are managers of the body, and
  - (e) all the managers of the body who are not legally qualified are individuals approved by the Society as suitable to be managers of a recognised body.
- (3) The Society may by rules under section 9 provide that, in relation to specified kinds of bodies, subsection (2) applies as if the references to 75% were to such greater percentage as may be specified (and different percentages may be specified for different kinds of bodies).
- (4) The relevant lawyer condition is satisfied in relation to a body if at least one manager of the body is—
- (a) a solicitor,
  - (b) a registered European lawyer, or
  - (c) a qualifying body.
- (5) For that purpose a qualifying body is a body in respect of which—
- (a) the management and control condition [<sup>F1</sup>is] satisfied <sup>F2</sup>. . .
  - (b) the relevant lawyer condition is satisfied by virtue of subsection (4) (a) or (b), and
  - (c) the services condition is satisfied.
- (6) For the purposes of this section the following are legally qualified—
- (a) an authorised person who is an individual;
  - (b) a registered foreign lawyer (within the meaning of section 89 of the Courts and Legal Services Act 1990 (c. 41));
  - (c) a person entitled to pursue professional activities under a professional title to which the Directive applies in a state to which the Directive applies (other than the title of barrister or solicitor in England and Wales);
  - (d) an authorised person which is a body in respect of which—
    - (i) the services condition is satisfied, and
    - (ii) the management and control condition would be satisfied if the references in subsection (2) to persons who are legally qualified were to persons who are legally qualified by virtue of paragraphs (a) to (c);
  - (e) a body which provides professional services such as are provided by individuals who are authorised persons or lawyers of other jurisdictions, and in respect of which the management and control condition would be satisfied if the references in subsection (2) to persons who are legally qualified were to persons who are legally qualified by virtue of paragraphs (a) to (c).
  - [<sup>F3</sup>(f) a legal partnership which—
    - (i) was in existence immediately before the commencement of this paragraph,
    - (ii) since that time has continued to be a partnership of the kind mentioned in rule 12.01(1)(b), 12.02(1)(b) or 12.04(1)(c)

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- (i) of the pre-commencement conduct rules (framework of practice), and
  - (iii) has not, since that time, had a body corporate (other than a body within paragraph (g)) as a member;
  - (g) a body corporate which—
    - (i) was recognised under section 9 immediately before the commencement of this paragraph, and
    - (ii) has since that time continued to satisfy the requirements of rule 14.03(1) and 14.04(1) to (3) or the requirements of rule 14.05(1) to (3) of the pre-commencement conduct rules (restrictions on directors, owners etc. of incorporated practices);
  - (h) a body which—
    - (i) is an authorised person and satisfies the services condition, or
    - (ii) provides professional services such as are provided by individuals who are authorised persons or lawyers of other jurisdictions,
 and which satisfies the requirements of rules under subsection (6C).
- (6A) For the purposes of subsection (6)(f), a partnership is to be treated as the same partnership despite a change in membership, if any person who was a member before the change remains a member.
- (6B) For the purposes of subsection (6)(f) and (g), the references in the pre-commencement conduct rules to a recognised body are to be construed as references to a body which was recognised under section 9 immediately before the commencement of subsection (6)(f) and (g).
- (6C) The Society must make rules for the purposes of paragraph (h) of subsection (6) prescribing the requirements relating to management and control which must be satisfied by or in relation to a body for it to fall within that paragraph.]
- (7) For the purposes of this section, the services condition is satisfied in relation to a body if the body provides only services which may be provided by a recognised body (having regard to rules under section 9(1A) and (1C)).
- (8) For the purposes of this section—
- “authorised person” has the same meaning as in section 9;
  - [<sup>F4</sup>“the Directive” means Directive [98/5/EC](#) of the European Parliament and the Council, to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained;]
  - “legal partnership” means a partnership in which a solicitor, a registered European lawyer or a recognised body is permitted to practise by virtue of rules made under section 31 of the Solicitors Act 1974 (c. 47), as those rules had effect immediately before the commencement of subsection (6)(f);
  - “manager”, in relation to a body, has the meaning given by section 9;

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[<sup>F5</sup>“pre-commencement conduct rules” means rules under Part 2 of the Solicitors Act 1974 or section 9 of this Act, known as the Solicitors' Code of Conduct 2007, as those rules had effect immediately before the commencement of subsection (6)(f) and (g);]

“recognised body” has the same meaning as in section 9 [<sup>F6</sup>(subject to subsection (6B) above)];

“registered European lawyer” has the same meaning as in section 9;

“shares” has the same meaning as for the purposes of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act);

[<sup>F7</sup>“the Society” has the meaning given by section 87(1) of the Solicitors Act 1974;]

“specified” means specified in rules made by the Society;

and a person has an interest in a body if the person has an interest in the body for the purposes of section 9.”

#### Textual Amendments

- F1** Word in Sch. 16 para. 82 substituted (27.11.2008) by [The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008 \(S.I. 2008/3074\)](#), [art. 2\(2\)\(a\)](#)
- F2** Words in Sch. 16 para. 82 omitted (27.11.2008) by virtue of [The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008 \(S.I. 2008/3074\)](#), [art. 2\(2\)\(b\)](#)
- F3** Words in Sch. 16 para. 82 inserted (27.11.2008) by [The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008 \(S.I. 2008/3074\)](#), [art. 2\(3\)](#)
- F4** Words in Sch. 16 para. 82 inserted (27.11.2008) by [The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008 \(S.I. 2008/3074\)](#), [art. 2\(4\)\(a\)](#)
- F5** Words in Sch. 16 para. 82 inserted (27.11.2008) by [The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008 \(S.I. 2008/3074\)](#), [art. 2\(4\)\(b\)](#)
- F6** Words in Sch. 16 para. 82 inserted (27.11.2008) by [The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008 \(S.I. 2008/3074\)](#), [art. 2\(4\)\(c\)](#)
- F7** Words in Sch. 16 para. 82 substituted (27.11.2008) by [The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008 \(S.I. 2008/3074\)](#), [art. 2\(4\)\(d\)](#)

83 (1) Section 10 (penalty for pretending to be a body recognised under section 9) is amended as follows.

(2) In subsection (1) omit “corporate” (in both places).

(3) In subsection (2) omit “corporate”.

(4) For subsection (3) substitute—

“(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in

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connection with the member's functions of management as it applies to an officer of the body corporate.

- (5) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
- (6) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.
- (7) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.
- (8) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.
- (9) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (10) In this section “officer”, in relation to a body corporate, means—
  - (a) any director, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity.”

84 (1) Section 43 (jurisdiction and powers of Solicitors Disciplinary Tribunal in relation to complaints against solicitors) is amended as follows.

(2) In subsection (2)(a) for “(7) to” substitute “ (9) to ”.

(3) After subsection (3) insert—

“(3A) Nothing in section 157 of the Legal Services Act 2007 (approved regulators not to make provision for redress) prevents an order being made under subsection (3).”

(4) For subsection (5) substitute—

“(5) An appeal under section 49 of the Solicitors Act 1974 against an order of the Tribunal under subsection (3) lies only at the instance of the solicitor with respect to whom the legal aid complaint was made.”

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**Commencement Information**

**I41** Sch. 16 para. 84(1)(2)(4) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)

*Status: Point in time view as at 31/03/2009. This version of this schedule contains provisions that are not valid for this point in time.*  
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- 85 In the title of Schedule 2, for “Incorporated practices” substitute “ Legal services practices ”.
- 86 In paragraph 1 of that Schedule (interpretation)—
- (a) in sub-paragraph (1) omit “corporate”,
  - (b) in sub-paragraph (2) omit—
    - (i) paragraph (b) and the “or” immediately preceding it,
    - (ii) “corporate”, and
    - (iii) “or application”,
  - (c) after that sub-paragraph insert—
    - “(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.”,
  - (d) omit sub-paragraph (3),
  - (e) in sub-paragraph (4) omit from “; and for those purposes” to the end,
  - (f) in sub-paragraph (5) for “sub-paragraphs (3) and (4)” substitute “ sub-paragraphs (4) and (6) ”, and
  - (g) for sub-paragraph (6) substitute—
    - “(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.”

**Commencement Information**

**I42** Sch. 16 para. 86(g) in force for certain purposes at 30.6.2008 by [S.I. 2008/1436](#), [art. 2\(d\)\(ii\)](#); Sch. 16 para. 86 in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

- 87 For paragraph 2 of that Schedule (appeal against refusal of Council to grant recognition) substitute—

*“Appeal against refusal of Society to grant recognition etc*

- 2 (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.

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- (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.”

88 For paragraph 3 of that Schedule (accounts rules) substitute—

- “3
- (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.”

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*Status: Point in time view as at 31/03/2009. This version of this schedule contains provisions that are not valid for this point in time.*  
**Changes to legislation:** *There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)*

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- 89 In paragraph 4 of that Schedule (interest on clients' money)—
- (a) in sub-paragraph (1)—
    - (i) for “section 33(1)(a)” substitute “ section 33(1) ”, and
    - (ii) for the words from “and subject to” to the end substitute “, 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.”, and
  - (b) omit sub-paragraph (2).
- 90 After that paragraph insert—
- “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.”
- 91 For paragraph 4A of that Schedule (inspection of bank accounts) substitute—
- “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.”
- 92 For paragraph 5 of that Schedule (accountants' reports) substitute—
- “5 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.”
- 93 After that paragraph insert—
- “5A 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),

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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.”

- 94 For paragraph 6 of that Schedule (compensation fund) substitute—
- “6 (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.”

**Commencement Information**

**I43** Sch. 16 para. 94 wholly in force at 31.3.2009, see s. 211 and [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#) (subject to [art. 5](#))

- 95 In paragraph 7 of that Schedule (solicitor who is justice of the peace not to act in certain proceedings) for “an officer” (in both places) substitute “ a manager ”.
- 96 In paragraph 9 of that Schedule (restriction on employment of person struck off roll or suspended)—
- (a) the existing provision becomes sub-paragraph (1) and in that sub-paragraph after “recognised body” insert “ (and any manager or employee of it) ”, and
  - (b) after that sub-paragraph insert—
    - “(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—
      - (a) be a manager of the body, or
      - (b) 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—
    - (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) 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.

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- (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—
  - (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.”

- 97 In paragraph 10 of that Schedule (failure to disclose striking off or suspension)—
- (a) the existing paragraph becomes sub-paragraph (1) of that paragraph,
  - (b) in that sub-paragraph after “recognised body” insert “ (or any manager or employee of such a body) ”, and
  - (c) after that sub-paragraph insert—
    - “(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.
    - (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).”

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- 98 Omit paragraph 11 of that Schedule (control of employment of persons convicted of offences of dishonesty and certain other persons).
- 99 Omit paragraph 12 of that Schedule (offences in connection with orders under section 43(2) of the 1974 Act).

VALID FROM 06/10/2010

- 100 Omit paragraph 13 of that Schedule (redress for inadequate professional services).

- 101 For paragraph 14 of that Schedule (examination of files) substitute—

*“Information about suitability for recognition*

- 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 sub-paragraph (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.
- (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.

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- (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 subparagraph (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.”

**Commencement Information**

**I44** Sch. 16 para. 101 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, art. 2(b)(ii) (subject to art. 4)

102 For paragraph 14A of that Schedule (payment of costs of investigations) substitute—

*“Power to charge for costs of investigation*

- 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.
- (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.”

**Commencement Information**

**I45** Sch. 16 para. 102 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, art. 2(b)(ii) (subject to art. 4)

103 After that paragraph insert—

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*“Disciplinary powers of the Society*

- 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.
- (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.

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- (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 ”.
- (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.

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- (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.”

#### Commencement Information

**I46** Sch. 16 para. 103 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, art. 2(b)(ii) (subject to art. 4)

- 104 In paragraph 16 of that Schedule (complaints to Tribunal with respect to recognised bodies)—
- (a) in sub-paragraph (1), in paragraph (a) omit “in the United Kingdom”,
  - (b) in paragraph (b) of that sub-paragraph for “section 34 of the 1974 Act” substitute “ any requirement imposed by or by virtue of this Act ”,
  - (c) for paragraph (c) of that sub-paragraph substitute—
    - “(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 which a permission has been granted under section 41 of that Act or that paragraph of this Schedule; or”, and
  - (d) after that sub-paragraph insert—
    - “(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.”
- 105 In paragraph 17 of that Schedule (procedure on applications and complaints)—
- (a) for “(7)” substitute “ (9) ”,
  - (b) in paragraph (a)—
    - (i) omit “11(1), 15(2) or”,

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- (ii) omit “13(3) or”, and
- (iii) after “16(1)” insert “ or (1A) ”, and
- (c) in paragraph (c) after “body” insert “ or, in the case of such a complaint as is mentioned in paragraph 16(1A), to a manager or employee of such a body ”.

**Commencement Information**

**I47** Sch. 16 para. 105(a)(b)(i)(iii)(c) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)

- 106 In paragraph 18 of that Schedule (powers of Tribunal with respect to recognised bodies)—
- (a) in sub-paragraph (1) after “this Schedule” insert “ (other than paragraph 16(1A) ”,
  - (b) in paragraph (b) of that sub-paragraph for “section 34 of the 1974 Act” substitute “ any requirement imposed by or by virtue of this Act ”,
  - (c) omit paragraph (d) of that sub-paragraph and the “or” immediately preceding it,
  - (d) in sub-paragraph (2) omit “not exceeding £3,000”, and
  - (e) omit sub-paragraphs (3) and (4).

**Commencement Information**

**I48** Sch. 16 para. 106(a)(b)(d) in force and Sch. 16 para. 106(e) in force for certain purposes at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#)

- 107 After that paragraph insert—
- “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—

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- (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;
  - (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.”

#### **Commencement Information**

**I49** Sch. 16 para. 107 wholly in force at 31.3.2009 see s. 211 and [S.I. 2009/503](#), [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

108 In paragraph 20 of that Schedule (powers of Tribunal in respect of legal aid complaints), in sub-paragraph (1)—

- (a) for “an officer” substitute “ a manager ”,
- (b) for “director” substitute “ manager ”, and

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- (c) for “legal aid work” substitute “ providing representation funded by the Legal Services Commission as part of the Criminal Defence Service ”, and omit sub-paragraph (2).
- 109 In paragraph 21 of that Schedule (revocation of recognition by reason of default by director)—
- (a) in sub-paragraph (1), in paragraph (a) for “director” substitute “ manager ”,
- (b) in paragraph (b) of that sub-paragraph for “director” (in both places) substitute “ manager ”,
- (c) in paragraph (c) of that sub-paragraph for “director” (in both places) substitute “ manager ”,
- (d) in sub-paragraph (3) for “director” (in both places) substitute “ manager ”, and
- (e) after that sub-paragraph insert—
- “(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.”
- 110 In paragraph 23 (orders as to remuneration for non-contentious business)—
- (a) the existing provision becomes sub-paragraph (1) of that paragraph,
- (b) in that sub-paragraph for “regulating (in accordance with paragraph 22)” substitute “ prescribing (by virtue of paragraph 22) general principles to be applied when determining ”,
- (c) in that sub-paragraph for paragraph (b) substitute—
- “(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.”, and
- (d) after that sub-paragraph insert—
- “(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).”
- 111 For paragraph 24 of that Schedule (effect of contentious business agreements) substitute—
- “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

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be subject in the course of the carrying on by the body of its business as a recognised body shall be void.”

112 In paragraph 25 of that Schedule (effect of supervening incapacity on contentious business agreements)—

- (a) for sub-paragraph (1)(b) substitute—
  - “(b) a relevant insolvency event occurs in relation to the body;”,
- (b) in sub-paragraphs (2) and (3)—
  - (i) for “taxation” (in each place) substitute “ assessment ”, and
  - (ii) for “taxing officer” (in each place) substitute “ costs officer ”,
- (c) in sub-paragraph (3) for “any officer” substitute “ any manager ”, and
- (d) after that sub-paragraph insert—

“(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.”

**Commencement Information**

**I50** Sch. 16 para. 112(a)(c)(d) in force at 30.6.2008 by [S.I. 2008/1436](#), [art. 2\(d\)\(ii\)](#); Sch. 16 para. 112(b) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

113 In paragraph 26 of that Schedule (taxations with respect to contentious business)—

- (a) in the paragraph heading for “Taxations” substitute “ Assessments ”,
- (b) the existing paragraph becomes sub-paragraph (1) and in that sub-paragraph —
  - (i) for “taxation” substitute “ assessment ”,
  - (ii) for “taxing officer” substitute “ costs officer ”,
  - (iii) after “the body” (in the second place) insert “ or any manager or employee of the body ”, and
  - (iv) for “any solicitor, being an officer” substitute “ any authorised person, being a manager ”, and
- (c) after that sub-paragraph insert—

“(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.”

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**Changes to legislation:** There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16. (See end of Document for details)

### Commencement Information

**I51** Sch. 16 para. 113(b)(iii) in force at 30.6.2008 by S.I. 2008/1436, art. 2(d)(ii) (as amended by S.I. 2008/1591, art. 2(2)); Sch. 16 para. 113(b)(iv)(c) in force at 31.3.2009 by S.I. 2009/503, art. 2(b)(ii); Sch. 16 para. 113(a)(b)(i)(ii) in force at 1.1.2010 by S.I. 2009/3250, art. 2(f)(ii) (with art. 9)

- 114 In paragraph 28 (power of court to order recognised body to pay over clients' money) after "client" (in the third place) insert " or any manager or employee of such a body ".
- 115 For paragraph 29 of that Schedule (actions to recover costs) substitute—  
 "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 "."
- 116 In paragraph 30 (power of Society to inspect files relating to certain proceedings), for paragraph (b) substitute—  
 "(b) for the appointment of an administrative receiver within the meaning of section 251 of the Insolvency Act 1986; or".
- 117 In paragraph 31 of that Schedule (bank accounts)—  
 (a) omit "or (2)", and  
 (b) after "bank" insert " or building society ".
- 118 After that paragraph insert—  
 "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."
- 119 (1) Paragraph 32 of that Schedule (intervention by Society) is amended as follows.  
 (2) In sub-paragraph (1)(a)—  
 (a) for "Council are" substitute " Society is ",  
 (b) after "recognised body" insert " or a manager of such a body ", and  
 (c) for "it" substitute " the body or manager ".
- (3) For sub-paragraph (1)(c) substitute—  
 "(c) a relevant insolvency event occurs in relation to a recognised body; or".
- (4) In sub-paragraph (1)(d)—  
 (a) for "Council have" substitute " Society has ",  
 (b) for "officer" substitute " manager ", and

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- (c) for “that body's” to the end substitute—
- “(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”.

- (5) After sub-paragraph (1)(d) insert—

- “(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,
  - (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;”.

- (6) After sub-paragraph (1) insert—

- “(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.”

- (7) Omit sub-paragraph (2).

- 120 For paragraph 33 of that Schedule (further grounds for intervention)—

- (a) for paragraph (a) substitute—
- “(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

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- any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee;”, and
- (b) in paragraph (c) for “Council regard” substitute “ Society regards ”.
- 121 In paragraph 34 of that Schedule (powers of intervention on revocation of recognition etc), in sub-paragraph (1)—
- (a) omit “corporate” (in both places), and
- (b) in paragraph (a), after “revoked” insert “ in accordance with rules under that section or ”.
- 122 In paragraph 35 of that Schedule (provision relating to the application of Part 2 of Schedule 1 to the Solicitors Act 1974)—
- (a) in paragraph (a) omit “corporate”, and
- (b) omit “and” at the end of paragraph (b) and after paragraph (c) insert—
- “(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.”
- 123 In paragraph 36 of that Schedule (privilege from disclosure etc)—
- (a) for sub-paragraph (1) substitute—

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- “(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.”,
- (b) in sub-paragraph (3) for “an officer” substitute “ a manager ”, and
- (c) after that sub-paragraph insert—
- “(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).”

### PART 3

#### THE COURTS AND LEGAL SERVICES ACT 1990 (C. 41)

124 The Courts and Legal Services Act 1990 is amended in accordance with this Part of this Schedule.

125 In section 89 (foreign lawyers: recognised bodies and partnerships with solicitors)

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- (a) for subsection (3)(a)(iv) substitute—
- “(iv) sections 36 and 36A (compensation grants); and”,
- (b) in subsection (4), for paragraphs (a) to (d) substitute “ to make different provision with respect to registered foreign lawyers to the provision made with respect to solicitors. ”,
- (c) in subsection (5) for “Secretary of State” substitute “ Lord Chancellor ”,
- (d) in paragraph (a) of that subsection for “the commencement of this section” substitute “ or in the same Session as the Legal Services Act 2007 was passed ”,
- (e) in subsection (6) for “Secretary of State” substitute “ Lord Chancellor ”,
- (f) in subsection (7) for “Secretary of State” (in both places) substitute “ Lord Chancellor ”,
- (g) in paragraph (a) of that subsection for “the commencement of this section” substitute “ or in the same Session as the Legal Services Act 2007 was passed ”,
- (h) in that subsection for “officers” substitute “ managers ”,
- (i) after subsection (8) insert—
- “(8A) Rules and regulations made by the Law Society under, or by virtue of, this section or Schedule 14 which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.”, and
- (j) in subsection (9), after the definition of “foreign lawyer” insert—
- ““manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);”.

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#### Commencement Information

**I52** Sch. 16 para. 125(c)(d)(e)(f)(g) in force at 30.6.2008 by [S.I. 2008/1436](#), [art. 2\(d\)\(iii\)](#) (as amended by [S.I. 2008/1591](#), [art. 2\(2\)](#)); Sch. 16 para. 125 in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(b\)\(iii\)](#) (subject to [art. 4](#))

- 126 Schedule 14 to that Act (foreign lawyers: partnerships and recognised bodies) is amended as follows.
- 127 In paragraph 1 (interpretation) omit the definitions of “the Council” and “controlled trust”.
- 128 In paragraph 2 (application for registration)—
- (a) for “Council” in each place substitute “ Society ”,
  - (b) in sub-paragraph (1)(b) for “the Master of the Rolls” substitute “ the Legal Services Board ”,
  - (c) in sub-paragraph (2)—
    - (i) for “Law Society” substitute “ Society ”, and
    - (ii) for paragraphs (a) and (b) substitute “ for members of that profession to be managers of recognised bodies. ”,
  - (d) omit sub-paragraph (3),
  - (e) in sub-paragraph (4)—
    - (i) for “Master of the Rolls” substitute “ Legal Services Board ”, and
    - (ii) in paragraph (a) after “including” insert “ the form of the register and ”,
  - (f) in that sub-paragraph, after paragraph (b) insert “and
    - (c) the making available to the public of the information contained in the register (including the manner in which, and hours during which, the information is to be made so available and whether the information is to be made available free of charge).”, and
  - (g) omit sub-paragraph (5).

#### Commencement Information

**I53** Sch. 16 para. 128(a)(c)(i) in force at 7.3.2008 by [S.I. 2008/222](#), [art. 2\(j\)\(iii\)](#); Sch. 16 para. 128(c)(ii) in force at 30.6.2008 by [S.I. 2008/1436](#), [art. 2\(d\)\(iii\)](#) (as amended by [S.I. 2008/1591](#), [art. 2\(2\)](#)); Sch. 16 para. 128(d)(e)(ii)(f)(g) in force at 1.7.2009 by [S.I. 2009/1365](#), [art. 2\(b\)\(i\)](#); Sch. 16 para. 128(b)(e)(i) in force at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(ii\)](#) (with [art. 9](#))

VALID FROM 01/07/2009

- 129 After paragraph 2 insert—
- “2A (1) The Society may direct that a foreign lawyer's registration is to have effect subject to such conditions as the Society thinks fit to impose.
  - (2) A direction under sub-paragraph (1) may be given in respect of a foreign lawyer
    - (a) at the time he is first registered, or

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(b) at any time when the registration has effect.”

- 130 In paragraph 3 (duration of registration) in sub-paragraphs (2) and (3)(c) for “Council” substitute “ Society ”.
- 131 In paragraph 5 (intervention in practices)—
- (a) in sub-paragraph (3)(a) and (b)—
    - (i) for “Council have” substitute “ Society has ”, and
    - (ii) omit “by virtue of his being a member of that partnership”,
  - (b) after sub-paragraph (3)(b) insert—
    - “(ba) the Society has reason to suspect dishonesty on the part of the registered foreign lawyer (“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;”,
  - (c) in sub-paragraph (3)(c) for “Council are” substitute “ Society is ”,
  - (d) after sub-paragraph (3)(e) insert—
    - “(ea) the Society is satisfied that he has abandoned his practice;”,
  - (e) in sub-paragraph (3)(i)—
    - (i) for “Council are” substitute “ Society is ”, and
    - (ii) for “an officer” (in both places) substitute “ a manager ”,
  - (f) after that sub-paragraph insert—
    - “(j) the Society is satisfied that it is necessary to exercise the intervention powers (or any of them) in relation to the registered foreign lawyer to protect—
      - (i) the interests of clients (or former or potential clients) of the registered foreign lawyer or the multi-national partnership, or
      - (ii) the interests of the beneficiaries of any trust of which the registered foreign lawyer is or was a trustee.”,
  - (g) omit sub-paragraph (4),
  - (h) in sub-paragraph (5)(a) for “a complaint is made to the Society” substitute “ the Society is satisfied ”,
  - (i) in sub-paragraph (5)(a)(ii) for “controlled trust” substitute “ trust ”,
  - (j) in sub-paragraph (5)(c) for “Council regard” substitute “ Society regards ”, and
  - (k) after sub-paragraph (9) insert—
    - “(10) In this paragraph “manager”, in relation to a recognised body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act).”
- 132 For paragraph 6 (compensation fund) substitute—
- “6 Section 36 of the 1974 Act applies in relation to registered foreign lawyers as if for paragraphs (a) and (b) of subsection (1) there were substituted—

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- “(a) an act or omission of a registered foreign lawyer or former registered foreign lawyer;
- (b) an act or omission of an employee or former employee of a registered foreign lawyer or former registered foreign lawyer;”.

**Commencement Information**

**I54** Sch. 16 para. 132 wholly in force at 31.3.2009 see s. 211 and [S.I. 2009/503, art. 2\(b\)\(iii\)](#) (subject to [art. 5](#))

- 133 For paragraph 7 (contributions to fund) substitute—
- “7 Section 36A(2) and (3) of the 1974 Act applies in relation to registered foreign lawyers as it applies in relation to solicitors.”
- 134 For paragraph 8 (accountants' reports) substitute —
- “8 Section 34 of the Act of 1974 applies in relation to registered foreign lawyers as it applies in relation to solicitors.”

VALID FROM 01/07/2009

- 135 In paragraph 14 (appeal against conditions or refusals)—
- (a) in sub-paragraph (1)—
    - (i) for “Master of the Rolls” substitute “ High Court ”, and
    - (ii) for “2(3)” substitute “ 2A ”,
  - (b) omit sub-paragraph (2),
  - (c) in sub-paragraph (3)—
    - (i) omit “to him”,
    - (ii) for “Master of the Rolls” substitute “ High Court ”, and
    - (iii) for “he” substitute “ it ”, and
  - (d) after that sub-paragraph insert—
    - “(4) In relation to an appeal under this paragraph the High Court may make such order as it thinks fit as to payment of costs.
    - (5) The decision of the High Court on an appeal under this paragraph shall be final.”

**Commencement Information**

**I55** Sch. 16 para. 135 wholly in force at 1.7.2009 see s. 211 and [S.I. 2009/1365, art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

- 136 In paragraph 15 (jurisdiction and powers of disciplinary tribunal)—
- (a) after sub-paragraph (3) insert—
    - “(3A) Any person who alleges that a registered foreign lawyer has knowingly acted in contravention of any order under section 43(2) of the Act of 1974 or of any conditions subject to which a permission has been granted under such an order may make a complaint to the Tribunal.”,

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- (b) in sub-paragraph (4)(c), omit “not exceeding £5,000”, and
- (c) omit sub-paragraph (5).

VALID FROM 01/01/2010

137 In paragraph 16(2) (foreign lawyers assisting Tribunal) for “Master of the Rolls” substitute “ Legal Services Board ”.

VALID FROM 01/07/2009

138 In paragraph 17 (appeals from Tribunal)—

- (a) in sub-paragraph (1) for “lie—” to the end substitute “ lie to the High Court ”,
- (b) in sub-paragraph (2)—
  - (i) omit “and the Master of the Rolls”, and
  - (ii) for “they” substitute “ it ”,
- (c) in sub-paragraph (3) for “of the Master of the Rolls on an appeal under this paragraph” substitute “ of the High Court on an appeal in the case of an order on an application under paragraph 15(2)(d) or (e), or the refusal of any such application, ”, and
- (d) omit sub-paragraph (4).

#### Commencement Information

**I56** Sch. 16 para. 138 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 16.