
Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 77. (See end of Document for details)

SCHEDULES

SCHEDULE 16

THE LAW SOCIETY, SOLICITORS, RECOGNISED BODIES AND FOREIGN LAWYERS

PART 1

THE SOLICITORS ACT 1974 (C. 47)

- 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—

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- “(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—
 - “(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.

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- (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 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

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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. ”,

- (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,

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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.
- (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

II 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)

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