

SCHEDULES

SCHEDULE 16

THE LAW SOCIETY, SOLICITORS, RECOGNISED BODIES AND FOREIGN LAWYERS

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)
- (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);”.
- 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”.

Status: This is the original version (as it was originally enacted).

- 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).
- 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
 - (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—
“(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.”.
- 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.”
- 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

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- (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.”
- 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.”,
- (b) in sub-paragraph (4)(c), omit “not exceeding £5,000”, and
- (c) omit sub-paragraph (5).
- 137 In paragraph 16(2) (foreign lawyers assisting Tribunal) for “Master of the Rolls” substitute “Legal Services Board”.
- 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).