
Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 31. (See end of Document for details)

SCHEDULES

SCHEDULE 17

LICENSED CONVEYANCING

PART 1

ADMINISTRATION OF JUSTICE ACT 1985 (C. 61)

- 31 (1) Schedule 5 (intervention in licensed conveyancer's practice) is amended as follows.
- (2) In paragraph 1 (grounds for intervention)—
- (a) in sub-paragraph (1)(a) after “practice” insert “ or former practice or in connection with any trust of which that licensed conveyancer is or was a trustee ”,
 - (b) after that sub-paragraph insert—
 - “(aa) the Council has reason to suspect dishonesty on the part of a licensed conveyancer (“L”) in connection with—
 - (i) the business of any person of whom L is or was an employee, or of any body of which L is or was a manager, or
 - (ii) any business which is or was carried on by L as a sole trader;”,
 - (c) in sub-paragraph (1)(b) after “practice” insert “ or in connection with any trust ”,
 - (d) in sub-paragraph (1)(c), after “section” insert “ 20, 21(3)(c), ”,
 - (e) after sub-paragraph (1)(e) insert—
 - “(ea) the Council is satisfied that a licensed conveyancer has abandoned his practice;
 - (eb) the Council is satisfied that a licensed conveyancer has been practising in breach of any conditions subject to which his licence has effect;”,
 - (f) in sub-paragraph (1)(f), after “illness” insert “ , injury ”,
 - (g) for sub-paragraph (1)(g) substitute—
 - “(g) a licensed conveyancer lacks capacity (within the meaning of the Mental Capacity Act 2005) to act as a licensed conveyancer and powers under section 15 to 20 or section 48 of that Act are exercisable in relation to the licensed conveyancer;”,
 - (h) after sub-paragraph (1)(h) insert—
 - “(i) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a licensed conveyancer to protect—

Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 31. (See end of Document for details)

- (i) the interests of clients (or former or potential clients) of the licensed conveyancer or his firm, or
- (ii) the interests of the beneficiaries of any trust of which the licensed conveyancer is or was a trustee.”, and
- (i) omit sub-paragraph (2).
- (3) In paragraph 3 (intervention following an undue delay)—
 - (a) for “10(3)” substitute “ 10(9) ”,
 - (b) in paragraph (a) for “a complaint is made to the Council” substitute “ the Council is satisfied ”,
 - (c) in that paragraph for “was instructed” substitute “ is or was acting ”, and
 - (d) in that paragraph after “client” insert “ or in connection with any trust ”.
- (4) In paragraph 4(2) (continuation of powers after death etc of licensed conveyancer)—
 - (a) after “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 Council)—
 - (a) in sub-paragraph (1) after “thereto” insert “ and to rules under paragraph 6B ”, and
 - (b) in sub-paragraph (2)(a) after “practice” insert “ or former practice or with any trust of which he is or was a trustee ”.
- (6) After paragraph 6 insert—
 - “6A (1) Without prejudice to paragraph 5, if the Council passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Council, those rights shall vest accordingly.
 - (2) This paragraph applies to any right to recover or receive debts due to the licensed conveyancer or his firm in connection with his practice or former practice.
 - (3) Any sums recovered by the Council by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Council and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.
 - (4) The Council shall serve on the licensed conveyancer or his firm, and any person who owes a debt to which the order applies a certified copy of the Council's resolution.
- 6B (1) The Council may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3).
- (2) The rules may, in particular, make provision in respect of cases where the Council, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Council under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of a fund maintained under section 21).”

Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 31. (See end of Document for details)

(7) In paragraph 7(1) (holding of sums vested in Council) after “thereto” insert “ and to rules under paragraph 6B ”.

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

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

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

(9) In paragraph 9 (documents)—

- (a) in sub-paragraph (1)(a)—
 - (i) after “possession” insert “ or under the control ”, and
 - (ii) after “practice” insert “ or former practice or with any trust of which the licensed conveyancer 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 Council is satisfied ”,
- (c) in sub-paragraph (3) after “possession” insert “ or control ”,
- (d) in sub-paragraph (5) after “possession” insert “ or are under the control ”,
- (e) after that sub-paragraph insert—

“(5A) In the case of a document which consists of information which is stored in electronic form, the requirement imposed by a notice under sub-paragraph (1) or an order under sub-paragraph (4) or (5), is a requirement to produce or deliver the information in a form in which it is legible or from which it can readily be produced in a legible form.”,

- (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 or under the control of the licensed conveyancer or his firm, or
 - (ii) in the case of an order under sub-paragraph (5), which was in the possession or under the control of such a person and has come into the possession or under the control of the person in respect of whom the order is made,

which the Council reasonably requires for the purpose of accessing information contained in such documents,

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

- (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—

Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 31. (See end of Document for details)

“Redirection of communications

- 10 (1) The High Court, on the application of the Council, may from time to time make a communications redirection order.
- (2) A communications redirection order is an order that specified communications to the licensed conveyancer or his firm are to be directed, in accordance with the order, to the Council, or any person appointed by the Council.
- (3) For the purposes of this paragraph—
- (a) “specified communications” means communications of such description as are specified in the order;
 - (b) the descriptions of communications which may be so specified include—
 - (i) communications in the form of a postal packet;
 - (ii) electronic communications;
 - (iii) communications by telephone.
- (4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.
- (5) Where a communications redirection order has effect, the Council or the person appointed by the Council may take possession or receipt of the communications redirected in accordance with the order.
- (6) Where a communications redirection order is made the Council must pay to—
- (a) in the case of an order relating to postal packets, the postal operator concerned, and
 - (b) in any other case, the person specified in the order,
- the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee had permanently ceased to occupy or use the premises or other destination of the communications and had applied to the postal operator or the specified person (as the case may be) to redirect the communications to him as mentioned in the order.
- (7) The High Court may, on the application of the Council, authorise the Council, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the licensed conveyancer or his firm if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the licensed conveyancer or his firm.
- (8) In this paragraph “postal operator” and “postal packet” have the meaning given by section 125(1) of the Postal Services Act 2000.
- (9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.”
- (11) After paragraph 10 insert—

Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 31. (See end of Document for details)

“Trusts

- 10A(1) If the licensed conveyancer or his personal representative is a trustee of a trust, the Council may apply to the High Court for an order for the appointment of a new trustee in substitution for him.
- (2) The Trustee Act 1925 has effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.”
- (12) In paragraph 11 (liens) for “and documents” substitute “ , documents and other property ”.
- (13) After paragraph 12 (costs) insert—
- “12A(1) The High Court, on the application of the Council, may order a former partner of the licensed conveyancer to pay a specified proportion of the costs mentioned in paragraph 12.
- (2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the licensed conveyancer was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.
- (3) In this paragraph “specified” means specified in the order made by the High Court.”

Commencement Information

II Sch. 17 para. 31 wholly in force at 31.3.2009 see s. 211 and [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

Changes to legislation:

There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 31.