
Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Paragraph 32. (See end of Document for details)

SCHEDULES

SCHEDULE 17

LICENSED CONVEYANCING

PART 1

ADMINISTRATION OF JUSTICE ACT 1985 (C. 61)

- 32 (1) Schedule 6 (bodies recognised under section 32: supplementary provisions) is amended as follows.
- (2) In paragraph 1—
- (a) omit “corporate” (in both places), and
 - (b) in sub-paragraph (2) omit—
 - (i) “or complaint” (in both places), and
 - (ii) “or (b)”.
- (3) In paragraph 2 (disciplinary control of recognised bodies) after “24” insert “, 24A ”.
- (4) In paragraph 3—
- (a) in sub-paragraph (1), in paragraph (a)(i) omit “by any court in the United Kingdom”,
 - (b) after paragraph (a) of that sub-paragraph insert—
 - “(aa) it is alleged that a manager or employee of a recognised body who is not a licensed conveyancer has failed to comply with any rules applicable to him by virtue of section 32;
 - (ab) it is alleged that a recognised body (while a recognised body) has failed to comply with a condition subject to which its recognition has effect.”,
 - (c) in that sub-paragraph omit—
 - (i) paragraph (b), and
 - (ii) from “with a view” to the end, and
 - (d) after sub-paragraph (1) insert—
 - “(1A) After making such an investigation, the Investigating Committee may—
 - (a) hear and determine the allegation, or
 - (b) refer the allegation to the Discipline and Appeals Committee for hearing and determination by that Committee under paragraph 4.
 - (1B) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.”

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(5) After paragraph 3 insert—

“3A(1) Where, on hearing an allegation by virtue of paragraph 3(1A)(a), the Investigating Committee are satisfied—

- (a) in a case within paragraph 3(1)(a), that a recognised body has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, or
- (b) in a case within paragraph 3(1)(aa), that a manager or employee has failed to comply with any such rules as are mentioned in that paragraph, or
- (c) in a case within paragraph 3(1)(ab), that a recognised body has failed to comply with any condition mentioned in that paragraph,

the Committee may make an order directing the payment by the recognised body, manager or employee of a penalty to be forfeited to Her Majesty.

(2) In relation to proceedings before the Investigating Committee by virtue of paragraph 3(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—

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

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

(4) The amount of any penalty required to be paid under sub-paragraph (1) may not exceed such amount as is prescribed by rules made by the Council for the purposes of this sub-paragraph.

(5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—

- (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and
- (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.

(6) A person against whom an order is made by the Investigating Committee by virtue of sub-paragraph (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.

(7) If an order is made by the Investigating Committee by virtue of sub-paragraph (2), a person listed in paragraphs (a) to (c) of that sub-paragraph may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.

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- (8) Where an order is made by the Discipline and Appeals Committee under sub-paragraph (6) or (7)—
- (a) a party to the appeal, or
 - (b) if not within paragraph (a), the Council,
- may appeal against the order to the High Court.
- (9) On an appeal under sub-paragraph (8) the High Court may make such order as it thinks fit.
- (10) The decision of the High Court on an appeal under sub-paragraph (8) shall be final.”
- (6) In paragraph 4—
- (a) in sub-paragraph (1) after “allegation” insert “ within paragraph 3(1)(a) or (ab) ”,
 - (b) in that sub-paragraph, after paragraph (b) insert “, or
 - (c) has failed to comply with any such condition as is mentioned in paragraph 3(1)(ab),”
 - (c) in sub-paragraph (2), in paragraph (b), for “£3,000” substitute “ such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph ”,
 - (d) after paragraph (b) of that sub-paragraph insert—
 - “(ba) an order reprimanding that body;
 - (bb) an order that the recognition of that body under section 32 is to have effect subject to such conditions as may be specified in the order;”
 - (e) omit paragraph (c) of that sub-paragraph,
 - (f) after that sub-paragraph insert—
 - “(2A) Where on the hearing of any allegation within paragraph 3(1)(aa) the Discipline and Appeals Committee are satisfied that a manager or employee has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2B).
 - (2B) Those orders are—
 - (a) an order directing the payment by the manager or employee of a penalty not exceeding such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph;
 - (b) an order requiring the Council to consider taking such steps as the Committee may specify in relation to the manager or employee;
 - (c) an order requiring the Council to refer to an appropriate regulator any matter relating to the conduct of the manager or employee.
 - (2C) For the purposes of sub-paragraph (2B)(c) an “appropriate regulator” in relation to a manager or employee means—

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

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

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

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

- (g) omit sub-paragraphs (3), (3A) and (4).

(7) In paragraph 5—

- (a) in sub-paragraph (1)—
 - (i) after “26” insert “ or paragraph 4 ”, and
 - (ii) for “director” (in each place) substitute “ manager ”,
- (b) in sub-paragraph (3) for “director” (in both places) substitute “ manager ”, and
- (c) after sub-paragraph (3) insert—

“(4) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

- (a) the Council;
- (b) the body to whose recognition the proceedings relate.”.

(8) In paragraph 6 (appeals against orders of the Committee)—

- (a) in sub-paragraph (1)—
 - (i) for “body corporate” substitute “ person ”,
 - (ii) after “4(1)” insert “ or (2A) ”, and
 - (iii) for “5” substitute “ 5(1) ”, and
- (b) after that sub-paragraph insert—

“(1A) Where an order is made by the Committee under paragraph 4(2D) or 5(4) a person listed in that paragraph may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.”

(9) After paragraph 7 (revocation of recognition on grounds of fraud or error)—

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- (a) in sub-paragraph (1) and (2) omit “corporate”, and
 - (b) after sub-paragraph (2) insert—
 - “(3) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the body to whose recognition the proceedings relate.
 - (4) In relation to proceedings on an application under sub-paragraph (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the applicant.”
- (10) In paragraph 8 (appeal against decision of Council in relation to grant of recognition)
- (a) in sub-paragraph (1) omit “corporate”,
 - (b) in paragraph (b) of that sub-paragraph for “restrictions” substitute “conditions”,
 - (c) after that paragraph insert “, or
 - (c) decides to give a direction in relation to that body under section 32(3B), or
 - (d) refuses an application by that body under section 32(3D),”,
 - (d) in sub-paragraph (2) for “this paragraph” substitute “ sub-paragraph (1)(a) or (b) ”,
 - (e) in paragraph (a) of that sub-paragraph—
 - (i) for “restrictions” (in the first place) substitute “ conditions ”, and
 - (ii) for “restrictions falling within subsection (3)(d) of that section” substitute “ conditions ”, and
 - (f) after that sub-paragraph insert—
 - “(2A) On an appeal under sub-paragraph (1)(c), the Discipline and Appeals Committee may—
 - (a) revoke the direction of the Council under section 32(3B),
 - (b) direct that the body's recognition is to have effect subject to such conditions as may be specified by the Council in the direction, or
 - (c) affirm the decision of the Council,and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.
 - (2B) On an appeal under sub-paragraph (1)(d), the Discipline and Appeals Committee may—
 - (a) direct the Council to grant the application, or
 - (b) affirm the decision of the Council,and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.”
- (11) In paragraph 9 (rules of procedure etc) in sub-paragraph (1)—
- (a) for “, 2 and 3” substitute “ and 2 ”, and

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- (b) for “paragraph 4 or 5” substitute “ paragraph 3A, 4 or 5 ”.
- (12) In paragraph 10 (intervention by Council)—
- (a) in sub-paragraph (1), in paragraph (a) after “recognised body” insert “ or a manager of such a body ”,
 - (b) after that paragraph insert—
 - “(aa) the Council is satisfied that a recognised body has been carrying on business in breach of any condition subject to which the body's recognition under section 32 of this Act has effect; or”,
 - (c) for paragraph (c) of that sub-paragraph substitute—
 - “(c) a relevant insolvency event occurs in relation to a recognised body; or”,
 - (d) in paragraph (d) of that sub-paragraph for “officer” substitute “ manager ”,
 - (e) in that paragraph for “that body's” to the end of the paragraph 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;”,
 - (f) after that paragraph insert “or
 - (e) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 5 (or any of them) in relation to a recognised body to protect—
 - (i) the interests of clients (or former or potential clients) of the recognised body,
 - (ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or
 - (iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person's capacity as such a manager or employee;”,
 - (g) 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

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- 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.”, and
- (h) omit sub-paragraph (2).
- (13) For paragraph 11(a) substitute—
- “ (a) the Council is satisfied that there has been undue delay on the part of—
- (i) a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or
- (ii) a person who is or was a manager or employee of a recognised body in connection with any trust of which he is or was a trustee in his capacity as such a manager or employee; and”.
- (14) In paragraph 12(1) omit “corporate” (in both places).
- (15) In paragraph 13—
- (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 manager or employee of that body is or was a trustee in his capacity as such a manager or employee;
- (e) paragraph 9 of that Schedule is to be construed—
- (i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of that body is or was a trustee in his capacity as such a manager or employee, and
- (ii) as applying to a person who is or was a manager or employee of the recognised body and documents and property in his possession or under his control in connection with such a trust as it applies to a recognised body and documents and property in the possession or under the control of that body;
- (f) paragraph 10A(1) of that Schedule is to be construed as including power for the Council to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee in his capacity as a manager or employee of the recognised body; and
- (g) paragraph 12A of that Schedule is to be read as if the references to a former partner were references—
- (i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and

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(ii) in any other case to a manager or former manager of the recognised body.”

(16) In paragraph 14 (examination of files)—

(a) for sub-paragraph (1) substitute—

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

(1A) An information notice is a notice requiring the production or delivery to any person appointed by the Committee, at a time and a place to be fixed by the Committee, of all documents in the possession or under the control of the relevant person in connection with the matters to which the allegation relates (whether or not they relate also to other matters).

(1B) In this section “relevant person” means—

- (a) in the case of an allegation against a recognised body, the recognised body or any of its managers or employees, and
- (b) in the case of an allegation against a manager or employee of a recognised body, the manager or employee, the recognised body or any other manager or employee of the recognised body.”, and

(b) in sub-paragraph (2)—

- (i) for “and 12” substitute “ to 12A ”,
- (ii) for “sub-paragraph (1) of this paragraph” (except where it appears in paragraph (d)) substitute “ sub-paragraphs (1) and (1A) of this paragraph ”,
- (iii) in paragraph (b) after “body” insert “ , manager or employee ”, and
- (iv) in paragraph (d) for “sub-paragraph (1)” substitute “ sub-paragraph (1A) ”.

(17) Omit paragraph 15 (application of rules relating to accounts etc).

(18) In paragraph 16 (interest on client's money)—

(a) in sub-paragraph (1)—

- (i) after “recognised bodies” insert “ or managers or employees of such bodies, ”,
- (ii) after “recognised body” insert “ , manager or employee ”,
- (iii) for “it keeps” substitute “ it or he keeps ”,
- (iv) for “its clients” substitute “ clients of the recognised body ”, and
- (v) after “received by it” insert “ or him ”, and

(b) in sub-paragraph (2), for “and any of its clients” substitute “ , or any manager or employee of such a body, and any of the clients of the recognised body ”.

Commencement Information

- II** Sch. 17 para. 32 partly in force: Sch. 17 para. 32 not in force at Royal Assent see s. 211; Sch. 17 para. 32(1)-(6)(f) in force and Sch. 17 para. 32(6)(f) in force for certain purposes at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

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| I2 | Sch. 17 para. 32(6)(a)-(e) in force at 6.10.2010 by S.I. 2010/2089 , art. 2(c) |
| I3 | Sch. 17 para. 32(6)(g) in force at 6.10.2010 in so far as not already in force by S.I. 2010/2089 , art. 2(c) |

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