



Solicitors Act 1974

1974 CHAPTER 47

PART I

RIGHT TO PRACTISE AS SOLICITOR

Qualifications and training

1 Qualifications for practising as solicitor

No person shall be qualified to act as a solicitor unless—

- (a) he has been admitted as a solicitor, and
- (b) his name is on the roll, and
- (c) he has in force a certificate issued by the Society in accordance with the provisions of this Part authorising him to practise as a solicitor (in this Act referred to as a "practising certificate").

2 Training regulations

- (1) The Society, with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls, may make regulations (in this Act referred to as "training regulations") about education and training for persons seeking to be admitted or to practise as solicitors.
- (2) It shall be the Society's duty, before submitting training regulations to the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls for their concurrence under subsection (1), to consult the Secretary of State or, if he so directs, any person or body of persons specified in the direction.
- (3) Training regulations—
 - (a) may prescribe—
 - (i) the education and training, whether by service under articles or otherwise, to be undergone by persons seeking admission as solicitors ;

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- (ii) any education or training to be undergone by persons who have been admitted as solicitors;
 - (iii) the examinations or other tests to be undergone by persons seeking admission as solicitors or who have been admitted ;
 - (iv) the qualifications and reciprocal duties and responsibilities of persons undertaking to give education or training for the purposes of the regulations or undergoing such education or training; and
 - (v) the circumstances in which articles may be discharged or education or training under the regulations may be terminated;
- (b) may require persons who have been admitted as solicitors to hold practising certificates while they are undergoing education or training under the regulations ;
 - (c) may include provision for the charging of fees by the Society and the application of fees which the Society receives;
 - (d) may make different provision for different classes of persons and different circumstances.

Admission

3 Admission as solicitor

- (1) Subject to section 4 and to section 20(3) of the Justices of the Peace Act 1949 (which relates to the admission as solicitors of certain persons who have served as assistant to a justices' clerk), no person shall be admitted as a solicitor unless he has obtained a certificate from the Society that the Society—
 - (a) is satisfied that he has complied with training regulations, and
 - (b) is satisfied as to his character and his suitability to be a solicitor.
- (2) Any person who has obtained a certificate that the Society is satisfied as mentioned in subsection (1) may apply to the Master of the Rolls to be admitted as a solicitor; and if any such person so applies, the Master of the Rolls, or a judge appointed under subsection (3) to act on his behalf for the time being, shall, unless cause to the contrary is shown to his satisfaction, in writing, and in such manner and form as the Master of the Rolls may from time to time think fit, admit that person to be a solicitor.
- (3) The Master of the Rolls may in writing appoint any judge of the High Court to act on his behalf for the purpose of admitting persons to be solicitors under subsection (2).

4 Admission of certain overseas solicitors

- (1) Subject to section 5(1), a solicitor of a superior court in any territory to which this subsection for the time being applies who has been in practice before that court for not less than three years may, and a solicitor of such a court who has for not less than three years served bona fide as a clerk to a solicitor in England and Wales may with the consent of the Council of the Society, be admitted as a solicitor of the Supreme Court—
 - (a) after giving due notice and the prescribed proof of his qualifications and good character; and
 - (b) after passing the prescribed examination or, in the prescribed cases, without examination ; and

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- (c) after service under articles during the prescribed period or, in the prescribed cases, without such service; and
 - (d) on payment of the prescribed amount in respect of fees.
- (2) Where, as respects a superior court in any territory (including a part of a territory) which is part of the Commonwealth outside the United Kingdom, Her Majesty in Council is satisfied—
 - (a) that the regulations respecting the admission of solicitors of that court are such as to secure that those solicitors possess proper qualifications and competency; and
 - (b) that by the law of that territory solicitors of the Supreme Court will be admitted as solicitors of the superior court in that territory on terms as favourable as those on which it is proposed to admit solicitors of that superior court in pursuance of subsection (1) as solicitors of the Supreme Court,Her Majesty may by Order in Council apply subsection (1) to that superior court and that territory subject to any exceptions, conditions and modifications specified in the Order, and by the same or any subsequent Order in Council may, as respects that court and territory, provide for all matters authorised by this section to be prescribed and for all matters appearing to Her Majesty to be necessary or proper for giving effect to the Order and to this section.
- (3) Her Majesty may by Order in Council revoke or vary any Order previously made under this section.
- (4) An Order in Council applying subsection (1) to any court and providing for the admission of solicitors of that court as solicitors of the Supreme Court, and an Order in Council applying the Colonial Solicitors Act 1900 to the same court and providing for the admission of solicitors of that court as solicitors in Scotland, may, if convenient, be made together as one Order.
- (5) In this section, "superior court" and "solicitor" mean respectively, as respects any territory, such court in that territory and such solicitor, attorney, law agent or other person entitled to practise as agent in a court of law in that territory as may be prescribed.

5 Restrictions on admission of overseas solicitors

- (1) A person admitted under the Colonial Solicitors Act 1900, whether before or after the commencement of this Act, as a solicitor in Scotland or in Northern Ireland shall not, while remaining such a solicitor, be admitted under section 4(1) as a solicitor of the Supreme Court.
- (2) For the purposes of subsection (1) a person who before 1st October 1921 was admitted under the said Act of 1900 as a solicitor in Ireland shall be deemed to have been admitted under that Act as a solicitor in Northern Ireland.
- (3) For the purposes of section 6(2) of the said Act of 1900 (which makes for Scotland and Northern Ireland provision corresponding to subsection (1)) a person admitted as a solicitor of the Supreme Court under section 4(1) shall be deemed to have been admitted as a solicitor in England and Wales under that Act.

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The roll

6 Keeping of the roll

- (1) The Society shall continue to keep a list of all solicitors of the Supreme Court, called "the roll".
- (2) The roll may be kept by means of a computer.
- (3) If the roll is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.
- (4) If the roll is not kept by means of a computer, any person may inspect it during office hours without payment.

7 Entry of name and restoration of name struck off

On production—

- (a) of an admission of any person as a solicitor signed by the Master of the Rolls or a judge acting for him under section 3(2), or
- (b) of an order for the restoration to the roll of the name of a person whose name has been struck off it,

and on payment to the Society of such fee not exceeding £15 as the Council may from time to time determine, the Society shall enter the name of that person on the roll.

8 Removal or restoration of name at solicitor's request

- (1) The Society, on the application of a solicitor, may remove his name from the roll.
- (2) The Society, on the application of a former solicitor whose name is not on the roll because it has been removed from it, may enter his name on the roll, on payment to the Society of such fee not exceeding £15 as the Council may from time to time determine.
- (3) The power to enter a name on the roll conferred on the Society by subsection (2) includes power to enter the name of a person whose name was removed from the roll before the coming into force of section 5 of the Solicitors (Amendment) Act 1974.

Practising certificates

9 Applications for practising certificates

- (1) On receipt of an application for a practising certificate, the Society shall cause to be entered in a register kept for that purpose the applicant's full name, his place or places of business and the date of his admission.
- (2) The register may be kept by means of a computer.
- (3) If the register is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.
- (4) If the register is not kept by means of a computer, any person may inspect it during office hours without payment.

- (5) If in, or in relation to, an application for a practising certificate or a notice under section 84(1) any person makes any false statement material to the application or notice, a complaint in respect of that statement may be made to the Tribunal by or on behalf of the Society.

10 Issue of practising certificates

- (1) Subject to sections 11 and 12, the Society shall issue a practising certificate to a person who applies for one, if it is satisfied, within 21 days of receipt of his application,—
- (a) that his name is on the roll; and
 - (b) that he is not suspended from practice; and
 - (c) that his application complies with any regulations under section 28; and
 - (d) that he is complying with such training regulations (if any) as apply to him ; and
 - (e) that he is complying with any indemnity rules or is exempt from them.
- (2) At any time when regulations under section 28 specify a training condition or training conditions, any practising certificate issued to an applicant by the Society shall be issued subject to that condition or one of those conditions if it appears to the Society that training regulations will apply to him at the end of 21 days from the Society's receipt of his application.
- (3) At any time when regulations under section 28 specify an indemnity condition or indemnity conditions, any practising certificate issued to an applicant by the Society shall be issued subject to that condition or one of those conditions if it appears to the Society that he will be exempt from indemnity rules at the end of 21 days from the Society's receipt of his application.

11 Fees payable on issue of practising certificates

- (1) Subject to subsection (2), there shall be paid to the Society in respect of each practising certificate to be issued by it, before the certificate is issued, such fee as the Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice, may from time to time by order determine.
- (2) An order under subsection (1) may specify reduced fees for practising certificates which are issued to a solicitor subject to a training condition or training conditions during such period after his admission as may be specified in the order.
- (3) All fees received by the Society under subsection (1) shall be applied in such manner as the Society may think fit for the purposes of the Society, including facilitating the acquisition of legal knowledge.
- (4) The Society shall submit annually to the judges mentioned in subsection (1) an account of all such fees and of then-application and shall cause a copy of the account to be deposited at the Society's hall for inspection by any solicitor.

12 Discretion of Society with respect to issue of practising certificates in special cases

- (1) Subject to subsections (2) and (3), this section shall have effect in any case where a solicitor applies for a practising certificate—

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- (a) for the first time; or
 - (b) not having held a practising certificate free of conditions since the date of his admission ; or
 - (c) when on the first day of the period to which the practising certificate would, if granted, relate, a period of twelve months or more will have elapsed since he held a practising certificate in force ; or
 - (d) after the Tribunal has ordered a penalty or costs to be paid by him or that he be reprimanded; or
 - (e) after he has been invited by the Society to give an explanation in respect of any matter affecting his conduct and has failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory, and has been notified in writing by the Society that he has so failed; or
 - (f) when, having been suspended from practice, the period of his suspension has expired ; or
 - (g) when, having had his name removed from or struck off the roll, his name has been restored to the roll; or
 - (h) while he is an undischarged bankrupt or while a receiving order in bankruptcy is in force against him; or
 - (i) after having been adjudged bankrupt and having obtained his discharge or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or
 - (j) while he is a patient as denned by section 101 of the Mental Health Act 1959 (which relates to the judge's functions in relation to the patient), or while he is a person as to whom powers have been exercised under section 104 of that Act (which relates to the judge's powers in cases of emergency); or
 - (k) after having been committed to prison in civil or criminal proceedings; or
 - (l) after having had given against him any judgment which involves the payment of money, not being a judgment—
 - (i) limited to the payment of costs ; or
 - (ii) as to the whole effect of which upon him he is entitled to indemnity or relief from some other person; or
 - (iii) evidence of the satisfaction of which has been produced to the Society.
- (2) Where a practising certificate free of conditions is issued by the Society under subsection (4) to a solicitor in relation to whom this section has effect by reason of any such circumstances as are mentioned in paragraph (d), (e), (f), (g), (i), (k) or (l) of subsection (1), this section shall not thereafter have effect in relation to that solicitor by reason of those circumstances.
- (3) Where a solicitor's practising certificate is suspended by virtue of section 15(1) by reason of his suspension from practice and the suspension of his practising certificate is terminated unconditionally under section 16(4) or (5), then, notwithstanding subsection (1)(f), this section shall not thereafter have effect in relation to that solicitor by reason of that suspension from practice and the expiry of the period of that suspension.
- (4) In any case where this section has effect, the applicant shall, unless the Society or the Master of the Rolls otherwise orders, give to the Society not less than six weeks before he applies for a practising certificate notice of his intention so to apply; and, subject to subsections (6) and (7), the Society may in its discretion—
- (a) grant or refuse the application, or

- (b) decide to issue a certificate to the applicant subject to such conditions as the Society may think fit.
- (5) Where the Society decides to issue a certificate subject to conditions, it may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of any appeal under section 13(2)(b).
- (6) The Society shall not refuse an application by a solicitor for a practising certificate in a case where this section has effect by reason only—
 - (a) that he is applying for the first time; or
 - (b) that he has not held a practising certificate free from conditions since the date of his admission;and, in a case falling within paragraph (b), the certificate shall not be made subject to any conditions binding on the applicant in respect of any period more than three years after the date on which the first practising certificate issued to him had effect.
- (7) Where a solicitor applies for a practising certificate in a case where this section has effect by reason only of any such circumstances as are mentioned in paragraph (h), (k) or (l) of subsection (1) and an appeal has been made to the appropriate court against the order or judgment in question, the Society shall not refuse the application before the determination of that appeal, unless in the opinion of the Society the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

13 Appeals in connection with issue of practising certificates

- (1) Where an application for a practising certificate is duly made to the Society otherwise than in a case where section 12 has effect and the Society refuses or neglects to issue a certificate, the applicant may apply to the High Court or to any judge of that court, or to the Master of the Rolls, who may make such order in the matter, including an order for the payment of costs by the Society to the applicant or by the applicant to the Society, as may be just.
- (2) Where the Society—
 - (a) in the exercise of the powers conferred on it by section 10, issues a practising certificate subject to a training condition or an indemnity condition; or
 - (b) in the exercise of the powers conferred on it by section 12, refuses to issue a practising certificate or issues a certificate subject to a condition,the applicant may appeal to the Master of the Rolls against the decision of the Society within one month of being notified of it.
- (3) On an appeal to the Master of the Rolls under subsection (2)(a), he may—
 - (a) affirm the decision of the Society; or
 - (b) direct the Society to issue a certificate to the applicant free from conditions ; or
 - (c) if regulations under section 28 specify a number of training conditions or indemnity conditions, direct the Society to issue a certificate to the applicant subject to a training condition or, as the case may be, an indemnity condition, different from that subject to which it was originally issued.
- (4) On an appeal to the Master of the Rolls under subsection (2)(b), he may—
 - (a) affirm the decision of the Society; or

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- (b) direct the Society to issue a certificate to the applicant free from conditions or subject to such conditions other than training conditions or indemnity conditions as the Master of the Rolls may think fit; or
- (c) direct the Society not to issue a certificate; or
- (d) if a certificate has been issued, by order suspend it; or
- (e) make such other order as he thinks fit.

14 Date and expiry of practising certificates

- (1) Every practising certificate issued in November or December in any year shall bear the date of 1st November in that year, and every other practising certificate shall bear the date of the day on which it is issued.
- (2) Every practising certificate shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the Society in the register kept under section 9 and on the roll.
- (3) Subject to subsection (4), every practising certificate shall expire at the end of 31st October next after it is issued.
- (4) Where the name of a solicitor is removed from or struck off the roll, any practising certificate of that solicitor for the time being in force shall expire forthwith and the date of such expiration shall be entered in the register kept under section 9.

15 Suspension of practising certificates

- (1) The making by the Tribunal or by the court of an order suspending a solicitor from practice shall operate, and an adjudication in bankruptcy of a solicitor shall operate immediately, to suspend any practising certificate of that solicitor for the time being in force.
- (2) For the purposes of this Act, a practising certificate shall be deemed not to be in force at any time while it is suspended.

16 Duration of suspension of practising certificates

- (1) Subject to the provisions of this section, the suspension of a practising certificate shall continue until the certificate expires.
- (2) The suspension of a practising certificate by virtue of section 15(1) by reason of an adjudication in bankruptcy shall terminate if the adjudication is annulled and an office copy of the order annulling the adjudication is served on the Society.
- (3) Where a solicitor's practising certificate is suspended—
 - (a) by an order under section 13(4); or
 - (b) by virtue of section 15(1) by reason of his adjudication in bankruptcy; or
 - (c) by virtue of section 15(1) by reason of his suspension from practice and the period of his suspension from practice expires before the date of expiry of the certificate,

the solicitor may at any time before the certificate expires (and, in the case of adjudication in bankruptcy, while the adjudication remains unannulled) apply to the Society to terminate the suspension.

- (4) On an application under subsection (3), the Society may in its discretion—
 - (a) by order terminate the suspension either unconditionally or subject to such conditions as the Society may think fit; or
 - (b) refuse the application.
- (5) If on an application by a solicitor under subsection (3) the Society refuses the application or terminates the suspension subject to conditions, the solicitor may appeal against the decision of the Society to the Master of the Rolls, who may—
 - (a) affirm the decision; or
 - (b) terminate the suspension either unconditionally or subject to such conditions as he may think fit.

17 Publicity in relation to suspension of practising certificates

- (1) Where a solicitor's practising certificate is suspended by an order under section 13(4), or by virtue of section 15(1) by reason of his adjudication in bankruptcy, the Society shall forthwith cause notice of that suspension to be published in the London Gazette and a note of it to be entered against the name of the solicitor on the roll.
- (2) Where any such suspension of a practising certificate as is mentioned in subsection (1) is terminated under section 16(2), (4) or (5), 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 in the London Gazette.

18 Evidence as to holding of practising certificates

- (1) Any list purporting to be published by authority of the Society and to contain the names of solicitors who have obtained practising certificates for the current year before 2nd January in that year shall, until the contrary is proved, be evidence that the persons so named as solicitors holding practising certificates for the current year are solicitors holding such certificates.
- (2) The absence from any such list of the name of any person shall, until the contrary is proved, be evidence that that person is not qualified to practise as a solicitor under a certificate for the current year, but in the case of any such person an extract from the roll certified as correct by the Society shall be evidence of the facts appearing in the extract.

Rights and privileges of solicitors

19 Rights of practising and rights of audience

- (1) Subject to subsection (2), every person qualified in accordance with section 1 may practise as a solicitor—
 - (a) in the Supreme Court;
 - (b) in any county court;
 - (c) in all courts and before all persons having jurisdiction in ecclesiastical matters ; and
 - (d) in all matters relating to applications to obtain notarial faculties,

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and shall be entitled to all the rights and privileges, and may exercise and perform all the powers and duties, formerly appertaining to the office or profession of a proctor in the provincial, diocesan or other jurisdictions in England and Wales.

- (2) Nothing in subsection (1) shall affect the provisions of section 120 of the Supreme Court of Judicature (Consolidation) Act 1925, section 29 or 89 of the County Courts Act 1959 or any other enactment in force at the commencement of this Act which restricts the right of any solicitor to practice as such in any court.
- (3) Nothing in subsection (1) or (2) shall prejudice or affect any right of practising or being heard in, before or by any court, tribunal or other body which immediately before the commencement of this Act was enjoyed by virtue of any enactment, rule, order or regulation or by custom or otherwise by persons qualified to act as solicitors.

Unqualified persons acting as solicitors

20 Unqualified person not to act as solicitor

- (1) No unqualified person shall—
 - (a) act as a solicitor, or as such issue any writ or process, or commence, prosecute or defend any action, suit or other proceeding, in his own name or in the name of any other person, in any court of civil or criminal jurisdiction; or
 - (b) act as a solicitor in any cause or matter, civil or criminal, to be heard or determined before any justice or justices or any commissioners of Her Majesty's revenue.
- (2) Any person who contravenes the provisions of subsection (1)—
 - (a) shall be guilty of an offence and liable on conviction on indictment to imprisonment for not more than two years or to a fine or to both; and
 - (b) shall be guilty of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly; and
 - (c) in addition to any other penalty or forfeiture and any disability to which he may be subject, shall be liable to a penalty of £50 to be recovered, with the full costs of the action, by an action brought by the Society with the consent of the Attorney General in the High Court or in any county court, and to be applied to the use of Her Majesty.

21 Unqualified person not to pretend to be a solicitor

Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is, qualified or recognised by law as qualified to act as a solicitor shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

22 Unqualified person not to prepare certain instruments

- (1) Subject to subsection (2), any unqualified person who directly or indirectly—
 - (a) draws or prepares any instrument of transfer or charge for the purposes of the Land Registration Act 1925, or makes any application or lodges any document for registration under that Act at the registry, or

- (b) draws or prepares any other instrument relating to real or personal estate, or any legal proceeding,

shall, unless he proves that the act was not done for or in expectation of any fee, gain or reward, be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(2) Subsection (1) does not apply to—

- (a) a barrister or duly certificated notary public;
- (b) any public officer drawing or preparing instruments or applications in the course of his duty;
- (c) any person employed merely to engross any instrument, application or proceeding;

and paragraph (b) of that subsection does not apply to a duly certificated solicitor in Scotland.

(3) For the purposes of subsection (1)(b), "instrument" does not include—

- (a) a will or other testamentary instrument;
- (b) an agreement not under seal;
- (c) a letter or power of attorney; or
- (d) a transfer of stock containing no trust or limitation thereof.

23 Unqualified person not to act in preparation of papers for probate, etc.

(1) If any person to whom this subsection applies, directly or as an agent of any other person, whether or not that other person is a person to whom this subsection applies—

- (a) takes instructions for a grant of probate or of letters of administration, or
- (b) draws or prepares any papers on which to found or oppose any such grant,

he shall, unless he proves that the act was not done for or in expectation of any fee, gain or reward, and without prejudice to any other liability or disability to which he may be subject under this or any other Act, be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

(2) Subsection (1) applies to any unqualified person who is not a barrister or duly certificated notary public.

24 Application of penal provisions to body corporate

(1) If any act is done by a body corporate, or by any director, officer or servant of a body corporate, and is of such a nature or is done in such a manner as to be calculated to imply that the body corporate is qualified or recognised by law as qualified to act as a solicitor—

- (a) the body corporate shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100, and
- (b) in the case of an act done by a director, officer or servant of the body corporate, he also shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

(2) For the avoidance of doubt it is hereby declared that in sections 20, 22 and 23 references to unqualified persons and to persons include references to bodies corporate.

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25 Costs where unqualified person acts as solicitor

- (1) No costs in respect of anything done by any unqualified person acting as a solicitor shall be recoverable by him, or by any other person, in any action, suit or matter.
- (2) Nothing in subsection (1) shall prevent the recovery of money paid or to be paid by a solicitor on behalf of a client in respect of anything done by the solicitor while acting for the client without holding a practising certificate in force if that money would have been recoverable if he had held such a certificate when so acting.

26 Time limit for commencement of certain proceedings

Notwithstanding anything in the Magistrates' Courts Act 1952, proceedings in respect of any offence under section 21, 22 or 23 may be brought at any time before the expiration of two years from the commission of the offence or six months from its first discovery by the prosecutor, whichever period expires first.

27 Saving for persons authorised to conduct legal proceedings

Nothing in this Part shall affect any enactment empowering an unqualified person to conduct, defend, or otherwise act in relation to any legal proceedings.

Supplementary

28 Regulations

- (1) The Master of the Rolls may make regulations, with the concurrence of the Lord Chancellor and the Lord Chief Justice, about the following matters, namely—
 - (a) admission as a solicitor ;
 - (b) the keeping of the roll;
 - (c) practising certificates and applications for them ;
 - (d) the keeping of the register under section 9.
- (2) The power conferred by subsection (1) includes power to specify—
 - (a) one or more conditions (in this Act referred to as "training conditions ") to be imposed on the issue of practising certificates to solicitors to whom training regulations apply; and
 - (b) one or more conditions (in this Act referred to as " indemnity conditions ") to be imposed on the issue of practising certificates to solicitors who are exempt from indemnity rules.
- (3) Regulations about the keeping of the roll and of the register under section 9 may provide for the manner in which entries are to be made, altered and removed.
- (4) The regulations may provide for rights of appeal to the Master of the Rolls in connection with the making and alteration of entries on the roll and the removal of entries from it.
- (5) The Master of the Rolls may make regulations about the procedure for any appeals to him authorised by this Part or regulations under this section.

29 Non-British subjects as solicitors

Nothing in section 3 of the Act of Settlement (which provides among other things that aliens are incapable of enjoying certain offices or places of trust) shall be taken to disqualify a person from becoming or practising as a solicitor of the Supreme Court or of the Supreme Court of Northern Ireland.

30 Evidence as to solicitors in Scotland

For the purposes of this Part, a letter purporting to be signed by or on behalf of the registrar of solicitors in Scotland—

- (a) stating that a person specified in the letter is or is not a solicitor in Scotland shall be evidence that that person is or, as the case may be, is not a solicitor in Scotland ;
- (b) stating that a person specified in the letter did not at any time during a period so specified have in force a practising certificate as a solicitor in Scotland shall be evidence that that person was not during any part of that period a duly certificated solicitor in Scotland.

PART II

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

Practice rules

31 Rules as to professional practice, conduct and discipline

- (1) Without prejudice to any other provision of this Part the Council may, if they think fit, make rules, with the concurrence of the Master of the Rolls, for regulating in respect of any matter the professional practice, conduct and discipline of solicitors.
- (2) If any solicitor fails to comply with rules made under this section, any person may make a complaint in respect of that failure to the Tribunal.

Accounts etc.

32 Accounts rules and trust accounts rules

- (1) The Council shall make rules, with the concurrence of the Master of the Rolls—
 - (a) as to the opening and keeping by solicitors of accounts at banks for clients' money ; and
 - (b) as to the keeping by solicitors of accounts containing particulars and information as to money received or held or paid by them for or on account of their clients ; and
 - (c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with ;and the rules may specify the location of the banks' branches at which the accounts are to be kept.
- (2) The Council shall also make rules, with the concurrence of the Master of the Rolls—

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- (a) as to the opening and keeping by solicitors of accounts at banks for money comprised in controlled trusts; and
 - (b) as to the keeping by solicitors of accounts containing particulars and information as to money received or held or paid by them for or on account of any such trust; and
 - (c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with ;
- and the rules may specify the location of the banks' branches at which the accounts are to be kept.
- (3) If any solicitor fails to comply with rules made under this section, any person may make a complaint in respect of that failure to the Tribunal.
 - (4) The Council shall be at liberty to disclose a report on or information about a solicitor's accounts obtained in the exercise of powers conferred by rules made under subsection (1) or (2) to the Director of Public Prosecutions for use in investigating the possible commission of an offence by the solicitor and, if the Director thinks fit, for use in connection with any prosecution of the solicitor consequent on the investigation.
 - (5) Rules under this section may specify circumstances in which solicitors or any class of solicitors are exempt from the rules by virtue of their office or employment.

33 Interest on clients' money

- (1) Rules made under section 32 shall make provision for requiring a solicitor, in such cases as may be prescribed by the rules, either—
 - (a) to keep on deposit in a separate account at a bank for the benefit of the client money received for or on account of a client; or
 - (b) to make good to the client out of the solicitor's own money a sum equivalent to the interest which would have accrued if the money so received had been so kept on deposit.
- (2) The cases in which a solicitor may be required by the rules to act as mentioned in subsection (1) may be denned, among other things, by reference to the amount of any sum received or the period for which it is or is likely to be retained or both; and the rules may include provision for enabling a client (without prejudice to any other remedy) to require that any question arising under the rules in relation to the client's money be referred to and determined by the Society.
- (3) Except as provided by the rules, a solicitor shall not be liable by virtue of the relation between solicitor and client to account to any client for interest received by the solicitor on money deposited at a bank being money received or held for or on account of his clients generally.
- (4) Nothing in this section or in the rules shall—
 - (a) affect any arrangement in writing, whenever made, between a solicitor and his client as to the application of the client's money or interest on it; or
 - (b) apply to money received by a solicitor being money subject to a trust of which the solicitor is a trustee.

34 Accountants' reports

- (1) Every solicitor shall once in each period of twelve months ending with 31st October, unless the Council are satisfied that it is unnecessary for him to do so, deliver to the Society, whether by post or otherwise, a report signed by an accountant (in this section referred to as an "accountant's report") and containing such information as may be prescribed by rules made by the Council under this section.
- (2) An accountant's report shall be delivered to the Society not more than six months (or such other period as may be prescribed by rules made under this section) after the end of the accounting period specified in that report.
- (3) Subject to any rules made under this section, the accounting period for the purposes of an accountant's report—
 - (a) shall begin at the expiry of the last preceding accounting period for which an accountant's report has been delivered;
 - (b) shall cover not less than twelve months; and
 - (c) where possible, consistently with the preceding provisions of this section, shall correspond to a period or consecutive periods for which the accounts of the solicitor or his firm are ordinarily made up.
- (4) The Council shall make rules to give effect to the provisions of this section, and those rules shall prescribe—
 - (a) the qualification to be held by an accountant by whom an accountant's report is given ;
 - (b) the information to be contained in an accountant's report;
 - (c) the nature and extent of the examination to be made by an accountant of the books and accounts of a solicitor or his firm and of any other relevant documents with a view to the signing of an accountant's report;
 - (d) the form of an accountant's report; and
 - (e) the evidence, if any, which shall satisfy the Council that the delivery of an accountant's report is unnecessary and the cases in which such evidence is or is not required.
- (5) Rules under this section may include provision—
 - (a) permitting in such special circumstances as may be defined by the rules a different accounting period from that specified in subsection (3); and
 - (b) regulating any matters of procedure or matters incidental, ancillary or supplemental to the provisions of this section.
- (6) If any solicitor fails to comply with the provisions of this section or of any rules made under it, a complaint in respect of that failure may be made to the Tribunal by or on behalf of the Society.
- (7) A certificate under the hand of the Secretary of the Society shall, until the contrary is proved, be evidence that a solicitor has or, as the case may be, has not delivered to the Society an accountant's report or supplied any evidence required under this section or any rules made under it.
- (8) Where a solicitor is exempt from rules under section 32—
 - (a) nothing in this section shall apply to him unless he takes out a practising certificate ;

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- (b) an accountant's report shall in no case deal with books, accounts or documents kept by him in the course of employment by virtue of which he is exempt from those rules; and
- (c) no examination shall be made of any such books, accounts and documents under any rules made under this section.

Intervention in solicitor's practice, Compensation Fund and professional indemnity

35 Intervention in solicitor's practice

The powers conferred by Part II of Schedule 1 shall be exercisable in the circumstances specified in Part I of that Schedule.

36 Compensation Fund

(1) The fund, known as the " Compensation Fund ", shall be maintained and administered in accordance with the provisions of Schedule 2.

(2) Where the Council are satisfied—

- (a) that a person has suffered or is likely to suffer loss in consequence of dishonesty on the part of a solicitor, or of an employee of a solicitor, in connection with that solicitor's practice or purported practice or in connection with any trust of which that solicitor is or formerly was a trustee; or
- (b) that a person has suffered or is likely to suffer hardship in consequence of failure on the part of a solicitor to account for money which has come to his hands in connection with his practice or purported practice or in connection with any trust of which he is or formerly was a trustee ; or
- (c) that a solicitor has suffered or is likely to suffer loss or hardship by reason of his liability to any of his or his firm's clients in consequence of some act or default of any of his partners or employees in circumstances where but for the liability of that solicitor a grant might have been made out of the Compensation Fund to some other person ;

the Society may make a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

(3) A grant under subsection (2)(c) may be made by way of a loan upon such terms and conditions (including terms and conditions as to the time and manner of repayment, the payment of interest and the giving of security for repayment) as the Council may determine, and the Society may at any time or times, upon such terms and conditions (if any) as the Council think fit, waive or refrain from enforcing the repayment of the whole or any part of the loan, the payment of any interest on the loan or any of its terms or conditions.

(4) Where—

- (a) a grant is made otherwise than by way of loan, or
- (b) a grant is made by way of loan and a condition specified in subsection (5) is satisfied in relation to it,

the Society shall be subrogated, to the extent specified in subsection (6), to any rights and remedies of the person to whom the grant is made in relation to the act or default in respect of which it is made, and shall be entitled, upon giving him a sufficient indemnity against costs, to require him, whether before or after payment of the grant,

to sue in his own name but on behalf of the Society for the purpose of giving effect to the Society's rights, and to permit the Society to have the conduct of the proceedings.

- (5) The conditions mentioned in subsection (4) are—
 - (a) that repayment of the whole or part of the loan has been waived;
 - (b) that the borrower has failed to repay the whole or part of the loan in accordance with the terms and conditions of the loan.
- (6) The extent to which the Society is subrogated under subsection (4) is—
 - (a) for a grant made by way of loan, the amount in relation to which a condition specified in subsection (5) is satisfied, and
 - (b) for any other grant, the amount of the grant.
- (7) Where the Society refuses a grant, the Council shall state the reasons for the refusal.
- (8) The Council may make rules about the Compensation Fund and the procedure for making grants from it.

37 Professional indemnity

- (1) The Council, with the concurrence of the Master of the Rolls, may make rules (in this Act referred to as " indemnity rules ") concerning indemnity against loss arising from claims in respect of any description of civil liability incurred—
 - (a) by a solicitor or former solicitor in connection with his practice or with any trust of which he is or formerly was a trustee;
 - (b) by an employee or former employee of a solicitor or former solicitor in connection with that solicitor's practice or with any trust of which that solicitor or the employee is or formerly was a trustee.
- (2) For the purpose of providing such indemnity, indemnity rules—
 - (a) may authorise or require the Society to establish and maintain a fund or funds ;
 - (b) may authorise or require the Society to take out and maintain insurance with authorised insurers ;
 - (c) may require solicitors or any specified class of solicitors to take out and maintain insurance with authorised insurers.
- (3) Without prejudice to the generality of subsections (1) and (2), indemnity rules—
 - (a) may specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified ;
 - (b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (2)(a) and require solicitors or any class of solicitors to make payments to any such fund ;
 - (c) may require solicitors or any class of solicitors to make payments by way of premium on any insurance policy maintained by the Society by virtue of subsection (2)(b);
 - (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (2)(c);
 - (e) may authorise the Society to determine the amount of any payments required by the rules, subject to such limits, or in accordance with such provisions, as may be prescribed by the rules ;
 - (f) may specify circumstances in which, where a solicitor for whom indemnity is provided has failed to comply with the rules, the Society or insurers may

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- take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which he has failed to comply;
- (g) may specify circumstances in which solicitors are exempt from the rules;
 - (h) may empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the rules are being complied with ; and
 - (i) may contain incidental, procedural or supplementary provisions.
- (4) If any solicitor fails to comply with indemnity rules, any person may make a complaint in respect of that failure to the Tribunal.
- (5) The Society shall have power, without prejudice to any of its other powers, to carry into effect any arrangements which it considers necessary or expedient for the purpose of indemnity under this section.

Restrictions on practice as solicitor

38 Solicitor who is justice of the peace not to act in certain proceedings

- (1) Subject to the provisions of this section, it shall not be lawful for any solicitor who is one of the justices of the peace for any area, or for any partner of his, to act in connection with proceedings before any of those justices as solicitor or agent for the solicitor of any person concerned in those proceedings.
- (2) Where the area for which a solicitor is a justice of the peace is divided into petty sessional divisions, his being a justice for the area shall not subject him or any partner of his to any disqualification under this section in relation to proceedings before justices acting for a petty sessional division for which he does not ordinarily act.
- (3) Where a solicitor is a justice of the peace for any area, that shall not subject him or any partner of his to any disqualification under this section if his name is entered in the supplemental list kept under section 1 of the Administration of Justice Act 1973.
- (4) Where a solicitor is, as being Lord Mayor or alderman, a justice of the peace for the City of London, that shall not subject him or any partner of his to any disqualification under this section, if he is in accordance with section 1(6) of the Administration of Justice Act 1973 excluded from the exercise of his functions as a justice for the City.

39 Solicitor not to act as agent for unqualified person

- (1) No solicitor shall wilfully and knowingly—
- (a) act as agent for an unqualified person in any action or in any matter in bankruptcy ;
 - (b) permit his name to be made use of in any action or in any matter in bankruptcy upon the account or for the profit of an unqualified person ;
 - (c) send any process to an unqualified person ; or
 - (d) do any other act enabling an unqualified person to appear, act or practise in any respect as a solicitor in any action or in any matter in bankruptcy.
- (2) Where it appears to the Tribunal or, as the case may be, to the High Court that a solicitor has acted in contravention of this section, the Tribunal or the court shall order that his name be struck off the roll.

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- (3) Where the High Court orders the name of a solicitor to be struck off the roll in respect of an offence under this section, the court may further order that the unqualified person who was enabled by the conduct of the offender to appear, act or practise as a solicitor shall be imprisoned for a period not exceeding one year.
- (4) For the avoidance of doubt it is hereby declared that in subsection (1) references to an unqualified person include references to a body corporate.

40 Solicitor not to commence or defend actions while in prison

- (1) No solicitor while a prisoner in any prison shall as a solicitor, in his own name or in the name of any other solicitor, issue any writ or process, or commence, prosecute or defend any action or any matter in bankruptcy.
- (2) If any solicitor commences, prosecutes or defends any action or any matter in bankruptcy in contravention of subsection (1)—
 - (a) he shall be incapable of maintaining an action for the recovery of any costs in respect of any business so done by him; and
 - (b) he and any other solicitor in whose name he is permitted to commence, prosecute or defend the action or matter shall be guilty of contempt of the court in which it is commenced, prosecuted or defended and may be punished accordingly.

Restrictions on employment of certain persons

41 Employment by solicitor of person struck off or suspended

- (1) No solicitor shall, except in accordance with a written permission granted under this section, employ or remunerate in connection with his practice as a solicitor any person who to his knowledge is disqualified from practising as a solicitor by reason of the fact that—
 - (a) his name has been struck off the roll, or
 - (b) he is suspended from practising as a solicitor, or
 - (c) his practising certificate is suspended while he is an undischarged bankrupt.
- (2) The Society may grant a permission under this section for such period and subject to such conditions as the Society thinks fit.
- (3) A solicitor aggrieved by the refusal of the Society to grant a permission under subsection (2), or by any conditions attached by the Society to the grant of any such permission, may appeal to the Master of the Rolls who may—
 - (a) confirm the refusal or the conditions, as the case may be; or
 - (b) grant a permission under this section for such period and subject to such conditions as he thinks fit.
- (4) If any solicitor acts in contravention of this section or of any conditions subject to which a permission has been granted under it, the Tribunal or, as the case may be, the High Court shall order—
 - (a) that his name be struck off the roll; or
 - (b) that he be suspended from practice for such period as the Tribunal or the court thinks fit.

- (5) The Master of the Rolls may make regulations about appeals to him under subsection (3).

42 Failure to disclose fact of having been struck off or suspended

- (1) Any person who, while he is disqualified from practising as a solicitor by reason of the fact that—
- (a) his name has been struck off the roll, or
 - (b) he is suspended from practising as a solicitor, or
 - (c) his practising certificate is suspended while he is an undischarged bankrupt,
- seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him that he is so disqualified shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (2) Notwithstanding anything in the Magistrates' Courts Act 1952, proceedings under this section may be commenced at any time before the expiration of six months from the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced except by, or with the consent of, the Attorney General.

43 Control of employment of certain clerks

- (1) Where a person who is or was a clerk to a solicitor but is not himself a solicitor—
- (a) has been convicted of a criminal offence which discloses such dishonesty that in the opinion of the Society it would be undesirable for him to be employed by a solicitor in connection with his practice; or
 - (b) has, in the opinion of the Society, occasioned or been a party to, with or without the connivance of the solicitor to whom he is or was clerk, an act or default in relation to that solicitor's practice in respect of which an application or complaint against that solicitor has been or might be made to the Tribunal,
- an application may be made to the Tribunal with respect to that person by or on behalf of the Society.
- (2) The Tribunal, on the hearing of any application under subsection (1), may make an order that as from such date as may be specified in the order no solicitor shall, except in accordance with 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, employ or remunerate, in connection with his practice as a solicitor, the person with respect to whom the application is made.
- (3) An order made by the Tribunal under subsection (2) may, on the application of the Society or of the person with respect to whom the application for the order was made, be revoked by a subsequent order of the Tribunal; and where in the opinion of the Tribunal no prima facie case is shown in favour of an application for revocation, the Tribunal may refuse the application without hearing the applicant.
- (4) The Tribunal, on the hearing of any application under this section, may make an order as to the payment of costs by any party to the application.
- (5) Orders made under this section and filed with the Society may be inspected by any solicitor during office hours without payment but shall not be open to the inspection of any person other than a solicitor.

- (6) The death of a solicitor against whom an application or complaint might have been made to the Tribunal shall not prevent an application being made under this section.
- (7) For the purposes of this section an order under Part I of the Powers of Criminal Courts Act 1973 placing a person on probation or discharging him absolutely or conditionally shall, notwithstanding anything in section 13 of that Act, be deemed to be a conviction of the offence for which the order was made.

44 Offences in connection with orders under section 43(2)

- (1) Any person who, while there is in force in respect of him an order under section 43(2), seeks or accepts any employment by or remuneration from a solicitor in connection with that solicitor's practice without previously informing him of that order shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (2) Where an order is made under section 43(2) in respect of any person and that order is one—
 - (a) against which no appeal has been made or which has been confirmed on appeal; and
 - (b) which has not been revoked under section 43(3),then, if any solicitor knowingly acts in contravention of that order or of any conditions subject to which permission for the employment of that person has been granted under it, a complaint in respect of that contravention may be made to the Tribunal by or on behalf of the Society.
- (3) Any document purporting to be an order under section 43(2) and to be duly signed in accordance with section 48(1) shall be received in evidence in any proceedings under this section and be deemed to be such an order without further proof unless the contrary is shown.
- (4) Notwithstanding anything in the Magistrates' Courts Act 1952, proceedings under subsection (1) may be commenced at any time before the expiration of six months from the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced, except with the consent of the Director of Public Prosecutions, by any person other than the Society or a person acting on behalf of the Society.

Lay observers

45 Investigation by lay observers of Society's treatment of complaints

- (1) The Lord Chancellor may, if he thinks fit, appoint one or more persons (in this section referred to as "lay observers") to examine any written allegation made by or on behalf of a member of the public concerning the Society's treatment of a complaint about a solicitor or an employee of a solicitor made to the Society by that member of the public or on his behalf.
- (2) No solicitor or barrister shall be appointed a lay observer.
- (3) A lay observer shall hold and vacate his office in accordance with the terms of his appointment, and shall, on ceasing to hold office, be eligible for re-appointment.
- (4) The Lord Chancellor may give general directions to lay observers about the scope and discharge of their functions, and shall publish any such directions.

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- (5) The Society shall consider any report or recommendation which it receives from a lay observer and shall notify him of any action which it has taken in consequence.
- (6) The Lord Chancellor may appoint staff for lay observers.
- (7) Remuneration for lay observers and their staff and any other expenses of lay observers shall be paid out of money provided by Parliament.
- (8) In determining the numbers, terms of employment and remuneration of lay observers and their staff and any amount payable by way of expenses under subsection (7), the Lord Chancellor shall act only with the approval of the Minister for the Civil Service.
- (9) The Society shall furnish a lay observer with such information as he may from time to time reasonably require.
- (10) The Lord Chancellor shall direct the submission to him of annual reports by lay observers on the discharge of the functions conferred on them by this section.
- (11) The Lord Chancellor shall lay a copy of any report under subsection (10) before each House of Parliament.

Disciplinary proceedings before Solicitors Disciplinary Tribunal

46 Solicitors Disciplinary Tribunal

- (1) Applications and complaints made by virtue of any provision of this Act shall be made, except so far as other provision is made by this Act or by any regulations under it, to the tribunal known as the " Solicitors Disciplinary Tribunal".
- (2) The Master of the Rolls shall appoint the members of the Tribunal.
- (3) The Tribunal shall consist—
 - (a) of practising solicitors of not less than ten years' standing (in this section referred to as " solicitor members "); and
 - (b) of persons who are neither solicitors nor barristers (in this section referred to as " lay members ").
- (4) A member of the Tribunal shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.
- (5) There shall be paid to the lay members out of money provided by Parliament such fees and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.
- (6) Subject to subsections (7) and (8), the Tribunal shall be deemed to be properly constituted if—
 - (a) at least three members are present; and
 - (b) at least one lay member is present; and
 - (c) the number of solicitor members present exceeds the number of lay members present.
- (7) For the purpose of hearing and determining applications and complaints the Tribunal shall consist of not more than three members.

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- (8) A decision of the Tribunal on an application or complaint may be announced by a single member.
- (9) Subject to subsections (6) to (8), the Tribunal, with the concurrence of the Master of the Rolls, may make rules—
 - (a) empowering the Tribunal to elect a solicitor member to be its president; and
 - (b) about the procedure and practice to be followed in relation to the making, hearing and determination of applications and complaints.
- (10) Without prejudice to the generality of subsection (9)(b), rules made by virtue of that paragraph may in particular—
 - (a) empower the president of the Tribunal to appoint a chairman for the hearing and determination of any application or complaint;
 - (b) provide that, if the president does not appoint a chairman, a solicitor member shall act as chairman; and
 - (c) provide, in relation to any application or complaint relating to a solicitor, that, where in the opinion of the Tribunal no prima facie case in favour of the applicant or complainant is shown in the application or complaint, the Tribunal may make an order refusing the application or dismissing the complaint without requiring the solicitor to whom it relates to answer the allegations and without hearing the applicant or complainant.
- (11) For the purposes of any application or complaint made to the Tribunal under this Act, the Tribunal may administer oaths, and the applicant or complainant and any person with respect to whom the application or complaint is made (or, in the case of an application under section 47(1)(b), any of the parties to the application) may issue writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.
- (12) The power to make rules conferred by subsection (9) shall be exercisable by statutory instrument, and the Statutory Instruments Act 1946 shall apply to a statutory instrument containing such rules in like manner as if the rules had been made by a Minister of the Crown.

47 Jurisdiction and powers of Tribunal

- (1) Any application—
 - (a) to strike the name of a solicitor off the roll, or to require a solicitor to answer allegations contained in an affidavit, or
 - (b) by a former solicitor whose name has been struck off the roll or to have his name restored to the roll,shall be made to the Tribunal; but nothing in this subsection shall affect any jurisdiction over solicitors exercisable by the Master of the Rolls, or by any judge of the High Court, by virtue of section 50.
- (2) Subject to subsection (3) and to section 54, on the hearing of any application or complaint made to the Tribunal under this Act, other than an application under section 43, the Tribunal shall have power to make such order as it may think fit, and any such order may in particular include provision for any of the following matters, that is to say—

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- (a) the striking off the roll of the name of the solicitor to whom the application or complaint relates ;
 - (b) the suspension of that solicitor from practice;
 - (c) the payment by that solicitor of a penalty not exceeding £750, which shall be forfeit to Her Majesty;
 - (d) the restoration to the roll of the name of a former solicitor whose name has been struck off the roll and to whom the application relates ;
 - (e) the payment by any party of costs or a contribution towards costs of such amount as the Tribunal may consider reasonable.
- (3) On proof of the commission of an offence with respect to which express provision is made by any section of this Act, the Tribunal shall, without prejudice to its power of making an order as to costs, impose the punishment, or one of the punishments, specified in that section.

48 Orders of Tribunal

- (1) An order of the Tribunal shall be filed with the Society, and a statement of the Tribunal's findings, signed by the chairman or by some other member of the Tribunal authorised by him in that behalf, shall either be prefaced to the order or added to the file containing the order as soon as may be after the order has been made.
- (2) Where an order which has been filed includes provision for any of the matters referred to in paragraphs (a) to (e) of section 47(2), the Society—
- (a) shall cause a note of the effect of the order to be entered on the roll against the name of the solicitor with respect to whom the application or complaint was made; and
 - (b) except where it only makes provision for matters referred to in paragraph (d) or (e) of that subsection, shall forthwith upon filing the order cause a notice stating its effect to be published in the London Gazette.
- (3) Subject to section 43(5), any file kept by the Society under this section may be inspected during office hours without payment.
- (4) An order which has been filed shall be treated, for the purpose of enforcement, as if it had been made by the High Court.

49 Appeals from Tribunal

- (1) An appeal from the Tribunal shall lie—
- (a) in the case of an order on an application under section 43(3) or 47(1)(b) or the refusal of any such application, to the Master of the Rolls ;
 - (b) in any other case, to the High Court.
- (2) Subject to subsection (3), an appeal shall lie at the instance of the applicant or complainant or of the person with respect to whom the application or complaint was made.
- (3) An appeal against an order under section 43(2) shall lie only at the instance of the person with respect to whom the application was made.
- (4) The High Court and the Master of the Rolls shall have power to make such order on an appeal under this section as they may think fit.

- (5) Subject to any rules of court, on an appeal against an order made by virtue of rules under section 46(10)(c) without hearing the applicant or complainant, the court—
 - (a) shall not be obliged to hear the appellant, and
 - (b) may remit the matter to the Tribunal instead of dismissing the appeal.
- (6) Any decision of the Master of the Rolls on an appeal under this section and any decision of the High Court on an appeal against an order under section 43(2) shall be final.
- (7) The Master of the Rolls may make regulations about appeals to him under this section.

Disciplinary proceedings before Supreme Court

50 Jurisdiction of Supreme Court over solicitors

- (1) Any person duly admitted as a solicitor shall be an officer of the Supreme Court; but section 120 of the Supreme Court of Judicature (Consolidation) Act 1925 (which imposes on officers of the Supreme Court restrictions as to practice as solicitors) shall not apply to any solicitor by virtue only of this subsection.
- (2) Subject to the provisions of this Act, the High Court, the Crown Court and the Court of Appeal respectively, or any division or judge of those courts, may exercise the same jurisdiction in respect of solicitors as any one of the superior courts of law or equity from which the Supreme Court was constituted might have exercised immediately before the passing of the Supreme Court of Judicature Act 1873 in respect of any solicitor, attorney or proctor admitted to practise there.

51 Procedure upon certain applications to High Court

- (1) Where an application to strike the name of a solicitor off the roll or to require a solicitor to answer allegations contained in an affidavit is made to the High Court, then, subject to section 54, the following provisions of this section shall have effect in relation to that application.
- (2) The court shall not entertain the application except on production of an affidavit proving that the applicant has served on the Society fourteen clear days' notice of his intention to make the application, together with copies of all affidavits intended to be used in support of the application.
- (3) The Society may appear by counsel on the hearing of the application and any other proceedings arising out of or in reference to the application, and may apply to the court—
 - (a) to make absolute any order nisi which the court may have made on the application ;
 - (b) to make an order that the name of the solicitor be struck off the roll; or
 - (c) to make such other order as the court may think fit.
- (4) The court may order the costs of the Society of or relating to any of the matters mentioned in subsections (2) and (3) to be paid by the solicitor against whom, or by the person by whom, the application was made, or was intended to be made, or partly by one and partly by the other of them.

52 Power of Society to draw up order of court

Where an order, whether nisi or absolute, is made by the High Court or the Court of Appeal on a motion to strike the name of a solicitor off the roll, or to require a solicitor to answer allegations contained in an affidavit, and that order is not drawn up by the applicant within one week of its being made, the Society may cause the order to be drawn up, and all future proceedings on the order shall be taken as if the motion had been made by the Society.

53 Production of order of court to Society

Where an order is made by the High Court or the Court of Appeal that the name of a solicitor be struck off the roll, or that a solicitor be suspended from practice, the proper officer of the court shall forthwith send a copy of the order to the Society, and the Society shall enter a note of the order on the roll against the name of the solicitor and, where the order so directs, shall strike that name off the roll.

Disciplinary proceedings—general

54 Restrictions on powers to strike names off roll

- (1) No solicitor shall be liable to have his name struck off the roll on account of any failure to comply with the requirements with respect to service under articles of any training regulations or on account of any defect in his admission and enrolment, unless—
 - (a) the application to strike his name off the roll is made within twelve months of the date of his enrolment; or
 - (b) fraud is proved to have been committed in connection with the failure or defect.
- (2) No solicitor shall be liable to have his name struck off the roll by reason only—
 - (a) that a solicitor whom he has served for the whole or any part of the term of articulated service required in his case by training regulations has neglected or omitted to take out a practising certificate ; or
 - (b) that the name of a solicitor whom he has served for any period has after the termination of that period been removed from or struck off the roll.

55 Applications to require solicitor to answer allegations

For the avoidance of doubt it is hereby declared that an application by any person to require a solicitor to answer allegations contained in an affidavit, whether that application is made to the Tribunal or to the High Court, may be treated as an application to strike the name of that solicitor off the roll on the grounds of the matters alleged.

PART III

REMUNERATION OF SOLICITORS

Non-contentious business

56 Orders as to remuneration for non-contentious business

- (1) For the purposes of this section there shall be a committee consisting of the following persons—
 - (a) the Lord Chancellor ;
 - (b) the Lord Chief Justice ;
 - (c) the Master of the Rolls;
 - (d) the President of the Society ;
 - (e) a solicitor, being the president of a local law society, nominated by the Lord Chancellor to serve on the committee during his tenure of office as president; and
 - (f) for the purpose only of prescribing and regulating the remuneration of solicitors in respect of business done under the Land Registration Act 1925, the Chief Land Registrar appointed under that Act.
- (2) The committee, or any three members of the committee (the Lord Chancellor being one), may make general orders prescribing and regulating in such manner as they think fit the remuneration of solicitors in respect of non-contentious business.
- (3) The Lord Chancellor, before any order under this section is made, shall cause a draft of the order to be sent to the Council; and the committee shall consider any observations of the Council submitted to them in writing within one month of the sending of the draft, and may then make the order, either in the form of the draft or with such alterations or additions as they may think fit.
- (4) An order under this section may prescribe the mode of remuneration of solicitors in respect of non-contentious business by providing that they shall be remunerated—
 - (a) according to a scale of rates of commission or a scale of percentages, varying or not in different classes of business; or
 - (b) by a gross sum ; or
 - (c) by a fixed sum for each document prepared or perused, without regard to length ; or
 - (d) in any other mode ; or
 - (e) partly in one mode and partly in another.
- (5) An order under this section may regulate the amount of such remuneration with reference to all or any of the following, among other, considerations, that is to say—
 - (a) the position of the party for whom the solicitor is concerned in the business, that is, whether he is vendor or purchaser, lessor or lessee, mortgagor or mortgagee, or the like;
 - (b) the place where, and the circumstances in which, the business or any part of it is transacted ;
 - (c) the amount of the capital money or rent to which the business relates;
 - (d) the skill, labour and responsibility on the part of the solicitor which the business involves ;

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- (e) the number and importance of the documents prepared or perused, without regard to length.
- (6) An order under this section may authorise and regulate—
 - (a) the taking by a solicitor from his client of security for payment of any remuneration, to be ascertained by taxation or otherwise, which may become due to him under any such order; and
 - (b) the allowance of interest.
- (7) So long as an order made under this section is in operation the taxation of bills of costs of solicitors in respect of non-contentious business shall, subject to the provisions of section 57, be regulated by that order.
- (8) Any order made under this section may be varied or revoked by a subsequent order so made.
- (9) The power to make orders under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and the Statutory Instruments Act 1946 shall apply to a statutory instrument containing such an order in like manner as if the order had been made by a Minister of the Crown.

57 Non-contentious business agreements

- (1) Whether or not any order is in force under section 56, a solicitor and his client may, before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to his remuneration in respect of that business.
- (2) The agreement may provide for the remuneration of the solicitor by a gross sum, or by a commission or percentage, or by a salary, or otherwise, and it may be made on the terms that the amount of the remuneration stipulated for shall or shall not include all or any disbursements made by the solicitor in respect of searches, plans, travelling, stamps, fees or other matters.
- (3) The agreement shall be in writing and signed by the person to be bound by it or his agent in that behalf.
- (4) Subject to subsection (5), the agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a solicitor.
- (5) If on any taxation of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the taxing officer may enquire into the facts and certify them to the court, and if from that certificate it appears just to the court that the agreement should be set aside, or the amount payable under it reduced, the court may so order and may give such consequential directions as it thinks fit.

58 Remuneration of a solicitor who is a mortgagee

- (1) Where a mortgage is made to a solicitor, either alone or jointly with any other person, he or the firm of which he is a member shall be entitled to recover from the mortgagor in respect of all business transacted and acts done by him or them in negotiating the loan, deducing and investigating the title to the property, and preparing and completing the mortgage, such usual costs as he or they would have been entitled to receive if

the mortgage had been made to a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.

- (2) Where a mortgage has been made to, or has become vested by transfer or transmission in, a solicitor, either alone or jointly with any other person, and any business is transacted or acts are done by that solicitor or by the firm of which he is a member in relation to that mortgage or the security thereby created or the property thereby charged, he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.
- (3) In this section " mortgage " includes any charge on any property for securing money or money's worth.

Contentious business

59 Contentious business agreements

- (1) Subject to subsection (2), a solicitor may make an agreement in writing with his client as to his remuneration in respect of any contentious business done, or to be done, by him (in this Act referred to as a " contentious business agreement") providing that he shall be remunerated by a gross sum, or by a salary, or otherwise, and whether at a higher or lower rate than that at which he would otherwise have been entitled to be remunerated.
- (2) Nothing in this section or in sections 60 to 63 shall give validity to—
 - (a) any purchase by a solicitor of the interest, or any part of the interest, of his client in any action, suit or other contentious proceeding; or
 - (b) any agreement by which a solicitor retained or employed to prosecute any action, suit or other contentious proceeding, stipulates for payment only in the event of success in that action, suit or proceeding; or
 - (c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which under the law relating to bankruptcy is invalid against a trustee or creditor in any bankruptcy or composition.

60 Effect of contentious business agreements

- (1) Subject to the provisions of this section and to sections 61 to 63, the costs of a solicitor in any case where a contentious business agreement has been made shall not be subject to taxation or to the provisions of section 69.
- (2) Subject to subsection (3), a contentious business agreement shall not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the solicitor, and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for their taxation for the time being in force.
- (3) A client shall not be entitled to recover from any other person under an order for the payment of any costs to which a contentious business agreement relates more than the amount payable by him to his solicitor in respect of those costs under the agreement.

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- (4) A contentious business agreement shall be deemed to exclude any claim by the solicitor in respect of the business to which it relates other than—
 - (a) a claim for the agreed costs ; or
 - (b) a claim for such costs as are expressly excepted from the agreement.
- (5) A provision in a contentious business agreement that the solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a solicitor, shall be void.

61 Enforcement of contentious business agreements

- (1) No action shall be brought on any contentious business agreement, but on the application of any person who—
 - (a) is a party to the agreement or the representative of such a party; or
 - (b) is or is alleged to be liable to pay, or is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates,the court may enforce or set aside the agreement and determine every question as to its validity or effect.
- (2) On any application under subsection (1), the court—
 - (a) if it is of the opinion that the agreement is in all respects fair and reasonable, may enforce it;
 - (b) if it is of the opinion that the agreement is in any respect unfair or unreasonable, may set it aside and order the costs covered by it to be taxed as if it had never been made;
 - (c) in any case, may make such order as to the costs of the application as it thinks fit.
- (3) If the business covered by a contentious business agreement (not being an agreement to which section 62 applies) is business done, or to be done, in any action, a client who is a party to the agreement may make application to a taxing officer of the court for the agreement to be examined.
- (4) A taxing officer before whom an agreement is laid under subsection (3) shall examine it and may either allow it, or, if he is of the opinion that the agreement is unfair or unreasonable, require the opinion of the court to be taken on it, and the court may allow the agreement or reduce the amount payable under it, or set it aside and order the costs covered by it to be taxed as if it had never been made.
- (5) Where the amount agreed under any contentious business agreement is paid by or on behalf of the client or by any person entitled to do so, the person making the payment may at any time within twelve months from the date of payment, or within such further time as appears to the court to be reasonable, apply to the court, and, if it appears to the court that the special circumstances of the case require it to be re-opened, the court may, on such terms as may be just, re-open it and order the costs covered by the agreement to be taxed and the whole or any part of the amount received by the solicitor to be repaid by him.
- (6) In this section and in sections 62 and 63 " the court" means—

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- (a) in relation to an agreement under which any business has been done in any court having jurisdiction to enforce and set aside agreements, any such court in which any of that business has been done ;
- (b) in relation to an agreement under which no business has been done in any such court, and under which more than £50 is payable, the High Court;
- (c) in relation to an agreement under which no business has been done in any such court and under which not more than £50 is payable, any county court which would, but for the provisions of subsection (1) prohibiting the bringing of an action on the agreement, have had jurisdiction in any action on it;

and for the avoidance of doubt it is hereby declared that in paragraph (a) " court having jurisdiction to enforce and set aside agreements " includes a county court.

62 Contentious business agreements by certain representatives

- (1) Where the client who makes a contentious business agreement makes it as a representative of a person whose property will be chargeable with the whole or part of the amount payable under the agreement, the agreement shall be laid before a taxing officer of the court before payment.
- (2) A taxing officer before whom an agreement is laid under subsection (1) shall examine it and may either allow it, or, if he is of the opinion that it is unfair or unreasonable, require the opinion of the court to be taken on it, and the court may allow the agreement or reduce the amount payable under it, or set it aside and order the costs covered by it to be taxed as if it had never been made.
- (3) A client who makes a contentious business agreement as mentioned in subsection (1) and pays the whole or any part of the amount payable under the agreement without it being allowed by the officer or by the court shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the solicitor who accepts the payment may be ordered by the court to refund the amount received by him.
- (4) A client makes a contentious business agreement as the representative of another person if he makes it—
 - (a) as his guardian,
 - (b) as a trustee for him under a deed or will,
 - (c) as his receiver under Part VIII of the Mental Health Act 1959, or
 - (d) as a person other than a receiver authorised under that Part of that Act to act on his behalf.

63 Effect on contentious business agreement of death, incapability or change of solicitor

- (1) If, after some business has been done under a contentious business agreement but before the solicitor has wholly performed it—
 - (a) the solicitor dies, or becomes incapable of acting; or
 - (b) the client changes his solicitor (as, notwithstanding the agreement, he shall be entitled to do),any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as

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it has been performed, or setting it aside, as the court would have had if the solicitor had not died or become incapable of acting, or the client had not changed his solicitor.

- (2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by taxation, and in that case—
 - (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement ; and
 - (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.
- (3) If in such a case as is mentioned in subsection (1)(b) an order is made for the taxation of the amount due to the solicitor in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor has taken place, and the taxing officer, unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of the solicitor affording the client reasonable ground for changing his solicitor, shall not allow to the solicitor the full amount of the remuneration agreed to be paid to him.

64 Form of bill of costs for contentious business

- (1) Where the remuneration of a solicitor in respect of contentious business done by him is not the subject of a contentious business agreement, then, subject to subsections (2) to (4), the solicitor's bill of costs may at the option of the solicitor be either a bill containing detailed items or a gross sum bill.
- (2) The party chargeable with a gross sum bill may at any time—
 - (a) before he is served with a writ or other originating process for the recovery of costs included in the bill, and
 - (b) before the expiration of three months from the date on which the bill was delivered to him,
 require the solicitor to deliver, in lieu of that bill, a bill containing detailed items; and on such a requirement being made the gross sum bill shall be of no effect.
- (3) Where an action is commenced on a gross sum bill, the court shall, if so requested by the party chargeable with the bill before the expiration of one month from the service on that party of the writ or other originating process, order that the bill be taxed.
- (4) If a gross sum bill is taxed, whether under this section or otherwise, nothing in this section shall prejudice any rules of court with respect to taxation, and the solicitor shall furnish the taxing officer with such details of any of the costs covered by the bill as the taxing officer may require.

65 Security for costs and termination of retainer

- (1) A solicitor may take security from his client for his costs, to be ascertained by taxation or otherwise, in respect of any contentious business to be done by him.
- (2) If a solicitor who has been retained by a client to conduct contentious business requests the client to make a payment of a sum of money, being a reasonable sum on account of the costs incurred or to be incurred in the conduct of that business and the client refuses or fails within a reasonable time to make that payment, the refusal or failure shall be deemed to be a good cause whereby the solicitor may, upon giving reasonable notice to the client, withdraw from the retainer.

66 Taxations with respect to contentious business

Subject to the provisions of any rules of court, on every taxation of costs in respect of any contentious business, the taxing officer may—

- (a) allow interest at such rate and from such time as he thinks just on money disbursed by the solicitor for the client, and on money of the client in the hands of, and improperly retained by, the solicitor; and
- (b) in determining the remuneration of the solicitor, have regard to the skill, labour and responsibility involved in the business done by him.

Remuneration—general

67 Inclusion of disbursements in bill of costs

A solicitor's bill of costs may include costs payable in discharge of a liability properly incurred by him on behalf of the party to be charged with the bill (including counsel's fees) notwithstanding that those costs have not been paid before the delivery of the bill to that party ; but those costs—

- (a) shall be described in the bill as not then paid ; and
- (b) if the bill is taxed, shall not be allowed by the taxing officer unless they are paid before the taxation is completed.

68 Power of court to order solicitor to deliver bill, etc.

- (1) The jurisdiction of the High Court to make orders for the delivery by a solicitor of a bill of costs, and for the delivery up of, or otherwise in relation to, any documents in his possession, custody or power, is hereby declared to extend to cases in which no business has been done by him in the High Court.
- (2) A county court shall have the same jurisdiction as the High Court to make orders making such provision as is mentioned in subsection (1) in cases where the bill of costs or the documents relate wholly or partly to contentious business done by the solicitor in that county court.
- (3) In this section and in sections 69 to 71 " solicitor " includes the executors, administrators and assignees of a solicitor.

69 Action to recover solicitor's costs

- (1) Subject to the provisions of this Act, no action shall be brought to recover any costs due to a solicitor before the expiration of one month from the date on which a bill of those costs is delivered in accordance with the requirements mentioned in subsection (2); but if there is probable cause for believing that the party chargeable with the costs—
 - (a) is about to quit England and Wales, to become bankrupt or to compound with his creditors, or
 - (b) is about to do any other act which would tend to prevent or delay the solicitor obtaining payment,the High Court may, notwithstanding that one month has not expired from the delivery of the bill, order that the solicitor be at liberty to commence an action to recover his costs and may order that those costs be taxed.

- (2) The requirements referred to in subsection (1) are that the bill—

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- (a) must be signed by the solicitor, or if the costs are due to a firm, by one of the partners of that firm, either in his own name or in the name of the firm, or be enclosed in, or accompanied by, a letter which is so signed and refers to the bill; and
- (b) must be delivered to the party to be charged with the bill, either personally or 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;

and, where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the solicitor to prove the contents of the bill and it shall be presumed, until the contrary is shown, to be a bill bona fide complying with this Act.

- (3) Where a bill of costs relates wholly or partly to contentious business done in a county court and the amount of the bill does not exceed £1,000, the powers and duties of the High Court under this section and sections 70 and 71 in relation to that bill may be exercised and performed by any county court in which any part of the business was done.

70 Taxation on application of party chargeable or solicitor

- (1) Where before the expiration of one month from the delivery of a solicitor's bill an application is made by the party chargeable with the bill, the High Court shall, without requiring any sum to be paid into court, order that the bill be taxed and that no action be commenced on the bill until the taxation is completed.
- (2) Where no such application is made before the expiration of the period mentioned in subsection (1), then, on an application being made by the solicitor or, subject to subsections (3) and (4), by the party chargeable with the bill, the court may on such terms, if any, as it thinks fit (not being terms as to the costs of the taxation), order—
 - (a) that the bill be taxed ; and
 - (b) that no action be commenced on the bill, and that any action already commenced be stayed, until the taxation is completed.
- (3) Where an application under subsection (2) is made by the party chargeable with the bill—
 - (a) after the expiration of 12 months from the delivery of the bill, or
 - (b) after a judgment has been obtained for the recovery of the costs covered by the bill, or
 - (c) after the bill has been paid, but before the expiration of 12 months from the payment of the bill,

no order shall be made except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the court may think fit.
- (4) The power to order taxation conferred by subsection (2) shall not be exercisable on an application made by the party chargeable with the bill after the expiration of 12 months from the payment of the bill.
- (5) An order for the taxation of a bill made on an application under this section by the party chargeable with the bill shall, if he so requests, be an order for the taxation of the profit costs covered by the bill.
- (6) Subject to subsection (5), the court may under this section order the taxation of all the costs, or of the profit costs, or of the costs other than profit costs and, where part of

the costs is not to be taxed, may allow an action to be commenced or to be continued for that part of the costs.

- (7) Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of the taxation and to certify what is due to or by the solicitor in respect of the bill and in respect of the costs of the taxation.
- (8) If after due notice of any taxation either party to it fails to attend, the officer may proceed with the taxation *ex parte*.
- (9) Unless—
 - (a) the order for taxation was made on the application of the solicitor and the party chargeable does not attend the taxation, or
 - (b) the order for taxation or an order under subsection (10) otherwise provides,the costs of a taxation shall be paid according to the event of the taxation, that is to say, if one-fifth of the amount of the bill is taxed off, the solicitor shall pay the costs, but otherwise the party chargeable shall pay the costs.
- (10) The taxing officer may certify to the court any special circumstances relating to a bill or to the taxation of a bill, and the court may make such order as respects the costs of the taxation as it may think fit.
- (11) Subsection (9) shall have effect in any case where the application for an order for taxation was made before the passing of the Solicitors (Amendment) Act 1974 and—
 - (a) the bill is a bill for contentious business, or
 - (b) more than half of the amount of the bill before taxation consists of costs for which a scale charge is provided by an order for the time being in operation under section 56,as if for the reference to one-fifth of the amount of the bill there were substituted a reference to one-sixth of that amount.
- (12) In this section " profit costs " means costs other than counsel's fees or costs paid or payable in the discharge of a liability incurred by the solicitor on behalf of the party chargeable, and the reference in subsection (9) to the fraction of the amount of the bill taxed off shall be taken, where the taxation concerns only part of the costs covered by the bill, as a reference to that fraction of the amount of those costs which is being taxed.

71 Taxation on application of third parties

- (1) Where a person other than the party chargeable with the bill for the purposes of section 70 has paid, or is or was liable to pay, a bill either to the solicitor or to the party chargeable with the bill, that person or his executors, administrators or assignees may apply to the High Court for an order for the taxation of the bill as if he were the party chargeable with it, and the court may make the same order (if any) as it might have made if the application had been made by the party chargeable with the bill.
- (2) Where the court has no power to make an order by virtue of subsection (1) except in special circumstances it may, in considering whether there are special circumstances sufficient to justify the making of an order, take into account circumstances which affect the applicant but do not affect the party chargeable with the bill.
- (3) Where a trustee, executor or administrator has become liable to pay a bill of a solicitor, then, on the application of any person interested in any property out of which the

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trustee, executor or administrator has paid, or is entitled to pay, the bill, the court may order—

- (a) that the bill be taxed on such terms, if any, as it thinks fit; and
 - (b) that such payments, in respect of the amount found to be due to or by the solicitor and in respect of the costs of the taxation, be made to or by the applicant, to or by the solicitor, or to or by the executor, administrator or trustee, as it thinks fit.
- (4) In considering any application under subsection (3) the court shall have regard—
- (a) to the provisions of section 70 as to applications by the party chargeable for the taxation of a solicitor's bill so far as they are capable of being applied to an application made under that subsection ;
 - (b) to the extent and nature of the interest of the applicant.
- (5) If an applicant under subsection (3) pays any money to the solicitor, he shall have the same right to be paid that money by the trustee, executor or administrator chargeable with the bill as the solicitor had.
- (6) Except in special circumstances, no order shall be made on an application under this section for the taxation of a bill which has already been taxed.
- (7) If the court on an application under this section orders a bill to be taxed, it may order the solicitor to deliver to the applicant a copy of the bill on payment of the costs of that copy.

72 Supplementary provisions as to taxations

- (1) Every application for an order for the taxation of a solicitor's bill or for the delivery of a solicitor's bill and for the delivery up by a solicitor of any documents in his possession, custody or power shall be made in the matter of that solicitor.
- (2) Where a taxing officer is in the course of taxing a bill of costs, he may request the taxing officer of any other court to assist him in taxing any part of the bill, and the taxing officer so requested shall tax that part of the bill and shall return the bill with his opinion on it to the taxing officer making the request.
- (3) Where a request is made as mentioned in subsection (2), the taxing officer who is requested to tax part of a bill shall have such powers, and may take such fees, in respect of that part of the bill, as he would have or be entitled to take if he were taxing that part of the bill in pursuance of an order of the court of which he is an officer; and the taxing officer who made the request shall not take any fee in respect of that part of the bill.
- (4) The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs covered by it, and the court may make such order in relation to the certificate as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

73 Charging orders

- (1) Subject to subsection (2), any court in which a solicitor has been employed to prosecute or defend any suit, matter or proceeding may at any time—

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- (a) declare the solicitor entitled to a charge on any property recovered or preserved through his instrumentality for his taxed costs in relation to that suit, matter or proceeding; and
- (b) make such orders for the taxation of those costs and for raising money to pay or for paying them out of the property recovered or preserved as the court thinks fit;

and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a bona fide purchaser for value without notice, be void as against the solicitor.

- (2) No order shall be made under subsection (1) if the right to recover the costs is barred by any statute of limitations.

74 Special provisions as to contentious business done in county courts

- (1) The remuneration of a solicitor in respect of contentious business done by him in a county court shall be regulated in accordance with sections 59 to 73, and for that purpose those sections shall have effect subject to the following provisions of this section.
- (2) The registrar of a county court shall be the taxing officer of that court but any taxation of costs by him may be reviewed by a judge assigned to the county court district, or by a judge acting as a judge so assigned, on the application of any party to the taxation.
- (3) The amount which may be allowed on the taxation of any costs or bill of costs in respect of any item relating to proceedings in a county court shall not, except in so far as rules of court may otherwise provide, exceed the amount which could have been allowed in respect of that item as between party and party in those proceedings, having regard to the nature of the proceedings and the amount of the claim and of any counterclaim.

75 Saving for certain enactments

Nothing in this Part of this Act shall affect the following enactments, that is to say—

- (a) section 3 of the Leases Act 1845 (which regulates the taxation of the costs of preparing and executing deeds under that Act);
- (b) section 144 of the Land Registration Act 1925 (which enables rules to be made regulating, among other things, the taxation and incidence of the costs of the registration of land and other matters done under that Act);
- (c) any of the provisions of the Costs in Criminal Cases Act 1973;
- (d) any of the provisions of the Legal Aid Act 1974;
- (e) any other enactment not expressly repealed by this Act which authorises the making of rules or orders or the giving of directions with respect to costs, or which provides that any such rule, order or direction made or given under a previous enactment shall continue in force.

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PART IV

MISCELLANEOUS AND GENERAL

The Society

76 Non-practising solicitors eligible for membership of Society

- (1) Notwithstanding anything in the Charter, the Council may appoint and elect to be a member of the Society any person whose name is for the time being on the roll, whether or not he has held a practising certificate.
- (2) Where a person is appointed and elected under subsection (1), he shall, on payment of the annual subscription payable by him under section 77,—
 - (a) become a member of the Society;
 - (b) be subject to any byelaw or regulation for the time being affecting members of the Society ; and
 - (c) while he remains a member of the Society, be eligible for election as a member of the Council.

77 Annual subscription to Society

- (1) The amount of the annual subscription payable by members of the Society shall be fixed from time to time by the Council.
- (2) In fixing the amount of the annual subscription, the Council shall be at liberty—
 - (a) to divide members into classes ;
 - (b) to provide that different amounts shall be paid by different classes and shall extend over different periods ; and
 - (c) generally to regulate, and from time to time vary, as they think fit, the amounts payable by members or by different classes of members.

78 Cessation and suspension of membership of Society

- (1) If the name of a solicitor who is a member of the Society is removed from or struck off the roll that solicitor shall thereupon cease to be a member of the Society.
- (2) A member of the Society who is suspended from practising as a solicitor shall not be entitled during the period of his suspension to any of the rights or privileges of membership of the Society.
- (3) Subject to subsection (4), the Council may suspend any member of the Society—
 - (a) from using the hall and library and any of the rooms belonging to the Society ; and
 - (b) from exercising all other rights and privileges of a member,during such period as they may think fit for any cause which, in their opinion, renders such suspension necessary or expedient but is not of a nature to justify the making of a complaint to the Tribunal by or on behalf of the Society.
- (4) A member shall not be suspended under subsection (3) unless—
 - (a) at least sixteen members of the Council are present at the meeting at which it is resolved to suspend him; and

(b) a least twelve of those members consent to his suspension.

- (5) Any member of the Society who has been suspended under subsection (3) may, on giving the notice required by any byelaw or regulation of the Society, appeal against the suspension to the next available general meeting of members of the Society, and that meeting may confirm, rescind or vary the period of the suspension in any manner they think fit.

79 Committees of the Council

- (1) The Council may appoint a committee for any such general or special purpose as in the opinion of the Council may be better regulated, or managed by means of a committee, and may delegate to any committee so appointed, with or without restrictions or conditions, as they think fit, the exercise of any functions exercisable by the Council.
- (2) The number and term of office of the members of a committee appointed under this section, and the number of those members necessary to form a quorum, shall be fixed by the Council.
- (3) A committee appointed under this section may include persons who are not members of the Council; but at least half the members of any such committee (including the chairman) shall be members of the Council.
- (4) If more than one-third of the members of any committee appointed under this section are not members of the Council, no resolution of that committee shall be duly passed unless the majority of the members of the Council present vote in favour of it.

80 Powers to act on behalf of Society

- (1) Anything authorised or required to be done by the Society under or in pursuance of this Act or of any instrument made under it may be done on behalf of the Society by the Council; and the power to delegate functions to committees conferred on the Council by section 79 shall include power to delegate functions exercisable by the Council by virtue of this subsection.
- (2) Any document issued by the Society or the Council for any purpose whatsoever may be signed on behalf of the Society or the Council, as the case may be, by the Secretary of the Society or by such other officer of the Society, or by the person holding such office in the Society, as may from time to time be prescribed either generally or specially by resolution of the Council.
- (3) In any proceedings a document purporting to be certified by the Secretary of the Society as a copy of a resolution passed by the Council or a committee of the Council on a specified date shall be evidence that that resolution was duly passed by the Council or the committee on that date.

Miscellaneous

81 Administration of oaths and taking of affidavits

- (1) Subject to the provisions of this section, every solicitor who holds a practising certificate which is in force shall have the powers conferred on a commissioner for oaths by the Commissioners for Oaths Acts 1889 and 1891 and section 24 of the Stamp Duties Management Act 1891; and any reference to such a commissioner in

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an enactment or instrument (including an enactment passed or instrument made after the commencement of this Act) shall include a reference to such a solicitor unless the context otherwise requires.

- (2) A solicitor shall not exercise the powers conferred by this section in a proceeding in which he is solicitor to any of the parties, or in which he is interested.
- (3) A solicitor before whom any oath or affidavit is taken or made shall state in the jurat or attestation at which place and on what date the oath or affidavit is taken or made.
- (4) A document containing such a statement and purporting to be sealed or signed by a solicitor shall be admitted in evidence without proof of the seal or signature, and without proof that he is a solicitor or that he holds a practising certificate which is in force.
- (5) Nothing in this section shall affect the power to appoint commissioners under the Commissioners for Oaths Act 1889.

82 Qualification for holding office of solicitors who have been barristers

For the purpose of any statutory provision or custom whereby the qualification of a solicitor for holding any office depends upon his having been admitted and enrolled for a prescribed period, the period of enrolment of a solicitor who before admission was a barrister shall be deemed to include any period after his call to the bar in England and Wales during which he is, for the purposes of this section, recognised by the Society as having been, or certified by the Attorney General as having in his opinion been, in practice or in employment as a barrister.

83 Power of Society to inspect file of proceedings in bankruptcy of solicitor

Where proceedings in bankruptcy have been taken against any solicitor, the Society shall be entitled—

- (a) to inspect the file of those proceedings without payment of any fee ; and
- (b) to be supplied with office copies of those proceedings on payment of the usual charge.

84 Service of documents at solicitor's place of business

- (1) For the purpose of facilitating the service of notices and other documents, every solicitor who has in force, or has applied for, a practising certificate shall give notice to the Society of any change in his place or places of business before the expiration of 14 days from the date on which the change takes effect.
- (2) Any notice or other document required or authorised by or by virtue of this Act to be served on any person may be served on him by delivering it to him, by leaving it at his proper address or by sending it by post.
- (3) Any such notice or document may be served on a practising solicitor, without prejudice to any other method of service, by sending it in a registered letter addressed to him at any place specified as his place of business, or one of his places of business, in his latest application for a practising certificate or in any subsequent notice under subsection (1).

85 Bank accounts

Where a solicitor keeps an account with a bank in pursuance of rules under section 32—

- (a) the bank shall not incur any liability, or be under any obligation to make any inquiry, or be deemed to have any knowledge of any right of any person to any money paid or credited to the account, which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to it; and
- (b) the bank shall not have any recourse or right against money standing to the credit of the account, in respect of any liability of the solicitor to the bank, other than a liability in connection with the account.

86 Bankers' books

In the Bankers' Books Evidence Act 1879 (which provides for copies of entries in bankers' books to be receivable in evidence in legal proceedings), in section 10 (interpretation), at the end of the definition of " legal proceeding " there shall be inserted the words " and an application to, or an inquiry or other proceeding before, the Solicitors Disciplinary Tribunal or any body exercising functions in relation to solicitors in Scotland or Northern Ireland corresponding to the functions of that Tribunal " .

Supplementary

87 Interpretation

(1) In this Act, except where the context otherwise requires,—

" articles " means written articles of clerkship binding a person to serve a solicitor as an articulated clerk;

" authorised insurers " means a person permitted under the Insurance Companies Act 1974 to carry on liability insurance business or pecuniary loss insurance business;

" bank " means—

- (a) the Bank of England ; and
- (b) a company as to which the Secretary of State is satisfied that it ought to be treated as a banking company or as a discount company for the purposes of the Protection of Depositors Act 1963 ;

" the Charter " means the Royal Charter dated 26th February 1845, whereby the Society was incorporated, together with the Royal Charters supplemental to it dated respectively 26th November 1872, 4th June 1903, 2nd June 1909 and 10th March 1954 ;

" client " includes—

- (a) in relation to contentious business, any person who as principal or on behalf of another person retains or employs, or is about to retain or employ, a solicitor, and any person who is or may be liable to pay a solicitor's costs;
- (b) in relation to non-contentious business, any person who, as a principal or on behalf of another, or as a trustee or executor, or in any other capacity, has power, express or implied, to retain or employ, and retains

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or employs or is about to retain or employ, a solicitor, and any person for the time being liable to pay to a solicitor for his services any costs;

" client account " means an account in the title of which the word " client " is required by rules under section 32;

" contentious business " means business done, whether as solicitor or advocate, in or for the purposes of proceedings begun before a court or before an arbitrator appointed under the Arbitration Act 1950, not being business which falls within the definition of non-contentious or common form probate business contained in section 175(1) of the Supreme Court of Judicature (Consolidation) Act 1925 ;

" contentious business agreement " means an agreement made in pursuance of section 59 ;

" controlled trust ", in relation to a solicitor, means a trust of which he is a sole trustee or co-trustee only with one or more of his partners or employees;

" costs " includes fees, charges, disbursements, expenses and remuneration;

" the Council " means the Council of the Society elected in accordance with the provisions of the Charter and this Act;

" duly certificated notary public " means a notary public who either—

(a) has in force a practising certificate as a solicitor issued under this Act, and duly entered in the court of faculties of the Archbishop of Canterbury in accordance with rules made by the master of faculties; or

(b) has in force a practising certificate as a notary public issued by the said court of faculties in accordance with rules so made ;

" employee " includes an articulated clerk ;

" indemnity conditions " has the meaning assigned to it by section 28(2)(b) ;

" indemnity rules " means rules under section 37 ;

" liability insurance business " has the meaning given in section 83(3) of the Insurance Companies Act 1974;

" local law society " means a society which is for the time being recognised by the Council as representative of solicitors in some particular part of England and Wales;

" non-contentious business " means any business done as a solicitor which is not contentious business as defined by this subsection;

" pecuniary loss insurance business " has the meaning given in section 83(6) of the Insurance Companies Act 1974 ;

" practising certificate " has the meaning assigned to it by section 1;

" the roll " means the list of solicitors of the Supreme Court kept by the Society under section 6 ;

" Secretary " of the Society includes any deputy or person appointed temporarily to perform the duties of that office;

" the Society " means the Law Society, that is to say, the Society incorporated and regulated by the Charter;

" sole solicitor " means a solicitor who is the sole principal in a practice;

" solicitor " means solicitor of the Supreme Court;

" solicitor in Scotland " means a person enrolled or deemed to have been enrolled as a solicitor in pursuance of the Solicitors (Scotland) Act 1933 ;

" training conditions " has the meaning assigned to it by section 28(2)(a);

" training regulations " means regulations under section 2;

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" the Tribunal " means the Solicitors Disciplinary Tribunal;

" trust " includes an implied or constructive trust and a trust where the trustee has a beneficial interest in the trust property, and also includes the duties incident to the office of a personal representative, and " trustee " shall be construed accordingly;

" unqualified person " means a person who is not qualified under section 1 to act as a solicitor.

(2) In this Act—

- (a) references to the removal of a solicitor's name from the roll are references to its removal at his own request;
- (b) references to striking a solicitor's name off the roll are references to striking it off otherwise than at his own request; and
- (c) references to removal or striking off include references to deleting an entry made by means of a computer by whatever means are appropriate.

(3) In this Act, except where otherwise indicated—

- (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered ;
- (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered ;
- (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered; and
- (d) a reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph of that paragraph so numbered.

(4) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended or applied by or under any other enactment, including this Act.

88 Saving for solicitors to public departments and City of London

- (1) Nothing in this Act shall prejudice or affect any rights or privileges of the solicitor to the Treasury, any other public department, the Church Commissioners or the Duchy of Cornwall, or require any such officer or any clerk or officer appointed to act for him to be admitted or enrolled or to hold a practising certificate in any case where it would not have been necessary for him to be admitted or enrolled or to hold such a certificate if this Act had not been passed.
- (2) Sections 31 and 32(1) shall not apply to, and nothing in this Act shall prejudice or affect any rights or privileges which immediately before the commencement of this Act attached to the office of, the Solicitor of the City of London.

89 Consequential amendments, repeals, savings, etc.

- (1) The enactments specified in Schedule 3 shall have effect subject to the amendments there specified, being amendments consequential upon the provisions of this Act.
- (2) The enactments specified in Schedule 4 are hereby repealed to the extent specified in the third column of that Schedule.

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- (3) In so far as any instrument or other document made, issued, served or kept or treated as having been or having effect as if made, issued, served or kept, or other thing done or treated as having been or having effect as if done, under or for the purposes of any of the enactments repealed by this Act (in this section referred to as "the repealed enactments") could have been made, issued, served, kept or done under or for the purposes of a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, issued, served, kept or done under or for the purposes of that corresponding provision; and anything begun under any of the repealed enactments may be continued under any corresponding provision of this Act as if begun under that provision.
- (4) Any enactment or other document referring to any of the repealed enactments shall, so far as may be necessary for preserving its effect, be construed as referring to this Act or to the corresponding provision of this Act.
- (5) References in any enactment or instrument to the disciplinary committee constituted under section 46 of the Solicitors Act 1957 shall be construed as references to the Tribunal.
- (6) References in any enactment to solicitors, attorneys or proctors, or to the registrar of attorneys and solicitors or the registrar of solicitors, shall be construed as references to solicitors and to the Society respectively.
- (7) References in any enactment to a duly certificated notary public shall be construed as references to a duly certificated notary public within the meaning of this Act.
- (8) Nothing in this Act shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

90 Short title, commencement and extent

- (1) This Act may be cited as the Solicitors Act 1974.
- (2) This Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, not being earlier than the first day on which all the provisions of the Solicitors (Amendment) Act 1974 are in force.
- (3) If any order made under section 19(7) of the Solicitors (Amendment) Act 1974 makes any savings from the effect of any provision of that Act which it brings into force, the order under subsection (2) may make corresponding savings from the effect of the corresponding provision of this Act.
- (4) The provisions of this Act extend to England and Wales only, with the exception of—
 - (a) section 4(4) and the repeal of section 5(3) of the Solicitors Act 1957, which extend to Scotland ;
 - (b) section 29 and the repeal of section 1 of the Solicitors (Amendment) Act 1974, which extend to Northern Ireland;
 - (c) sections 5(3) and 86, paragraph 5 of Schedule 3 and the repeals of section 5(2) of the Solicitors Act 1957 and paragraphs 1 and 5 of Schedule 2 to the Solicitors (Amendment) Act 1974, all of which extend both to Scotland and to Northern Ireland.