



Solicitors Act 1974

1974 CHAPTER 47

PART II

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

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.

[^{F1}(1A) 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 if, to his knowledge, there is a direction in force under section 47(2)(g) in relation to that person.]

- (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.

Status: Point in time view as at 01/02/1991.

*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974,
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- (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).

Textual Amendments

F1 S. 41(1A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 14**

Modifications etc. (not altering text)

C1 S. 41 (except subsection (4)) extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 9**

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 [^{F2}level 3 on the standard scale].

[^{F3}(1A) Any person—

- (a) with respect to whom a direction is in force under section 47(2)(g); and
 - (b) who seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him of the direction,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level three on the standard scale.]

- (2) Notwithstanding anything in [^{F4}the ^{M1}Magistrates' Courts Act 1980], 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.

Textual Amendments

F2 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**

F3 S. 42(1A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 15**

F4 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 132**

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Modifications etc. (not altering text)

C2 S. 42(1) extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 10**

Marginal Citations

M1 1980 c. 43.

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 [^{F5}which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be employed by a solicitor in connection with his practice.]
- 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) ^{F6}
- (7) For the purposes of this section an order under Part I of the ^{M2}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.

Textual Amendments

F5 S. 43(1)(b): words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 10(a)**

Status: Point in time view as at 01/02/1991.

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F6 S. 43(6) repealed by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 67(2), **Sch. 1 para. 10(b)**, Sch. 8 Pt. III

Modifications etc. (not altering text)

C3 S. 43 extended (*prosp.*) with modifications by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 11(2)(3)**

Marginal Citations

M2 1973 c. 62.

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 [^{F7}level 3 on the standard scale].
- (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 [^{F8}the ^{M3}Magistrates' Courts Act 1980], 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.

Textual Amendments

F7 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**

F8 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 132**

Modifications etc. (not altering text)

C4 S. 44(1) extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 12(a)**

C5 S. 44(3) extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 12(b)**

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Marginal Citations

M3 1980 c. 43.

Status:

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