

Status: Point in time view as at 11/02/1991.

Changes to legislation: Solicitors Act 1974 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1 **E+W**

Section 35.

INTERVENTION IN SOLICITOR’S PRACTICE

Modifications etc. (not altering text)

- C1** Sch. 1 applied (with modifications) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 9 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), art. 3(9))

PART I **E+W**

CIRCUMSTANCES IN WHICH SOCIETY MAY INTERVENE

- 1 (1) Subject to sub-paragraph (2), the powers conferred by Part II of this Schedule shall be exercisable where—
- (a) the Council have reason to suspect dishonesty on the part of—
 - (i) a solicitor, or
 - (ii) an employee of a solicitor, or
 - (iii) the personal representatives of a deceased solicitor,in connection with that solicitor’s practice or in connection with any trust of which that solicitor is or formerly was a trustee;
 - (b) the Council consider that there has been undue delay on the part of the personal representatives of a deceased solicitor who immediately before his death was practising as a sole solicitor in connection with that solicitor’s practice or in connection with any controlled trust;
 - (c) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 32 or 37(2)(c);
 - (d) a solicitor has been adjudged bankrupt or has made a composition or arrangement with his creditors;
 - (e) a solicitor has been committed to prison in any civil or criminal proceedings;
 - [^{F1}(ee) the Council are satisfied that a sole solicitor is incapacitated by illness or accident to such an extent as to be unable to attend to his practice;]
 - (f) the powers conferred by [^{F2}section 104 of the Mental Health Act 1959 or section 98 of the Mental Health Act 1983 (emergency powers) or section 105 of the said Act of 1959 or section 99 of the said Act of 1983 (appointment of receiver)] have been exercised in respect of a solicitor; or
 - (g) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.
 - [^{F3}(h) the Council are satisfied that a sole solicitor has abandoned his practice;

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- (i) the Council are satisfied that a sole solicitor is incapacitated by age to such an extent as to be unable to attend to his practice;
 - (j) any power conferred by this Schedule has been exercised in relation to a sole solicitor by virtue of sub-paragraph (1)(a) and he has acted as a sole solicitor within the period of eighteen months beginning with the date on which it was so exercised;
 - (k) the Council are satisfied that a person has acted as a solicitor at a time when he did not have a practising certificate which was in force;
 - (l) the Council are satisfied that a solicitor has failed to comply with any condition, subject to which his practising certificate was granted or otherwise has effect, to the effect that he may act as a solicitor only—
 - (i) in employment which is approved by the Society in connection with the imposition of that condition;
 - (ii) as a member of a partnership which is so approved;
 - (iii) as an officer of a body recognised by the Council of the Law Society under section 9 of the ^{M1}Administration of Justice Act 1985 and so approved; or
 - (iv) in any specified combination of those ways.]
- (2) The powers conferred by Part II of this Schedule shall only be exercisable under sub-paragraph (1)(c) if the Society has given the solicitor notice in writing that the Council are satisfied that he has failed to comply with rules specified in the notice and also (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable in his case.

Textual Amendments

- F1** Sch. 1 Pt. I para. 1(1)(ee) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(2)**
- F2** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s.148, **Sch. 4 para. 38(c)**
- F3** Sch. 1 Pt. I paras. 1(1)(h)–(l) added by Courts and Legal Services Act (c. 41, SIF 76:1), s. 91(1)

Marginal Citations

- M1** 1985 c.61. (76:1).

- 2 On the death of a sole solicitor paragraphs 6 to 8 shall apply to the client accounts of his practice.
- 3 The powers conferred by Part II of this Schedule shall also be exercisable, subject to paragraphs 5(4) and 10(3), where—
- (a) a complaint is made to the Society that there has been undue delay on the part of a solicitor in connection with any matter in which the solicitor or his firm was instructed on behalf of a client or with any controlled trust; and
 - (b) the Society by notice in writing invites the solicitor to give an explanation within a period of not less than 8 days specified in the notice; and
 - (c) the solicitor fails within that period to give an explanation which the Council regard as satisfactory; and
 - (d) the Society gives notice of the failure to the solicitor and (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable.

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- 4 (1) Where the powers conferred by Part II of this Schedule are exercisable in relation to a solicitor, they shall continue to be exercisable after his death or after his name has been removed from or struck off the roll.
- (2) The references to the solicitor or his firm in paragraphs 5(1), 6(2) and (3), 8, 9(1) and (5) and 10(1) include, in any case where the solicitor has died, references to his personal representatives.

PART II **E+W**

POWERS EXERCISABLE ON INTERVENTION

Money

- 5 (1) The High Court, on the application of the Society, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm.
- (2) No order under this paragraph shall take effect in relation to any person to whom it applies unless the Society has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank [^{F4}or other financial institution], has indicated at which of its branches the Society believes that the money to which the order relates is held.
- (3) A person shall not be treated as having disobeyed an order under this paragraph by making a payment of money if he satisfies the court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.
- (4) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

Textual Amendments

F4 Words inserted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 8, **Sch. 1 para. 13(3)**

Modifications etc. (not altering text)

C2 [Sch. 1 Pt. II paras. 5–16](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 9, 69(2), **Sch. 2 paras. 32–35**

C3 [Sch. 1 Pt. II paras. 5–16](#) extended (with modifications) (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 89, 124(3), **Sch. 14 para. 5**

- 6 (1) Without prejudice to paragraph 5, if the Council pass a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Society, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council’s resolution) and shall be held by the Society on trust to exercise in relation to them the powers

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conferred by this Part of this Schedule and subject thereto upon trust for the persons beneficially entitled to them.

- (2) This paragraph applies—
- (a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;
 - (b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and
 - (c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.
- (3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.
- (4) Within [^{F5}8]days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.
- (5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.
- (6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F6}level 3 on the standard scale].

Textual Amendments

- F5** Number substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\), s. 8, Sch. 1 para. 13\(4\)](#)
- F6** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#)

Modifications etc. (not altering text)

- C4** [Sch. 1 Pt. II paras. 5–16](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\), ss. 9, 69\(2\), Sch. 2 paras. 32–35](#)
- C5** [Sch. 1 Pt. II paras. 5–16](#) extended (with modifications) (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), ss. 89, 124\(3\), Sch. 14 para. 5](#)

VALID FROM 31/03/2009

- [^{F7}6A (1) Without prejudice to paragraph 5, if the Society passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Society, those rights shall vest accordingly.
- (2) This paragraph applies to any right to recover or receive debts due to the solicitor or his firm in connection with his practice or former practice.

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- (3) Any sums recovered by the Society by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Society and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.
- (4) The Society shall serve on the solicitor or his firm, and any person who owes a debt to which the order applies, a certified copy of the Society's resolution.

Textual Amendments

- F7** Sch. 1 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 77(6) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i) (subject to art. 4)

VALID FROM 01/03/2009

- 6B** (1) The Society may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3).
- (2) The rules may in particular make provision in respect of cases where the Society, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Society under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of compensation funds (within the meaning of section 36A)).]

Textual Amendments

- F7** Sch. 1 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 77(6) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i) (subject to art. 4)

- 7** (1) If the Society takes possession of any sum of money to which paragraph 6 applies, the Society shall pay it into a special account in the name of the Society or of a person nominated on behalf of the Society, [^{F8}or into a client account of a solicitor nominated on behalf of the society, and any such person or solicitor] shall hold that sum on trust to permit the Society to exercise in relation to it the powers conferred by this Part of this Schedule and subject thereto on trust for the persons beneficially entitled to it.
- (2) A bank [^{F9}or other financial institution] at which a special account is kept shall be under no obligation to ascertain whether it is being dealt with properly.

Textual Amendments

- F8** Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, Sch. 1 para. 13(5)(a)
- F9** Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, Sch. 1 para. 13(5)(b)

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Modifications etc. (not altering text)

- C6** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C7** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

- 8 Without prejudice to paragraphs 5 to 7, if the High Court is satisfied, on an application by the Society, that there is reason to suspect that any person holds money on behalf of the solicitor or his firm, the court may require that person to give the Society information as to any such money and the accounts in which it is held.

Modifications etc. (not altering text)

- C8** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C9** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

Documents

- 9 (1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—
- (a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and
 - (b) where they are exercisable by virtue of paragraph 3, of all documents in the possession of the solicitor or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).
- (2) The person appointed by the Society may take possession of any such documents on behalf of the Society.
- (3) Except in a case where an application has been made to the High Court under sub-paragraph (4), if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub-paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F10]level 3 on the standard scale].
- (4) The High Court, on the application of the Society, may order a person required to produce or deliver documents under sub-paragraph (1) to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.
- (5) If on an application by the Society the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub-paragraph (1) are exercisable have come into the possession of some person other than the solicitor or his firm, the court may order that person to produce or deliver

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the documents to any person appointed by the Society at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Society.

- (6) On making an order under this paragraph, or at any later time, the court, on the application of the Society, may authorise a person appointed by the Society to enter any premises (using such force as is reasonably necessary) to search for and take possession of any documents to which the order relates.
- (7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society’s behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.
- (8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours’ notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.
- (9) A notice under sub-paragraph (8) shall be given within 8 days of the service of the Society’s notice under sub-paragraph (7).
- (10) Without prejudice to the foregoing provisions of this Schedule, the Society may apply to the High Court for an order as to the disposal or destruction of any documents in its possession by virtue of this paragraph or paragraph 10.
- (11) On an application under sub-paragraph (8) or (10), the Court may make such order as it thinks fit.
- (12) Except so far as its right to do so may be restricted by an order on an application under sub-paragraph (8) or (10), the Society may take copies of or extracts from any documents in its possession by virtue of this paragraph or paragraph 10 and require any person to whom it is proposed that such documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Society.

Textual Amendments

F10 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

Modifications etc. (not altering text)

C10 [Sch. 1 Pt. II paras. 5–16](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), **ss. 9, 69(2)**, **Sch. 2 paras. 32–35**

C11 [Sch. 1 Pt. II paras. 5–16](#) extended (with modifications) (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **ss. 89, 124(3)**, **Sch. 14 para. 5**

C12 [Sch. 1 Pt. II para. 9\(2\)](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), **ss. 9, 69(2)**, **Sch. 2 para. 14(2)**

C13 [Sch. 1 Pt. II paras. 9\(3\)–\(12\)](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), **ss. 9, 69(2)**, **Sch. 2 para. 14(2)**

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Mail

- 10 (1) The High Court, on the application of the Society, may from time to time order that for such time not exceeding 18 months as the court thinks fit postal packets (as defined by section 87(1) of the ^{M2}Post Office Act 1953) addressed to the solicitor or his firm at any place or places mentioned in the order shall be directed to the Society or any person appointed by the Society at any other address there mentioned; and the Society, or that person on its behalf, may take possession of any such packets received at that address.
- (2) Where such an order is made the Society shall pay to the Post Office the like charges (if any), as would have been payable for the re-direction of the packets by virtue of any scheme made under section 28 of the ^{M3}Post Office Act 1969, if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the Post Office to redirect them to him at the address mentioned in the order.
- (3) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

Modifications etc. (not altering text)

C14 Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**

C15 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

Marginal Citations

M2 1953 c. 36.

M3 1969 c. 48.

Trusts

- 11 (1) If the solicitor or his personal representative is a trustee of a controlled trust, the Society may apply to the High Court for an order for the appointment of a new trustee in substitution for him.
- (2) The ^{M4}Trustee Act 1925 shall have effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.

Modifications etc. (not altering text)

C16 Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**

C17 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

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Marginal Citations

M4 1925 c. 19.

General

- 12 The powers in relation to sums of money and documents conferred by this Part of this Schedule shall be exercisable notwithstanding any lien on them or right to their possession.

Modifications etc. (not altering text)

- C18 Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), Sch. 2 paras. 32–35
- C19 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), Sch. 14 para. 5
- C20 Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), Sch. 2 para. 14(2)

- 13 Subject to any order for the payment of costs that may be made on an application to the court under this Schedule, any costs incurred by the Society for the purposes of this Schedule, including, without prejudice to the generality of this paragraph, the costs of any person exercising powers under this Part of this Schedule on behalf of the Society, shall be paid by the Solicitor or his personal representatives and shall be recoverable from him or them as a debt owing to the Society.

Modifications etc. (not altering text)

- C21 Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), Sch. 2 paras. 32–35
- C22 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), Sch. 14 para. 5
- C23 Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), Sch. 2 para. 14(2)

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- [^{F11}13A(1) The High Court, on the application of the Society, may order a former partner of the solicitor to pay a specified proportion of the costs mentioned in paragraph 13.
- (2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the solicitor was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.
- (3) In this paragraph “specified” means specified in the order made by the High Court.]

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Textual Amendments

- F11** Sch. 1 para. 13A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(13)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

- 14 Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Modifications etc. (not altering text)

- C24** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C25** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C26** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

- 15 Any application to the High Court under this Schedule may be disposed of in chambers.

Modifications etc. (not altering text)

- C27** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C28** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C29** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

- 16 The Society may do all things which are reasonably necessary for the purpose of facilitating the exercise of its powers under this Schedule.

Modifications etc. (not altering text)

- C30** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C31** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C32** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

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[^{F12}SCHEDULE 1A E+W

INADEQUATE PROFESSIONAL SERVICES]

Textual Amendments

F12 Sch. 1A inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 124(3), 125(6), Schs. 15, 19 para. 14

Circumstances in which Council's powers may be exercised

- 1
- (1) The Council may take any of the steps mentioned in paragraph 2 (“the steps”) with respect to a solicitor where it appears to them that the professional services provided by him in connection with any matter in which he or his firm have been instructed by a client have, in any respect, not been of the quality which it is reasonable to expect of him as a solicitor.
 - (2) The Council shall not take any of the steps unless they are satisfied that in all the circumstances of the case it is appropriate to do so.
 - (3) In determining in any case whether it is appropriate to take any of the steps, the Council may—
 - (a) have regard to the existence of any remedy which it is reasonable to expect to be available to the client in civil proceedings; and
 - (b) where proceedings seeking any such remedy have not been begun by him, have regard to whether it is reasonable to expect him to begin them.

Directions which may be given

- 2
- (1) The steps are—
 - (a) determining that the costs to which the solicitor is entitled in respect of his services (“the costs”) are to be limited to such amount as may be specified in the determination and directing him to comply, or to secure compliance, with such one or more of the permitted requirements as appear to the Council to be necessary in order for effect to be given to their determination;
 - (b) directing him to secure the rectification, at his expense or at that of his firm, of any such error, omission or other deficiency arising in connection with the matter in question as they may specify;
 - (c) directing him to pay such compensation to the client as the Council sees fit to specify in the direction;
 - (d) directing him to take, at his expense or at that of his firm, such other action in the interests of the client as they may specify.
 - (2) The “permitted requirements” are—
 - (a) that the whole or part of any amount already paid by or on behalf of the client in respect of the costs be refunded;
 - (b) that the whole or part of the costs be remitted;
 - (c) that the right to recover the costs be waived, whether wholly or to any specified extent.
 - (3) The power of the Council to take any such steps is not confined to cases where the client may have a cause of action against the solicitor for negligence.

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Modifications etc. (not altering text)

C33 Sch. 1A para. 2(1)(a) modified (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 76:1), s. 9, **Sch. 2 para. 13(2)** (as amended (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 124(3), 125(3), **Sch. 18 para. 56(b)**)

Compensation

- 3 (1) The amount specified in a direction by virtue of paragraph 2(1)(c) shall not exceed £1,000.
- (2) The Lord Chancellor may by order made by statutory instrument amend subparagraph (1) by substituting for the sum of £1,000 such other sum as he considers appropriate.
- (3) Before making any such order the Lord Chancellor shall consult the Law Society.
- (4) Any statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Taxation of costs

- 4 (1) Where the Council have given a direction under paragraph 2(1)(a), then—
- (a) for the purposes of any taxation of a bill covering the costs, the amount charged by the bill in respect of them shall be deemed to be limited to the amount specified in the determination; and
- (b) where a bill covering the costs has not been taxed, the client shall, for the purposes of their recovery (by whatever means and notwithstanding any statutory provision or agreement) be deemed to be liable to pay in respect of them only the amount specified in the determination.
- (2) Where a bill covering the costs has been taxed, the direction shall, so far as it related to the costs, cease to have effect.

Failure to comply with direction

- 5 (1) If a solicitor fails to comply with a direction given under this Schedule, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.
- (2) On the hearing of such a complaint the Tribunal may, if it thinks fit (and whether or not it makes any order under section 47(2)), direct that the direction be treated, for the purpose of enforcement, as if it were contained in an order made by the High Court.

Fees

- 6 (1) The council may, by regulations made with the concurrence of the Lord Chancellor and the Master of the Rolls, make provision for the payment, by any client with respect to whom the Council are asked to consider whether to take any of the steps, of such fee as may be prescribed.
- (2) The regulations may provide for the exemption of such classes of client as may be prescribed.

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(3) Where a client pays the prescribed fee it shall be repaid to him if the Council take any of the steps in the matter with respect to which the fee was paid.

(4) In this paragraph “prescribed” means prescribed by the regulations.

Costs

7 Where the Council take any of the steps with respect to a solicitor they may also direct him to pay to the Council—

- (a) the amount of the fee repayable by the Council to the client under paragraph 6(3); and
- (b) an amount which is calculated by the Council as the cost to them of dealing with the complaint, or which in their opinion represents a reasonable contribution towards that cost.

Duty of Tribunal

8 Where the Tribunal—

- (a) is considering, or has considered, an application or complaint with respect to a solicitor; and
- (b) is of the opinion that the Council should consider whether to take any of the steps with respect of that solicitor,

it shall inform the Council.

Interpretation

9 The Council’s powers under this Schedule are exercisable in relation to a person though his name has been removed from, or struck off, the roll and references to a solicitor in this Schedule, so far as they relate to the exercise of those powers, shall be construed accordingly.

SCHEDULE 2 **E+W**

Section 36.

THE COMPENSATION FUND

Modifications etc. (not altering text)

C34 Sch. 2 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 6(1)**

C35 Sch. 2 applied by Administration of Justice Act 1985 (c. 61, SIF 76:1), s. 9, **Sch. 2 para. 6(1D)** (as substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 90**)

1 The fund shall be maintained and administered by the Society and shall be held by the Society on trust for the purposes provided for in section 36 and this Schedule.

2 (1) Subject to [F13 sub-paragraphs (2) and (2A)], every solicitor—

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- (a) shall on each occasion on which he applies for a practising certificate pay to the Society with the fee payable in respect of that certificate under section 11 a contribution (in this Schedule referred to as an “annual contribution”) of such amount as the Council may from time to time determine; and
- (b) where it appears from his application for a practising certificate that he has held or received clients’ money at any time during the period specified in the application, shall also, if so required by the Society, pay to the Society, before the issue of the certificate, a further contribution (in this Schedule referred to as a “special levy”) of such amount . . . ^{F14}as the Council may from time to time determine.

(2) An annual contribution and a special levy—

- (a) shall not be payable in respect of the first three practising certificates to be issued to a solicitor after his admission; and
- (b) shall be payable in the reduced amount mentioned in sub-paragraph (3) in respect of the next three certificates to be so issued.

[^{F15}(2A) Sub-paragraph (1) above shall not apply to any solicitor who is a Crown Prosecutor.]

- (3) The reduced amount referred to in sub-paragraph (2)(b) is one-half of the amount which would otherwise be payable.

[^{F16}(3A) The Council may require a solicitor to pay an annual contribution of a reduced amount where that payment is made with respect to a practising certificate which has a replacement date which is less than 12 months after the replacement date of the solicitor’s previous practising certificate.

- (3B) Where it appears from his application for a practising certificate that a solicitor has not held or received clients’ money at any time during the period specified in the application, the Council may require him—

- (a) to pay an annual contribution of a specified reduced amount on that application, or
- (b) to pay no annual contribution on that application.]

- (4) All annual contributions and special levies received by the Society under this paragraph shall be paid into the fund.

Textual Amendments

- F13** Words substituted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), **s. 4(6)**
- F14** Words repealed by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 8, 67(2), Sch. 1 para. 14, **Sch. 8 Pt. II**
- F15** Sch. 2 para. 2(2A) inserted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), **s. 4(6)**
- F16** Sch. 2 para. 2(3A)(3B) inserted (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), ss. 124(3), 125(3), **Sch. 18 para. 18**

Modifications etc. (not altering text)

- C36** Sch. 2 para. 2(1)(a) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 9, 69(2), **Sch. 2 para. 6(1)** (as amended by [Courts and Legal Services Act 1990 \(c. 40, SIF 76:1\)](#), **s. 90**)
- C37** Sch. 2 para. 2(1)(b) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 9, 69(2), **Sch. 2 para. 6(1)** (as amended by [Courts and Legal Services Act 1990 \(c. 40, SIF 76:1\)](#), **s. 90**)

Status: Point in time view as at 11/02/1991.

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- 3 The Society may invest in securities in which trustees are authorised by law to invest trust funds in their hands any money which forms part of the fund.
- 4 [^{F17} . . .]the Society may borrow for the purposes of the fund from any lender and may charge any investments of the fund by way of security for any such loan; but the aggregate sum owing at any one time in respect of such loans shall not exceed £100,000.

Textual Amendments

F17 Words in [Sch. 2 para. 4](#) repealed (11.2.1991) by [Government Trading Act 1990 \(c. 30, SIF 99:1\)](#), ss. 4, 5(3), [Sch. 2](#); [S.I. 1991/132](#), [art. 2](#)

- 5 The Society may insure with authorised insurers for such purposes and on such terms as the Council may deem expedient in relation to the fund.
- 6 There shall be carried to the credit of the fund—
- (a) all annual contributions and special levies paid to the Society in pursuance of paragraph 2;
 - (b) all interest, dividends and other income and accretions of capital arising from the investment of the fund or any part of it;
 - (c) the proceeds of any realisation of any investments of the fund;
 - (d) all money borrowed for the purposes of the fund;
 - (e) all sums received by the Society under any insurance effected by the society under paragraph 5;
 - (f) all sums received by the Society under section 36(4); and
 - (g) any other money which may belong or accrue to the fund or be received by the Society in respect of the fund.
- 7 All money from time to time forming part of the fund and all investments of the fund shall be applicable—
- (a) for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the fund;
 - (b) for payment of any premiums on insurances effected by the Society under paragraph 5;
 - (c) for repayment of any money borrowed by the Society for the purposes of the fund and for payment of interest on any money so borrowed;
 - (d) for payment of any grants which the Society may make under section 36;
 - (e) for payment of all costs, charges and expenses incurred by the Society by virtue of paragraph 1(1)(a) of Schedule 1 and of any costs or damages incurred by the Society or its employees or agents as a result of proceedings against the Society or its employees or agents for any act or omission done or made by it or them in good faith and in the execution or purported execution of the powers conferred by Part II of Schedule 1;

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- (f) for payment of any other sums properly payable out of the fund by virtue of section 36 or this Schedule.

SCHEDULES 3 **U.K.**

Section 89.

CONSEQUENTIAL AMENDMENTS

F18₁

Textual Amendments
F18 Sch. 3 para. 1 repealed by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, **Sch. Pt. I**

F19₂

Textual Amendments
F19 Sch. 3 para. 2 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), **Sch. 7**

F20₃

Textual Amendments
F20 Sch. 3 para. 3 repealed by [Patents Act 1977 \(c. 37\)](#), **Sch. 6**

- X1₄ In section 20(3) of the ^{M5} Justices of the Peace Act 1949—
- (a) for the words “subsection (1) of section 2 of the Solicitors (Amendment) Act 1956”, and
 - (b) for the words “the Solicitors Acts 1932 to 1956”,
- substitute, in place of the words substituted for those words by Schedule 2 to the Solicitors (Amendment) Act 1974, the words “ the Solicitors Act 1974 ”.

Editorial Information
X1 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations
M5 1949 c. 101.

F21₅

Textual Amendments
F21 Sch. 3 para. 5 repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), **Sch. 3**

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- ^{X26} In section 192(2) of the ^{M6} County Courts Act 1959 (as substituted by section 10(2) of the ^{M7} Administration of Justice Act 1969), for paragraph (c) substitute the following paragraph:—
“(c) section 69(3) of the Solicitors Act 1974”

Editorial Information

X2 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M6 1959 c. 22.
M7 1969 c. 58.

^{F227}

Textual Amendments

F22 Sch. 3 para. 7 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

- ^{X38} In section 4(2) of the ^{M8} Matrimonial Causes Act 1967, for the words “section 73(4) of the Solicitors Act 1957” substitute the words “section 74(3) of the Solicitors Act 1974”.

Editorial Information

X3 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M8 1967 c. 56.

- ^{X49} In section 223(1) of the ^{M9} Local Government Act 1972, for the words “the Solicitors Acts 1957 to 1965” substitute the words “the Solicitors Act 1974”.

Editorial Information

X4 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M9 1972 c. 70.

^{F2310}

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Textual Amendments

F23 Sch. 3 para. 10 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, Sch. 6

^{X5}SCHEDULE 4 **U.K.**

Section 89.

ENACTMENTS REPEALED

Editorial Information

X5 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

SCHEDULE 4
ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
12 & 13 Geo. 6, c. 21.	The Solicitors, Public Notaries, &c., Act 1949.	The whole Act.
5 & 6 Eliz. 2, c. 27.	The Solicitors Act 1957.	The whole Act.
1965 c. 21, 1969 c. 58.	The Solicitors Act 1965. The Administration of Justice Act 1969.	The whole Act. In Schedule 1, the entry relating to the Solicitors Act 1957.
1973 c. 14.	The Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 2.
1973 c. 15.	The Administration of Justice Act 1973.	Section 4. In Schedule 1, paragraph 9(2).
1973 c. 62.	The Powers of Criminal Courts Act 1973.	In Schedule 5, paragraph 9.
1974 c. 26.	The Solicitors (Amendment) Act 1974.	The whole Act.

Status:

Point in time view as at 11/02/1991.

Changes to legislation:

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