



Administration of Justice Act 1985

1985 CHAPTER 61

PART I

SOLICITORS

Solicitors' discipline

1 ^{F1}

Textual Amendments

F1 S. 1 repealed (*l. 4. 1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1991/608, art. 2, **Sch.**

2 **Examination of solicitors' files in connection with complaints.**

^{F2}

Textual Amendments

F2 S. 2 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 210, 211, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, art. 2(f)(v)

3 ^{F3}

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Textual Amendments

F3 S. 3 wholly repealed (the repeal being in force on 1. 1. 1991 as regards s. 3(1) and 1. 4. 1991 as regards s. 3(2)) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s.125(7), **Sch.20.**; S.I. 1990/2484, 1991/608, art. 2, Sch.

Practising certificates

F4 4 Issue of practising certificates subject to conditions.

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Textual Amendments

F4 S. 4 repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(i)(iv)

5 Conditions imposed on current certificates.

After section 13 of the ^{M1}Solicitors Act 1974 there shall be inserted—

“13A Imposition of conditions while practising certificates are in force.

- (1) Subject to the provisions of this section, the Society may in the case of any solicitor direct that his practising certificate for the time being in force (his “current certificate”) shall have effect subject to such conditions as the Society may think fit.
- (2) The power to give a direction under this section in the case of any solicitor shall be exercisable by the Society at any time during the period for which his current certificate is in force if—
 - (a) in the event of an application for a practising certificate being made by him at that time, section 12 would have effect in relation to him by reason of any such circumstances as are mentioned in paragraph (d), (e), (ee), (k) or (l) of subsection (1) of that section; or
 - (b) a receiving order in bankruptcy is in force against him; or
 - (c) he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors.
- (3) Subject to subsection (4), the conditions specified in a direction under this section shall have effect as from the time when the solicitor concerned is notified of the Society’s decision to give the direction.
- (4) The Society may, if it thinks fit, provide in a direction under this section that the conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under subsection (6).
- (5) Where there is a pending against any judgment or order an appeal by a solicitor which, if successful, would result in subsection (2) no longer being applicable to him, the Society shall not give a direction under this section in his case so long

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as the appeal is pending, unless in the opinion of the Society the proceedings on that appeal have been unduly protracted by him or are unlikely to be successful.

- (6) A solicitor in whose case a direction is given under this section may appeal to the Master of the Rolls against the decision of the Society within one month of being notified of it.
- (7) On an appeal under subsection (6), the Master of the Rolls may—
 - (a) affirm the decision of the Society; or
 - (b) direct that the appellant’s current certificate shall have effect subject to such conditions as the Master of the Rolls thinks fit; or
 - (c) by order revoke the direction; or
 - (d) make such other order as he thinks fit.
- (8) Subsection (4A) of section 12 shall apply for the purposes of subsection (1) of this section as it applies for the purposes of subsection (4)(b) of that section.”.

Marginal Citations

M1 1974 c. 47.

Restrictions applying to unqualified persons

F56 Preparation of conveyancing documents by unqualified persons.

Textual Amendments

F5 S. 6 repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 23](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(i)(iv)

F67 Preparation of papers for probate etc. by unqualified persons.

Textual Amendments

F6 S. 7 repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), [ss. 210, 211](#), [Sch. 23](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), [art. 2\(i\)\(iv\)\(bb\)](#) (with art. 9)

Other amendments

8 Other amendments of Solicitors Act 1974.

The Solicitors Act 1974 shall have effect subject to the further amendments specified in Schedule 1.

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Incorporated practices

9 Incorporated practices.

- (1) The [F7Society] may make rules—
- (a) making provision as to the management and control [F8of legal services bodies;]
 - (b) prescribing the circumstances in which such bodies may be recognised by the [F7Society] as being suitable bodies to undertake the provision of [F9any solicitor services or other relevant legal services];
 - (c) prescribing the [F10requirements] which (subject to any exceptions provided by the rules) must at all times be satisfied by bodies ^{F11} . . . so recognised if they are to remain so recognised; and
 - (d) regulating the conduct of the affairs of such bodies.

[F12(1A) Where the Society makes rules under subsection (1), it must by rules under subsection (1)(c) prescribe the requirement that (subject to any exceptions provided by the rules) recognised bodies must not provide services other than—

- (a) solicitor services, or
- (b) solicitor services and other relevant legal services.

(1B) “Relevant legal services” means—

- (a) solicitor services, and
- (b) where authorised persons other than solicitors or registered European lawyers are managers or employees of, or have an interest in, a recognised body, services of the kind provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007).

(1C) The Society may by rules under this section provide that services specified, or of a description specified, in the rules are not to be treated as solicitor services or other relevant legal services.]

(2) Rules made by the [F13Society] may also make provision—

- (a) for the manner and form in which applications for recognition under this section [F14, or for the renewal of such recognition, are to be made, and requiring such applications to be accompanied by a fee of such amount as the Society may from time to time determine;]
- [F15(aa) for the manner and form in which other applications under the rules are to be made, and requiring such applications to be accompanied by a fee of such amount as the Society may from time to time determine;]
- (b) for regulating the names that may be used by recognised bodies;
- [F16(c) about the time when any recognition, or renewal of recognition, takes effect and the period for which it is (subject to the provisions made by or under this Part) to remain in force;
- (d) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed by the rules;
- (e) about the effect on the recognition of a partnership or other unincorporated body (“the existing body”) of any change in the membership of the existing body, including provision for the existing body's recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business;

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- (ea) for the keeping by the Society of a register containing the names and places of business of all bodies which are for the time being recognised under this section, and such other information relating to those bodies as may be specified in the rules;
 - (eb) for information (or information of a specified description) on such a register to be made available to the public, including provision about the manner in which, and times at which, information is to be made so available;]
 - (f) for rules made under any provision of the 1974 Act to have effect in relation to recognised bodies with such additions, omissions or other modifications as appear to the ^{F13}Society] to be necessary or expedient;
 - ^{F17}(fa) about the education and training requirements to be met by managers and employees of recognised bodies;
 - (fb) for rules made under any provision of the 1974 Act to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other modifications as appear to the Society to be necessary or expedient;
 - (fc) requiring recognised bodies to appoint a person or persons to monitor compliance, by the recognised body, its managers and its employees, with requirements imposed on them by or by virtue of this Act or any rules applicable to them by virtue of this section;]
 - (g) ^{F18}
 - (h) for the manner of service on recognised bodies of documents authorised or required to be served on such bodies under or by virtue of this Part.
- ^{F19}(2A) If rules under this section provide for the recognition of legal services bodies which have one or more managers who are not legally qualified, the rules must make provision—
- (a) for the recognition of such bodies to be suspended or revoked, on such grounds and in such circumstances as may be prescribed by the rules;
 - (b) as to the criteria and procedure for the Society's approving, as suitable to be a manager of a recognised body, an individual who is not legally qualified (and for the Society's withdrawing such approval).
- (2B) Rules under this section may make provision for appeals to the High Court against decisions made by the Society under the rules—
- (a) to suspend or revoke the recognition of any body;
 - (b) not to approve, as suitable to be the manager of a recognised body, an individual who is not legally qualified (or to withdraw such approval).
- (2C) The rules may provide for appeals against decisions within subsection (2B)(b) to be brought by the individual to whom the decision relates (as well as the body).
- (2D) In relation to an appeal under rules made by virtue of subsection (2B), the High Court may make such order as it thinks fit as to payment of costs.
- (2E) The decision of the High Court on such an appeal shall be final.
- (2F) Where the Society decides to recognise a body under this section it must grant that recognition subject to one or more conditions if—
- (a) the case is of a kind prescribed for the purposes of this section by rules made by the Society, and
 - (b) the Society considers that it is in the public interest to do so.
- (2G) While a body is recognised under this section, the Society—

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- (a) must direct that the body's recognition is to have effect subject to one or more conditions if—
 - (i) the case is of a prescribed kind, and
 - (ii) the Society considers that it is in the public interest to do so;
- (b) may, in such circumstances as may be prescribed, direct that the body's recognition is to have effect subject to such conditions as the Society may think fit.

“Prescribed” means prescribed by rules made by the Society.

(2H) The conditions which may be imposed under subsection (2F) or (2G) include—

- (a) conditions requiring the body to take specified steps that will, in the opinion of the Society, be conducive to the carrying on by the body of an efficient business;
- (b) conditions which prohibit the body from taking any specified steps except with the approval of the Society;
- (c) if rules under this section provide for the recognition of legal services bodies which have one or more managers who are not legally qualified, a condition that all the managers of the body must be legally qualified.

“Specified” means specified in the condition.

(2I) Rules made by the Society may make provision about when conditions imposed under this section take effect (including provision conferring power on the Society to direct that a condition is not to have effect until the conclusion of any appeal in relation to it).

(2J) Section 86A of the 1974 Act applies to rules under this section as it applies to rules under that Act.

(2K) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Society considers necessary or expedient.]

[^{F20}(3) Despite section 24(2) of the 1974 Act, section 20 of that Act (prohibition on unqualified person acting as solicitor) does not apply to a recognised body; and nothing in section 24(1) of that Act applies in relation to such a body.]

(4) ^{F21}

(5) A certificate signed by an officer of the Society and stating that any body ^{F22} . . . is or is not, or was or was not at any time, a recognised body shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.

(6) Schedule 2 (which makes provision with respect to the application of provisions of the 1974 Act to recognised bodies and with respect to other matters relating to such bodies) shall have effect.

(7) Subject to the provisions of that Schedule, the [^{F23}Lord Chancellor] may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament provide for any enactment or instrument passed or made before the commencement of this section and having effect in relation to solicitors to have effect in relation to recognised bodies with such additions, omissions or other modifications as appear to the [^{F23}Lord Chancellor] to be necessary or expedient.

(8) In this section—

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- “the 1974 Act” means the ^{M2}Solicitors Act 1974;
- ^{F24} “the Society” has] the meaning given by section 87(1) of the 1974 Act;
- ^{F25}
- ^{F26} “legally qualified” and “legal services body” have the meaning given by section 9A;
- “manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);]
- ^{F27} “authorised person” means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007);]
- “multi-national partnership” means a partnership whose members consist of one or more registered foreign lawyers and one or more solicitors;
- ^{F28}
- “recognised body” means a body ^{F29} . . . for the time being recognised under this section.
- ^{F30} “registered European lawyer” means a person who is registered with the Law Society under regulation 17 of the European Communities (Lawyers’ Practice) Regulations 2000.]
- ^{F31} “solicitor services” means professional services such as are provided by individuals practising as solicitors or lawyers of other jurisdictions;
- and a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).]
- (9) ^{F32}

Textual Amendments

- F7** Words in s. 9(1) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(2\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F8** Words in s. 9(1)(a) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(2\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F9** Words in s. 9(1)(b) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(2\)\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F10** Words in s. 9(1)(c) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(2\)\(d\)\(i\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F11** Word in s. 9(1)(c) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 81\(2\)\(d\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)\(f\)\(v\)\(aa\)](#) (subject to art. 4)
- F12** S. 9(1A)-(1C) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(3\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F13** Words in s. 9(2) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(4\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F14** Words in s. 9(2)(a) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(4\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F15** S. 9(2)(aa) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(4\)\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F16** S. 9(2)(c)-(eb) substituted (31.3.2009) for s. 9(2)(c)-(e) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(4\)\(d\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)
- F17** S. 9(2)(fa)-(fc) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(4\)\(e\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4)

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- F18** S. 9(2)(g) repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 para. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1**
- F19** S. 9(2A)-(2K) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(5)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- F20** S. 9(3) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- F21** S. 9(4) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 81(7), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(aa)** (subject to art. 4)
- F22** Word in s. 9(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 81(8), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(aa)** (subject to art. 4)
- F23** Words in s. 9(7) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(9)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(ii)**
- F24** Words in s. 9(8) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(10)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- F25** Word in s. 9(8) repealed (1.6.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1992/1221, art. 2, **Sch.**
- F26** Words in s. 9(8) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(10)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- F27** Words in s. 9(8) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(10)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- F28** S. 9(8): definition of "officer" repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 81(10)(e), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(aa)** (subject to art. 4)
- F29** S. 9(8): word in the definition of "recognised body" repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 81(10)(e), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(aa)** (subject to art. 4)
- F30** S. 9(8): definition "registered European lawyer" substituted (22.5.2000) for definition "registered foreign lawyer" by The European Communities (Lawyers Practice) Regulations 2000 (SI 2000/1119), reg 37(3), {Sch. 4 para. 15(1)(3)(b)} (as amended (1.7.2009) by S.I. 2009/1587, arts. 1(1), **3(4)**)
- F31** Words in s. 9(8) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(10)(f)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- F32** S. 9(9) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 81(11), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(aa)** (subject to art. 4)

Modifications etc. (not altering text)

- C1** S. 9 definition of "recognised body" applied (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 89(9)**; S.I. 1991/1883, art. 3, **Sch.**
S. 9 extended (22.5.2000) by S.I. 2000/1119, reg. 37(3), Sch. 4 para. 1(3)(b) (as amended (1.7.2009) by S.I. 2009/1587, arts. 1(1), **3(12)**)
- C2** S. 9 modified temporarily (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 209, 211, **Sch. 22 para. 15** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(e)** (subject to art. 4)

Commencement Information

- I1** S. 9 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683

Marginal Citations

- M2** 1974 c. 47.

[^{F33}9A Legal services bodies

- (1) For the purposes of section 9, a “legal services body” means a body (corporate or unincorporate) in respect of which —

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- (a) the management and control condition, and
 - (b) the relevant lawyer condition,
- are satisfied.
- (2) The management and control condition is satisfied if—
- (a) at least 75% of the body's managers are legally qualified,
 - (b) the proportion of shares in the body held by persons who are legally qualified is at least 75%,
 - (c) the proportion of voting rights in the body which persons who are legally qualified are entitled to exercise, or control the exercise of, is at least 75%,
 - (d) all the persons with an interest in the body who are not legally qualified are managers of the body, and
 - (e) all the managers of the body who are not legally qualified are individuals approved by the Society as suitable to be managers of a recognised body.
- (3) The Society may by rules under section 9 provide that, in relation to specified kinds of bodies, subsection (2) applies as if the references to 75% were to such greater percentage as may be specified (and different percentages may be specified for different kinds of bodies).
- (4) The relevant lawyer condition is satisfied in relation to a body if at least one manager of the body is—
- (a) a solicitor,
 - (b) a registered European lawyer, or
 - (c) a qualifying body.
- (5) For that purpose a qualifying body is a body in respect of which—
- (a) the management and control condition is satisfied
 - (b) the relevant lawyer condition is satisfied by virtue of subsection (4)(a) or (b), and
 - (c) the services condition is satisfied.
- (6) For the purposes of this section the following are legally qualified—
- (a) an authorised person who is an individual;
 - (b) a registered foreign lawyer (within the meaning of section 89 of the Courts and Legal Services Act 1990 (c. 41));
 - (c) a person entitled to pursue professional activities under a professional title to which the Directive applies in a state to which the Directive applies (other than the title of barrister or solicitor in England and Wales);
 - (d) an authorised person which is a body in respect of which—
 - (i) the services condition is satisfied, and
 - (ii) the management and control condition would be satisfied if the references in subsection (2) to persons who are legally qualified were to persons who are legally qualified by virtue of paragraphs (a) to (c);
 - (e) a body which provides professional services such as are provided by individuals who are authorised persons or lawyers of other jurisdictions, and in respect of which the management and control condition would be satisfied if the references in subsection (2) to persons who are legally qualified were to persons who are legally qualified by virtue of paragraphs (a) to (c).
 - (f) a legal partnership which—

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- (i) was in existence immediately before the commencement of this paragraph,
 - (ii) since that time has continued to be a partnership of the kind mentioned in rule 12.01(1)(b), 12.02(1)(b) or 12.04(1)(c)(i) of the pre-commencement conduct rules (framework of practice), and
 - (iii) has not, since that time, had a body corporate (other than a body within paragraph (g)) as a member;
 - (g) a body corporate which—
 - (i) was recognised under section 9 immediately before the commencement of this paragraph, and
 - (ii) has since that time continued to satisfy the requirements of rule 14.03(1) and 14.04(1) to (3) or the requirements of rule 14.05(1) to (3) of the pre-commencement conduct rules (restrictions on directors, owners etc. of incorporated practices);
 - (h) a body which—
 - (i) is an authorised person and satisfies the services condition, or
 - (ii) provides professional services such as are provided by individuals who are authorised persons or lawyers of other jurisdictions,
 and which satisfies the requirements of rules under subsection (6C).
- (6A) For the purposes of subsection (6)(f), a partnership is to be treated as the same partnership despite a change in membership, if any person who was a member before the change remains a member.
- (6B) For the purposes of subsection (6)(f) and (g), the references in the pre-commencement conduct rules to a recognised body are to be construed as references to a body which was recognised under section 9 immediately before the commencement of subsection (6)(f) and (g).
- (6C) The Society must make rules for the purposes of paragraph (h) of subsection (6) prescribing the requirements relating to management and control which must be satisfied by or in relation to a body for it to fall within that paragraph.
- (7) For the purposes of this section, the services condition is satisfied in relation to a body if the body provides only services which may be provided by a recognised body (having regard to rules under section 9(1A) and (1C)).
- (8) For the purposes of this section—
- “authorised person” has the same meaning as in section 9;
 - “the Directive” means Directive [98/5/EC](#) of the European Parliament and the Council, to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained;
 - “legal partnership” means a partnership in which a solicitor, a registered European lawyer or a recognised body is permitted to practise by virtue of rules made under section 31 of the Solicitors Act 1974 (c. 47), as those rules had effect immediately before the commencement of subsection (6)(f);
 - “manager”, in relation to a body, has the meaning given by section 9;
 - “pre-commencement conduct rules” means rules under Part 2 of the Solicitors Act 1974 or section 9 of this Act, known as the Solicitors' Code of Conduct 2007, as those rules had effect immediately before the commencement of subsection (6)(f) and (g);

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“recognised body” has the same meaning as in section 9 (subject to subsection (6B) above);

“registered European lawyer” has the same meaning as in section 9;

“shares” has the same meaning as for the purposes of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act);

“the Society” has the meaning given by section 87(1) of the Solicitors Act 1974;

“specified” means specified in rules made by the Society;

and a person has an interest in a body if the person has an interest in the body for the purposes of section 9.]

Textual Amendments

F33 S. 9A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 82 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii) (subject to art. 4) (which amending Sch. 16 para. 82 was amended (27.11.2008) by The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), arts. 1, 2)

Modifications etc. (not altering text)

C3 S. 9A modified (temp.) (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 209, 211, Sch. 22 para. 15 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(e) (subject to art. 4)

10 Penalty for pretending to be a body recognised under s. 9.

- (1) A body ^{F34} . . . shall not describe itself or hold itself out as a body ^{F34} . . . for the time being recognised under section 9 unless it is so recognised.
- (2) Any body ^{F35} . . . which contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.
- [^{F36}(3) Where an offence under this section 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 an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.
- (5) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
- (6) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.
- (7) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.

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- (8) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.
- (9) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (10) In this section “officer”, in relation to a body corporate, means—
- (a) any director, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity.]
- (4) F37

Textual Amendments

- F34** Word in s. 10(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 83(2), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(aa)** (subject to art. 4)
- F35** Word in s. 10(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 83(3), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)(f)(v)(aa)** (subject to art. 4)
- F36** S. 10(3)-(10) substituted (31.3.2009) for s. 10(3) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 83(4)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(ii)** (subject to art. 4)
- F37** S. 10(4) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.XIV**.

Commencement Information

- I2** S. 10 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683

PART II

LICENSED CONVEYANCING

Modifications etc. (not altering text)

- C4** Pt. 2: power to amend conferred (1.4.1991 for certain purposes, otherwise 7.12.2004) by Courts and Legal Services Act 1990 (c. 41), ss. **53(8)(a)**, 124 (with s. 59(1)); S.I. 1991/608, **art. 2**, Sch; S.I. 2004/2950, **art. 2(a)**
- C5** Pt. 2: power to amend conferred (1.4.1991 for certain purposes, otherwise 7.12.2004) by Courts and Legal Services Act 1990 (c. 41), ss. **53(9)**, 124 (with s. 59(1)); S.I. 1991/608, **art. 2**, Sch; S.I. 2004/2950, **art. 2(a)**

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Preliminary

11 Provision of conveyancing services by licensed conveyancers.

(1) The provisions of this Part shall have effect for the purpose of regulating the provision of conveyancing services [^{F38}and other services by persons who hold licences in force under this Part or who are recognised bodies.]

(2) In this Part—

“licence” means a licence to practise as a licensed conveyancer;

“licensed conveyancer” means a person who holds a licence in force under this Part;

and references in this Part to practising as a licensed conveyancer are references to providing, as the holder of such a licence, conveyancing services in accordance with the licence.

[^{F39}(3) References in this Part to conveyancing services are references to—

- (a) the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land, and
- (b) any other activities which are reserved instrument activities for the purposes of the Legal Services Act 2007 (see section 12 of and Schedule 2 to that Act).

(3A) For the purposes of subsection (3)—

(a) “disposition”

(i) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the Law of Property Act 1925 (short leases), but

(ii) subject to that, includes in the case of leases both their grant and their assignment, and

(b) “acquisition” has a corresponding meaning.]

^{F40}(4)

Textual Amendments

F38 Words in s. 11(1) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 2\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)

F39 S. 11(3A)(3B) substituted (1.1.2010) for s. 11(3) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 2\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(iii\)](#) (with art. 9)

F40 S. 11(4) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 2\(c\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(i\)\(iv\)\(cc\)](#) (with art. 9)

The Council for Licensed Conveyancers

12 Establishment of the Council.

(1) For the purposes of this Part there shall be a body to be known as the Council for Licensed Conveyancers.

(2) ^{F41}

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(3) Schedule 3 shall have effect with respect to the Council.

Textual Amendments

F41 S. 12(2) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, Sch. 17 para. 3, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(i\)\(iv\)\(dd\)](#) (with art. 9)

Training and licensing of persons seeking to practise as licensed conveyancers

13 Training rules.

- (1) The Council shall make rules relating to the education and training of those seeking to practise as licensed conveyancers, and those rules shall, in particular, include provisions prescribing—
 - (a) the examinations to be taken by such persons; and
 - (b) requirements as to practical training and experience.
- (2) Rules made by the Council under this section may—
 - (a) prescribe minimum standards of general education that must have been attained by persons who seek to practise as licensed conveyancers;
 - (b) provide for the recognition by the Council of courses of study provided by educational institutions or other bodies as being adequate for the purpose of preparing candidates for any examinations held in pursuance of subsection (1)(a);
 - (c) prescribe any education or training to be undergone by persons who are licensed conveyancers, and, in connection therewith, provide for the approval by the Council of courses of study provided by educational institutions or other bodies;
 - (d) include provision for the charging of fees by the Council;
 - (e) make different provision in relation to different classes of persons.
- (3) Rules under subsection (1)(b) may provide—
 - (a) for the manner in which a person may satisfy the Council that he has complied with any requirement of the rules as to practical experience;
 - (b) for attendance by a person at a training course approved by the Council for the purposes of the rules to count as practical training for those purposes.
- (4) Without prejudice to the generality of subsection (2)(e), rules under this section may provide for persons who—
 - (a) hold such qualifications as may be specified in the rules; or
 - (b) have acquired such experience in relation to the provision of conveyancing services as may be so specified; or
 - (c) satisfy such other conditions as may be so specified, to be exempt from any of the requirements of the rules.
- (5) The Council may—
 - (a) appoint, or approve the appointment of, persons as examiners or moderators in connection with examinations held in pursuance of subsection (1)(a); and
 - (b) remunerate any person appointed by it under paragraph (a) of this subsection.

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14 Applications for licences.

- (1) An application for a licence under this Part shall be made to the Council in such manner, and shall be accompanied by such fee, as may be prescribed by rules made by the Council under this section.
- (2) Any such rules—
 - (a) may prescribe the forms to be used in connection with applications for licences under this Part;
 - (b) may provide for applications of any description specified in the rules to be exempt from any of the requirements of the rules.

15 Issue of licences by Council.

- (1) If, on an application for a licence under this Part made in accordance with section 14, the Council is satisfied—
 - (a) that the applicant has complied with such rules under section 13 (if any) as are applicable in his case; and
 - (b) that he has made adequate arrangements for the purpose of complying with any rules made under or for the purposes of section 21(1); and
 - (c) that he is a fit and proper person to practise as a licensed conveyancer or, in the case of an applicant in relation to whom section 16 has effect, that he is a fit and proper person to practise as such a conveyancer subject to his complying with any particular conditions that may be imposed under that section,the Council shall issue the applicant either with a licence free of conditions or with a licence subject to such conditions as aforesaid, as the case may require.
- (2) If the Council is for any reason not so satisfied it shall refuse the application, and shall notify the applicant of the refusal of the application and of the grounds on which it has been refused.
- (3) Where—
 - (a) an application for a licence has been made in accordance with section 14; and
 - (b) the Council has within the period of [^{F42}42] days beginning with the date when the application was received by the Council neither issued a licence in pursuance of the application nor refused the application under subsection (2),then, for the purposes of this Part, the application shall be deemed to have been so refused by the Council, and the applicant shall be deemed to have been notified of the refusal at the end of the said period.
- (4) Subject to the provisions of this Part, the period for which a licence shall be in force under this Part shall be [^{F43}such period, beginning with the date of issue of the licence, as may be specified in the licence.]
- (5) Where—
 - (a) an application for a licence is made in accordance with section 14 by a person who, at the date of the application, already holds a licence under this Part; and
 - (b) no new licence is issued to him in pursuance of the application before the time when his existing licence would, apart from this subsection, expire in accordance with subsection (4),

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his existing licence shall not expire at that time but shall continue in force until a new licence is issued to him in pursuance of the application or, if the application is refused by the Council—

- (i) until the end of the period within which an appeal may be brought against the refusal under section 29(1)(a); or
 - (ii) if such an appeal is brought, until the appeal is determined or abandoned.
- (6) Where an applicant for a licence under this Part has held such a licence at any time within the period of twelve months ending with the date of his application, any licence granted to him in pursuance of the application shall, unless the Council directs otherwise, be deemed to have been issued on the day following the date when his previous licence expired in accordance with subsection (4) (or would have so expired but for subsection (5)) and accordingly to have been held by him as from that day.
- (7) ^{F44}
- (8) ^{F44}

Textual Amendments

- F42** Word in s. 15(3)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 4(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F43** Words in s. 15(4) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 4(3)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F44** S. 15(7)(8) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, **Sch. 17 para. 4(4)**, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**

Modifications etc. (not altering text)

- C6** S. 15(3)-(6) applied (with modifications) (1.4.1991 for certain purposes, otherwise 7.12.2004) by Courts and Legal Services Act 1990 (c. 41), ss. 53, 124, **Sch. 8 para. 4(3)** (with s. 59(1)); S.I. 1991/608, **art. 2**, Sch; S.I. 2004/2950, **art. 2(a)**

16 Conditional licences.

- (1) Subject to subsection (4), this section has effect in any case where a person applies for a licence under this Part—
- (a) for the first time;
 - (b) when each licence previously held by him under this Part has been subject to conditions under this section;
 - (c) when, on the first day of the period to which the licence would (if granted) relate, a period of twelve months or more will have elapsed since he held a licence in force under this Part;
 - [^{F45}(ca) after the Investigating Committee established under section 24 has made any order in his case under section 24A;]
 - (d) after the Discipline and Appeals Committee established under section 25 have made any order in his case under section 26;
 - (e) after he has been invited by the Council to give an explanation in respect of any matter relating to his conduct and has failed to give an explanation in respect of that matter which the Council regards as satisfactory, and has been notified in writing by the Council that he has so failed;

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- [^{F46}(ea) when, having been required by rules made under section 22 to deliver to the Council a report by an accountant, he has not delivered such a report within the period required by the rules;
- (eb) after having been disqualified under section 99 of the Legal Services Act 2007 (disqualification from being manager or employee of a licensed body etc);
- (ec) after his holding of a restricted interest in a licensed body has been approved subject to conditions under paragraph 17, 28 or 33 of Schedule 13 to that Act (ownership of licensed bodies) or objected to under paragraph 19, 31 or 36 of that Schedule;]
- (f) while he is an undischarged bankrupt . . . ^{F47};
- (g) after having been adjudged bankrupt [^{F48}and discharged] or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors;
- (h) while he is a person as to whom powers have been exercised under section 98 of the ^{M3}Mental Health Act 1983 (judge's powers in cases of emergency);
- [^{F49}(i) after having been committed to prison in civil proceedings;
- (ia) after having been convicted of an offence involving dishonesty or deception or [^{F50}an indictable offence]; or]
- (j) 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 whose whole effect upon him he is entitled to indemnity or relief from some other person; or
- (iii) evidence of whose satisfaction has been produced to the Council.
- (2) In any case where this section has effect the Council may, on issuing a licence to the applicant under section 15, issue it subject to such conditions as the Council thinks fit; and the Council's decision in any such case to impose any particular conditions under this subsection may be made by reference to such criteria of general application as may have been determined by the Council.
- (3) Without prejudice to the generality of subsection (2), conditions may be imposed under that subsection—
- (a) for restricting the kinds of conveyancing services that may be provided by the applicant as a licensed conveyancer; or
- (b) for requiring the applicant to take any specified steps that will, in the opinion of the Council, be conducive to his carrying on an efficient practice as a licensed conveyancer;
- and conditions may be imposed under that subsection (whether for the purpose mentioned in paragraph (b) or otherwise) notwithstanding that they may result in expenditure being incurred by the applicant.
- (4) Where a licence free of conditions is issued by the Council under section 15 to an applicant in relation to whom this section has effect by reason of any such circumstances as are mentioned in paragraph [^{F51}(ca),](d), (e), [^{F52}(ea), (eb), (ec),](f), (g), (h), (i) or (j) of subsection (1), then, except in the case of any circumstances of whose existence the Council is unaware at the time the licence is issued, this section shall not thereafter have effect in relation to that person by reason of those circumstances.
- (5) Where the Council decides to issue an applicant with a licence subject to conditions, it may, if it thinks fit, direct that the conditions shall not have effect—

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- (a) pending the hearing and determination of any appeal brought by the applicant under section 29(1)(b); or
- (b) if this section has effect in relation to the applicant by reason only of any such circumstances as are mentioned in paragraph (f), (i) or (j) of subsection (1) and an appeal has been made to the appropriate court against the order or judgment in question, pending the hearing and determination of that appeal.

Textual Amendments

- F45** S. 16(1)(ca) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 5(2)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F46** S. 16(1)(ea)-(ec) inserted (31.3.2009 for specified purposes, 1.10.2011 in so far as not already in force) by Legal Services Act 2007 (c. 29), s. 182, s. 211(2), **Sch. 17 para. 5(2)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**; S.I. 2011/2196, **art. 2(1)(g)**
- F47** Words repealed by Insolvency Act 1985 (c. 65, SIF 66), s. 235(3), **Sch. 10 Pt. III** (with saving in Insolvency Act 1986 (c. 45, SIF 66), s. 437, **Sch. 11 para. 10**)
- F48** Words substituted by Insolvency Act 1985 (c. 65, SIF 66), s. 235(1), **Sch. 8 para. 40** (with saving in Insolvency Act 1986 (c. 45, SIF 66), s. 437, **Sch. 11 para. 10**)
- F49** S. 16(1)(i)(ia) substituted (1. 4. 1991 for certain purposes, otherwise 7.12.2004) for s. 16(1)(i) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, **Sch. 8 para.24** (with s. 59(1)); S.I.1991/608, **art. 2, Sch**; S.I. 2004/2950, **art. 2(a)**
- F50** Words in s. 16(1)(ia) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 para. 44**; S.I. 2005/3495, **art. 2(m)**
- F51** Words in s. 16(4) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 5(3)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F52** Words in s. 16(4) inserted (31.3.2009 for specified purposes, 1.10.2011 in so far as not already in force) by Legal Services Act 2007 (c. 29), s. 182, s. 211(2), **Sch. 17 para. 5(3)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**; S.I. 2011/2196, **art. 2(1)(g)**

Modifications etc. (not altering text)

- C7** S. 16(4)(5) extended (with modifications) (1.4.1991 for certain purposes, otherwise 7.12.2004) by Courts and Legal Services Act 1990 (c. 41), ss. 53, 124, **Sch. 8 para. 5(7)** (with s. 59(1)); S.I. 1991/608, **art. 2, Sch**; S.I. 2004/2950, **art. 2(a)**

Marginal Citations

- M3** 1983 c. 20.

[^{F53} 16A Additional fee payable by certain persons when applying for licences

- (1) This section applies where a person applies for a licence at a time when section 16 has effect in relation to him by reason of the circumstances mentioned in section 16(1)(ea).
- (2) The application must be accompanied by an additional fee of an amount prescribed by rules made by the Council for the purposes of this section.]

Textual Amendments

- F53** S. 16A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 6** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

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17 Imposition of conditions during currency of licence.

- (1) Subject to the provisions of this section the Council may in the case of any licensed conveyancer direct that his licence shall have effect subject to such conditions as the Council thinks fit.
- (2) The power to give a direction under this section in the case of any licensed conveyancer shall be exercisable by the Council at any time during the period for which his licence is in force if—
 - (a) in the event of an application for a licence being made by him at that time, section 16 would have effect in relation to him by reason of any such circumstances as are mentioned in paragraph [F54(ca),(d), (e), [F55(ea), (eb), (ec)],(i) or (j) of subsection (1) of that section; or
 - (b)^{F56}
 - (c) he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors.
- (3) Subject to subsection (4), the conditions specified in a direction under this section shall have effect as from the time when the licensed conveyancer concerned is notified of the Council's decision to give the direction.
- (4) The Council may, if it thinks fit, provide in a direction given under this section in the case of any licensed conveyancer that the conditions specified in the direction shall not have effect—
 - (a) pending the hearing and determination of any appeal brought by the licensed conveyancer under section 29(1)(c); or
 - (b) if an appeal has been made by the licensed conveyancer to the appropriate court against any order or judgment which, if successful, would result in subsection (2) no longer being applicable to him, pending the hearing and determination of that appeal.
- (5) Subsection (3) of section 16 shall apply for the purposes of subsection (1) of this section as it applies for the purposes of subsection (2) of that section.

Textual Amendments

- F54** Words in s. 17(2)(a) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 7\(2\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)
- F55** Words in s. 17(2)(a) inserted (31.3.2009 for specified purposes, 1.10.2011 in so far as not already in force) by [Legal Services Act 2007 \(c. 29\)](#), s. 182, s. 211(2), [Sch. 17 para. 7\(2\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#); S.I. 2011/2196, [art. 2\(1\)\(g\)](#)
- F56** S. 17(2)(b) repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(3), [Sch. 10 Pt. III](#) (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, [Sch. 11 para. 10](#))

[F57] 17A Variation of conditions

- (1) This section applies where a licensed conveyancer's licence has effect subject to conditions.
- (2) On an application made by the licensed conveyancer, the Council may in prescribed circumstances direct—
 - (a) the removal of a condition;
 - (b) the variation of a condition in the manner described in the application.

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- (3) “Prescribed” means prescribed by rules made by the Council.
- (4) Section 14 (applications for licences) applies in relation to an application under this section as it applies in relation to applications for a licence under this Part.]

Textual Amendments

F57 S. 17A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 8 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

18 Suspension or termination of licences.

- (1) Where an adjudication in bankruptcy is made against a licensed conveyancer, any such adjudication shall operate immediately to suspend the licence held by that person under this Part; and, subject to subsection (2), the suspension of the licence shall continue until the licence expires.
- (2) The suspension of a licence by virtue of subsection (1) shall terminate if the adjudication in question is annulled and an office copy of the order annulling the adjudication is served on the Council.
- [^{F58}(2A) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 5 has been exercised in relation to a licensed conveyancer by virtue of paragraph 1(1)(a)(i), (aa), (c) or (e) of that Schedule, the exercise of that power shall operate immediately to suspend any licence held by that person under this Part.
- (2B) Subsection (2A) does not apply if, at the time when the power referred to there is exercised, the Council directs that subsection (2A) is not to apply in relation to the licensed conveyancer concerned.
- (2C) If, at the time when the power referred to in subsection (2A) is exercised, the Council gives a direction to that effect, the licensed conveyancer concerned may continue to act in relation to any matter specified in the direction as if the licence had not been suspended by virtue of subsection (2A), but subject to such conditions (if any) as the Council sees fit to impose.
- (2D) Subject to subsection (2E), where a licence is suspended by virtue of subsection (2A) the suspension of the licence shall continue until the licence expires.
- (2E) The licensed conveyancer may, at any time before the licence expires, apply to the Council to terminate the suspension.
- (2F) On an application under subsection (2E), the Council may in its discretion—
- (a) by order terminate the suspension either unconditionally or subject to such conditions as the Council may think fit, or
 - (b) refuse the application.
- (2G) If on an application by a licensed conveyancer under subsection (2E) the Council refuses the application or terminates the suspension subject to conditions, the licensed conveyancer may appeal against the decision of the Council to the High Court which may—
- (a) affirm the decision, or

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- (b) terminate the suspension either unconditionally or subject to such conditions as it may think fit.
- (2H) In relation to an appeal under subsection (2G) the High Court may make such order as it thinks fit as to payment of costs.]
- (3) A licence held by a person under this Part shall terminate if [^{F59}he becomes a person who lacks capacity (within the meaning of the Mental Capacity Act 2005) to practise as a licensed conveyancer.]
- (4) For the purposes of this Part a licence shall be treated as not being in force at any time while it is suspended by virtue of any provision of this Part.

Textual Amendments

- F58** S. 18A(2A)-(2H) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 9** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F59** Words in s. 18(3) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68(1)-(3), **Sch. 6 para. 30** (with ss. 27, 28, 29 and 62); S.I. 2007/1897, **art. 2(1)(c)(d)**

19 Register of licensed conveyancers.

- (1) The Council shall establish and maintain, in such form as the Council may determine, a register containing the names and places of business of all persons who for the time being hold licences in force under this Part.
- (2) The Council shall accordingly cause the appropriate entries and deletions to be made in the register on the issue and termination of licences under this Part; and where any licence held by a person is for the time being suspended by virtue of any provision of this Part the Council shall cause that fact to be noted in the register against that person's name.
- (3) Any change in a licensed conveyancer's place or places of business shall be notified by him to the Council within the period of fourteen days beginning with the date on which the change takes effect.
- (4) The Council shall provide facilities for making the information contained in the entries in the register available for inspection in visible and legible form by any person during office hours and without payment.
- (5) A certificate signed by an officer of the Council appointed for the purpose and stating—
 - (a) that any person does or does not, or did or did not at any time, hold a licence in force under this Part; or
 - (b) that any licence held by any person is or was at any time either free of conditions or subject to any particular conditions,shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.

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Code of conduct

20 Rules as to professional practice, conduct and discipline.

- (1) The Council shall ^{F60} . . . make rules for regulating the professional practice, conduct and discipline of licensed conveyancers.
- (2) Rules made by the Council under this section may provide for regulating the association of licensed conveyancers with other persons in connection with the provision of conveyancing services to members of the public.

Textual Amendments

F60 Words in s. 20(1) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, Sch. 17 para. 10, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(i\)\(iv\)\(ee\)](#) (with art. 9)

Financial requirements

21 Professional indemnity and compensation.

- (1) The Council shall make rules for indemnifying licensed conveyancers and former licensed conveyancers against losses arising from claims in respect of any description of civil liability incurred by them, or by employees or associates or former employees or associates of theirs, in connection with their practices as licensed conveyancers.
 - (2) The Council shall also make rules for the making of grants or other payments for the purpose of relieving or mitigating losses suffered by persons in consequence of—
 - (a) negligence or fraud or other dishonesty on the part of licensed conveyancers, or of employees or associates of theirs, in connection with their practices (or purported practices) as licensed conveyancers; or
 - (b) failure on the part of licensed conveyancers to account for money received by them in connection with their practices (or purported practices) as licensed conveyancers.
- [^{F61}(2A) The power of the Council to make rules under subsection (2) shall apply in relation to the probate practices of licensed conveyancers as it applies to their practices as licensed conveyancers.
- (2B) In subsection (2A) “probate practice” means the provision of probate services, within the meaning given by section 119 of the Courts and Legal Services Act 1990 ^{F62}, by a person.]
- (3) For the purpose of providing such indemnity and of enabling such grants or other payments to be made, rules under this section—
 - (a) may authorise or require the Council to establish and maintain a fund or funds;
 - (b) may authorise or require the Council to take out and maintain insurance with authorised insurers;
 - (c) may require licensed conveyancers or licensed conveyancers of any specified description to take out and maintain insurance with authorised insurers.
 - (4) Without prejudice to the generality of the preceding subsections, rules under this section—

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- (a) may specify the terms and conditions on which indemnity or a grant or other payment 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 (3)(a) and require licensed conveyancers or licensed conveyancers of any specified description to make payments to any such fund;
- (c) may require licensed conveyancers or licensed conveyancers of any specified description to make payments towards the premium payable on any insurance policy maintained by the Council by virtue of subsection (3)(b);
- (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (3)(c);
- (e) may authorise the Council 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 licensed conveyancer for whom indemnity is provided has failed to comply with the rules, the Council or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which there has been a failure to comply with the rules;
- (g) may specify circumstances in which, where a grant or other payment is made in consequence of the act or omission of a licensed conveyancer, the Council or insurers may take proceedings against him in respect of the sum so paid;
- (h) may specify circumstances in which licensed conveyancers are exempt from any of the requirements of the rules;
- (i) may empower the Council to take such steps as it considers necessary or expedient to ascertain whether or not the rules are being complied with; and
- (j) may contain incidental, procedural or supplementary provisions.

[^{F63}(5)]

“Authorised insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class;
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or
 - (c) a person who does not fall within sub-paragraph (i) or (ii) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member State other than the United Kingdom.
- (6) A contract of insurance is of a relevant class for the purposes of subsection (5) if it insures against a risk arising from—
- (a) accident;
 - (b) credit;
 - (c) legal expenses;
 - (d) general liability to third parties;
 - (e) sickness;
 - (f) suretyship; or

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- (g) miscellaneous financial loss.
- (7) Subsections (5) and (6) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.]

Textual Amendments

- F61** S. 21(2A)(2B) inserted (28.3.2008) by The Courts and Legal Services Act 1990 (Modification of Power to Make Rules about Licensed Conveyancers) Order 2008 (S.I. 2008/537), art. 2(2)
- F62** There are amendments to section 119, but none is relevant.
- F63** S. 21(5)-(7) substituted (1.12.2001) for s. 21(5) by S.I. 2001/3649, arts. 1, 298

22 Keeping of accounts and establishment of client accounts.

- (1) The Council shall make rules requiring licensed conveyancers to keep such accounts in relation to their practices as may be prescribed by the rules.
- (2) The Council shall also make rules requiring licensed conveyancers—
 - (a) to open and keep at authorised institutions accounts for clients' money;
 - (b) to hold and pay out money so received in such manner as may be prescribed by the rules; and
 - (c) without prejudice to the generality of subsection (1), to keep accounts containing particulars and information as to money received or held or paid by them for or on account of their clients;
 and rules under this subsection shall specify the institutions which are authorised for the purposes of rules under paragraph (a).
- (3) Rules under subsection (1) or (2) of this section may empower the Council—
 - (a) to require licensed conveyancers to deliver to the Council at such intervals as may be prescribed by the rules reports given by ^{F64} . . . accountants and containing such information as may be so prescribed—
 - (i) for the purpose of giving a true and fair view of the state of their businesses; or
 - (ii) for the purpose of enabling the Council to ascertain whether or not the rules have been complied with;
 - (b) to take such other steps as it considers necessary or expedient for the latter purpose;
 and any such rules may specify circumstances in which persons are exempt from any of the requirements of the rules.
- ^{F65}(4) Provision made in rules by virtue of subsection (3)(a) may provide that the reports delivered to the Council must be reports given by accountants in respect of whom requirements prescribed by the rules are met.]

Textual Amendments

- F64** Words in s. 22(3)(a) repealed (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 11(a), Sch. 23 (with ss. 29, 192, 193); S.I. 2008/222, art. 2(k)(n)(ii)

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F65 S. 22(4) substituted (7.3.2008) for s. 22(4)(5) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 11\(b\)](#), (with ss. 29, 192, 193); S.I. 2008/222, [art. 2\(k\)](#)

23 Interest on clients' money.

- (1) Rules made under subsection (2) of section 22 shall make provision for requiring a licensed conveyancer who has received money from a client to account, in such cases as may be prescribed by the rules, to the person who is or becomes entitled to the money for the interest which was, or could have been, earned by putting the money in a separate deposit account at an institution authorised for the purposes of rules under paragraph (a) of that subsection.
- (2) The cases in which a licensed conveyancer may be required to account for interest by rules made by virtue of subsection (1) may be defined by reference to, among other things, the amount of the sum held or received by him or the period for which it is likely to be retained, or both; and any such 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 Council.
- (3) Except as provided by any rules so made and subject to subsection (4), a licensed conveyancer who maintains an account in pursuance of section 22(2)(a) in which he keeps money received or held for or on account of his clients generally shall not be liable to account to any person for interest received by him on money in that account.
- (4) Nothing in this section or in any rules under section 22(2) shall affect any arrangement in writing between a licensed conveyancer and his client as to the application of the client's money or the payment of interest on it.

Disciplinary and other proceedings

24 Preliminary investigation of disciplinary cases.

- (1) The Council shall establish a committee, to be known as the Investigating Committee, for the ^{F66}consideration of cases in which—
 - (a) it is alleged that a licensed conveyancer—
 - (i) has (whether while a licensed conveyancer or not) been convicted by any court in the United Kingdom of a criminal offence which renders him unfit to practise as a licensed conveyancer; or
 - (ii) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject; or
 - (iii) has failed to comply with any rules made by the Council under this Part; ^{F67}
 - (b) ^{F67}
- ^{F68} . . .

^{F69}(1A) The Investigating Committee shall make a preliminary investigation of such an allegation and—

- (a) hear and determine the allegation, or

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- (b) refer the allegation to the Discipline and Appeals Committee established under section 25 for hearing and determination by that Committee under section 26.]
- (2) ^{F70}
- (3) Any reference in subsection (1) ^{F71} . . . to a licensed conveyancer in relation to any such allegation ^{F72} . . . as is mentioned in paragraph (a)(ii) or (iii) ^{F73} . . . of subsection (1) includes a reference to a person who was a licensed conveyancer at the time when the conduct to which the allegation ^{F72} . . . relates took place.
- (4) The Council shall make rules as to the constitution of the Investigating Committee and any such rules may provide for the appointment to the Committee of persons (whether licensed conveyancers or not) who are not members of the Council.
- [^{F74}(4A) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.]
- (5) where it appears to the Investigating Committee—
- (a) that any such allegation ^{F75} . . . as is mentioned in subsection (1) ought to be referred to the Discipline and Appeals Committee for hearing and determination by that Committee under section 26; and
- (b) that it is necessary for the protection of consumers to do so,
- the Investigating Committee may, if they think fit, direct that any licence held by the licensed conveyancer in question shall be suspended until the allegation ^{F75} . . . is determined by the Discipline and Appeals Committee or until the expiration of such period as may be prescribed by rules made by the Council, whichever is the earlier.
- [^{F76}(6) Before making a direction under subsection (5), the Investigating Committee must give the licensed conveyancer an opportunity to make representations against the making of the proposed direction.
- (7) In relation to proceedings under subsection (6), the Investigating Committee may make such order as they think fit as to the payment of costs by—
- (a) the Council, or
- (b) the licensed conveyancer.
- (8) Where a direction under subsection (5) has been made, the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.
- (9) Where an order has been made under subsection (7) the Council or the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.
- (10) Where an order is made by the Discipline and Appeals Committee under subsections (8) or (9)—
- (a) the person against whom the order is made, and
- (b) if not within paragraph (a), the Council,
- may appeal against the order to the High Court.
- (11) On an appeal under subsection (10) the High Court may make such order as it thinks fit.
- (12) The decision of the High Court on an appeal under subsection (10) shall be final.]

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Textual Amendments

- F66** Words in s. 24(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 12(2)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F67** S. 24(1)(b) and preceding word repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(2)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F68** Words in s. 24(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(2)(c), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F69** S. 24(1A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 12(3)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F70** S. 24(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(4), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F71** Words in s. 24(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(5)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F72** Words in s. 24(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(5)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F73** Words in s. 24(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(5)(c), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F74** S. 24(4A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 12(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F75** Words in s. 24(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(7), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F76** S. 24(6)-(12) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 12(8)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

[^{F77}24A Determination of allegations by Investigating Committee

- (1) Where, on hearing an allegation by virtue of section 24(1A)(a), the Investigating Committee are satisfied that a licensed conveyancer—
- has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject, or
 - has failed to comply with any rules made by the Council under this Part,
- the Committee may, if they think fit, make an order directing the payment by the licensed conveyancer of a penalty to be forfeited to Her Majesty.
- (2) In relation to proceedings before the Investigating Committee by virtue of section 24(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—
- the Council,
 - the licensed conveyancer against whom the proceedings were brought, or
 - if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
- (3) In subsection (2), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A).
- (4) The amount of any penalty required to be paid under subsection (1) may not exceed such amount as may be prescribed by rules made by the Council for the purposes of this subsection.

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- (5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—
- (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and
 - (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.
- (6) A person against whom an order is made by the Investigating Committee by virtue of subsection (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (7) Where an order is made by the Investigating Committee by virtue of subsection (2), a person listed in paragraphs (a) to (c) of that subsection may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (8) Where an order is made by the Discipline and Appeals Committee under subsection (6) or (7)—
- (a) a party to the appeal, or
 - (b) if not within paragraph (a), the Council,
- may appeal against the order to the High Court.
- (9) On an appeal under subsection (8) the High Court may make such order as it thinks fit.
- (10) The decision of the High Court on an appeal under subsection (8) shall be final.]

Textual Amendments

F77 S. 24A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 13 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

25 The Discipline and Appeals Committee.

- (1) The Council shall establish a committee, to be known as the Discipline and Appeals Committee, for the hearing and determination of—
- (a) cases referred to them by the Investigating Committee under section 24; and
 - (b) applications and appeals made or brought under [F78section 24A, 27, 28 or] 29.
- (2) The Council shall make rules as to the constitution of the Discipline and Appeals Committee, the times and places of the meetings of the Committee, the quorum and the mode of summoning the members of the Committee.
- (3) Rules under this section—
- (a) shall secure that a person who acted in relation to any case as a member of the Investigating Committee does not act in relation to that case as a member of the Discipline and Appeals Committee;
 - (b) may provide for the appointment to the Discipline and Appeals Committee of persons (whether licensed conveyancers or not) who are not members of the Council.

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Textual Amendments

F78 Words in s. 25(1)(b) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 14](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)

26 Proceedings in disciplinary cases.

- (1) Where on the hearing of any allegation [^{F79}referred to them under section 24(1A)(b)] the Discipline and Appeals Committee are satisfied that a licensed conveyancer—
- (a) has been convicted as mentioned in section 24(1)(a)(i) of an offence which renders him unfit to practise as a licensed conveyancer;
 - (b) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject; or
 - (c) has failed to comply with any rules made by the Council under this Part, the Committee may, if they think fit, make one or more of the orders referred to in subsection (2).

- (2) Those orders are—
- (a) an order revoking any licence held by the licensed conveyancer;
 - (b) an order directing that the licensed conveyancer shall be disqualified (either permanently or during a specified period) from holding a licence under this Part;
 - (c) an order suspending any licence held by the licensed conveyancer;
 - (d) an order that any such licence shall have effect subject to such conditions as may be specified in the order;
 - (e) an order directing the payment by the licensed conveyancer of a penalty not exceeding [^{F80}such amount as may be prescribed by rules made by the Council for the purposes of this paragraph], to be forfeited to Her Majesty;
 - [^{F81}(f) an order reprimanding the licensed conveyancer.]
 - (g) [^{F82}.....]

[^{F83}(2A) In relation to proceedings before the Discipline and Appeals Committee under this section, the Committee may make such order as they consider fit as to the payment of costs by—

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

(2B) In subsection (2A), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A).]

(3) ^{F84}

(4) References in this section to a licensed conveyancer include, in relation to an allegation or complaint which has been referred to the Committee in pursuance of section 24 (3), references to any such person as is mentioned in that provision.

(5) ^{F85}

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- (6) ^{F85}
- (7) A person against whom an order is made by the Committee by virtue of subsection (1) may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.
- [^{F86}(7A) Where the Discipline and Appeals Committee make an order under subsection (2A), a person listed in paragraphs (a) to (c) of that subsection may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.]
- (8) The decision of the High Court on an appeal under subsection (7) [^{F87}or (7A)] shall be final.

Textual Amendments

- F79** Words in s. 26(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F80** Words in s. 26(2)(e) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(3)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F81** S. 26(2)(f) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(3)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F82** S. 26(2)(g) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 15(3)(c), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F83** S. 26(2A)(2B) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(4)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F84** S. 26(3) repealed (*I. 4. 1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(6)(7), Sch. 20 (with **Sch. 19 para. 15(1)(b)**); S.I. 1991/608, art. 2, **Sch.**
- F85** S. 26(5)(6) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 15(5), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F86** S. 26(7A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F87** Words in s. 26(8) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(7)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

27 Removal of disqualification from holding a licence.

- (1) Where the Discipline and Appeals Committee have made any such order as is referred to in section 26(2)(b), the person to whom the order relates shall not, while his disqualification continues in force, be issued with a licence under this Part unless the Committee, on an application made to them in that behalf, direct otherwise.
- (2) An application under subsection (1) shall not be made by a person to the Committee—
- within ten months of the date of the Committee's order; or
 - within ten months of a previous such application by that person.
- [^{F88}(3) In relation to proceedings on an application under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- the Council;
 - the applicant.]

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Textual Amendments

F88 S. 27(3) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 16** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

28 Revocation of licence on grounds of fraud or error.

- (1) Where the Discipline and Appeals Committee are satisfied that a licence was issued to a person as a result of any error, or as a result of fraud on the part of that person, the Committee may, if they think fit, by order revoke the licence.
- (2) A person may be issued with a licence under this Part notwithstanding that a licence previously held by him has been revoked under this section; but if it was so revoked on the ground of fraud he shall not be issued with a licence except on an application made in that behalf to the Committee.
- (3) On any such application the Committee may, if they think fit, direct that the applicant shall be disqualified from holding a licence under this Part until the expiration of such period as may be specified in the direction.
- (4) Section 27 shall apply in relation to a direction under subsection (3) as it applies in relation to any such order as is referred to in section 26(2)(b).
- [^{F89}(5) In relation to proceedings for the revocation of a licence under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the licensed conveyancer to whose licence the proceedings relate.
- (6) In relation to proceedings on an application under subsection (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the applicant.]

Textual Amendments

F89 S. 28(5)(6) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 17** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

29 Appeals from decisions of Council in relation to licences.

- (1) Where, in the case of any person, the Council—
 - (a) refuses an application for a licence made by that person;
 - (b) decides to issue that person with a licence subject to conditions under section 16; ^{F90} . . .
 - (c) decides to give a direction in relation to that person under section 17, [^{F91} or
 - (d) refuses an application made by that person under section 17A,]that person may appeal to the Discipline and Appeals Committee against that refusal or decision within one month of being notified of it.

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- (2) On an appeal under this section the Discipline and Appeals Committee may—
- (a) in the case of an appeal under subsection (1)(a) or (b), by order direct the Council to issue the appellant with—
 - (i) a licence free from conditions; or
 - (ii) a licence subject to such conditions as may be specified by the Committee in the direction;
 - (b) in the case of an appeal under subsection (1)(c), by order—
 - (i) revoke the direction of the Council under section 17; or
 - (ii) direct that the appellant’s licence shall have effect subject to such conditions as may be specified by the Committee in the direction;
 - [^{F92}(ba) in the case of an appeal under subsection (1)(d), by order direct the Council to grant the application;]
 - (c) in any case, except an appeal in respect of a deemed refusal under section 15(3), affirm the refusal or decision of the Council appealed against;
 - (d) in the said excepted case, by order direct the Council not to issue a licence to the appellant.
- (3) On an appeal under this section the Committee may make such order as to the payment of costs by the Council or by the appellant as they think fit.

Textual Amendments

- F90** Word in s. 29(1)(b) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 18(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F91** S. 29(1)(d) and preceding word inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 18(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F92** S. 29(2)(ba) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 18(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

30 Supplementary provisions relating to disciplinary and other proceedings.

Schedule 4 (which contains provisions supplementary to sections 26 to 29) shall have effect.

Intervention by Council

31 Intervention in licensed conveyancer’s practice and examination of files.

- (1) The powers conferred by Part II of Schedule 5 shall be exercisable in the circumstances specified in Part I of that Schedule.
- (2) Where the Investigating Committee are satisfied that it is necessary to do so for the purpose of investigating any such allegation ^{F93} . . . as is mentioned in paragraph (a) (ii) or (iii) ^{F94} . . . of section 24(1), the Committee may give notice to the licensed conveyancer to whom the allegation ^{F93} . . . relates, or to his firm, requiring the production or delivery to any person appointed by the Committee, at a time and place to be fixed by the Committee, of all documents in the possession of the licensed conveyancer or his firm in connection with the matters to which the allegation ^{F93} . . . relates (whether or not they relate also to other matters).

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- (3) Sub-paragraphs (2) to (12) of paragraph 9 of Schedule 5, together with paragraphs 11 [F95 to 12A] of that Schedule, shall apply in relation to the powers conferred on the Investigating Committee by subsection (2) as they apply in relation to the powers conferred on the Council by sub-paragraph (1) of paragraph 9, and accordingly in those provisions—
- (a) any reference to the Council shall be construed as including a reference to the Committee;
 - (b) any reference to a person appointed, or to a requirement, under that sub-paragraph shall be construed as including a reference to a person appointed, or to a requirement, under subsection (2); and
 - (c) any reference to any such documents as are mentioned in that sub-paragraph shall be construed as including a reference to any such documents as are mentioned in subsection (2).
- (4) The reference in subsection (2) to a licensed conveyancer includes a reference to a person who was a licensed conveyancer at the time when the conduct to which the allegation F96 . . . relates took place; and references to the licensed conveyancer in the provisions applied by subsection (3) shall be construed accordingly.

Textual Amendments

- F93** Words in s. 31(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 19(2)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F94** Words in s. 31(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 19(2)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F95** Words in s. 31(3) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 19(3)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F96** Words in s. 31(4) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 19(4), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**

Recognised bodies

32 Provision of conveyancing services by recognised bodies.

- (1) The Council may make rules—
- (a) making provision as to the management and control [F97 of conveyancing services bodies;]
 - (b) prescribing the circumstances in which such bodies may be recognised by the Council as being suitable bodies to undertake the provision of [F98 conveyancing services or other relevant legal services];
 - [F99 (ba) prescribing the Council's arrangements for authorising recognised bodies, for the purposes of the Legal Services Act 2007, to carry on reserved instrument activities, or the administration of oaths, within the meaning of that Act;]
 - (c) prescribing the [F100 requirements] which (subject to any exceptions provided by the rules) must at all times be satisfied by bodies so recognised if they are to remain so recognised; and
 - (d) regulating the conduct of the affairs of such bodies.
- (2) In this Part “recognised body” means a body F101 . . . for the time being recognised under this section.

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- (3) Rules made by the Council may also make provision—
- (a) for the manner and form in which applications for recognition under this section [^{F102}, or for the renewal of such recognition,] are to be made, and for the payment of fees in connection with such applications;
 - [^{F103}(aa) for the payment of fees in connection with other applications under the rules;]
 - (b) for regulating the names that may be used by recognised bodies;
 - [^{F104}(c) about the time when any recognition granted under this section, or renewal of such recognition, takes effect and the period for which it is (subject to the provisions of this Part) to remain in force;
 - (ca) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed in the rules;
 - (cb) about the effect on the recognition of a partnership or other unincorporated body (“the existing body”) of any change in its membership, including provision for the existing body's recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business;]
 - (d) ^{F105}
 - (e) for the keeping by the Council of [^{F106}a register] containing the names and principal places of business of all bodies ^{F107} . . . which are for the time being recognised under this section [^{F108}and such other information relating to those bodies as may be specified in the rules;]
 - [^{F109}(ea) for information (or information of a specified description) on such a register to be made available to the public, and about the manner in which and times at which, information is to be made so available;]
 - (f) for rules made under any other provision of this Part to have effect in relation to recognised bodies with such additions, omissions or other modifications as appear to the Council to be necessary or expedient;
 - [^{F110}(fa) about the education and training requirements to be met by managers and employees of recognised bodies;
 - (fb) for rules made under any other provision of this Part to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other modifications as appear to the Council to be necessary or expedient;]
 - (g) for empowering the Council to take such steps as it considers necessary or expedient to ascertain whether or not any rules applicable to recognised bodies [^{F111}or managers or employees of such bodies] by virtue of this section are being complied with;
 - (h) for the manner of service on recognised bodies of documents authorised or required to be served on such bodies under this Part.
- [^{F112}(3A) Rules made by the Council may provide for the Council to grant a body recognition under this section subject to one or more conditions.
- (3B) At any time while a body is recognised under this section, the Council may, in such circumstances as may be prescribed, direct that the body's recognition is to have effect subject to such conditions as the Council may think fit.
- “Prescribed” means prescribed by rules made by the Council.
- (3C) The conditions which may be imposed under subsection (3A) or (3B) include—

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- (a) conditions restricting the kinds of conveyancing services that may be provided by the body;
 - (b) conditions imposed by reference to criteria of general application;
 - (c) conditions requiring the body to take any specified steps that will, in the opinion of the Council, be conducive to the body carrying on an efficient business;
- and conditions may be imposed despite the fact that they may result in expenditure being incurred by the body.
- (3D) On an application made by a recognised body, the Council may, in such circumstances as may be prescribed, direct—
- (a) the removal of a condition subject to which the body's recognition has effect;
 - (b) the variation of such a condition in the manner described in the application.
- (3E) For the purposes of subsection (3D)—
- (a) section 14 applies in relation to an application under that subsection as it applies in relation to an application for a licence under this Part of this Act, and
 - (b) “prescribed” means prescribed by rules made by the Council.
- (3F) Rules under subsection (3A) or (3B) may make provision about when conditions imposed take effect (including provision conferring power on the Council to direct that a condition is not to have effect until the conclusion of any appeal in relation to it).
- (3G) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Council considers necessary or expedient.]
- (4) ^{F113}
- (5) ^{F113}
- (6) A certificate signed by an officer of the Council and stating—
- (a) that any body ^{F114} . . . is or is not, or was or was not at any time, a recognised body; or
 - [^{F115}(b) that a body's recognition under this section does not have effect subject to any conditions or has effect subject to any particular conditions,]
- shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.
- (7) Schedule 6 shall have effect with respect to recognised bodies.
- [^{F116}(8) In this section “conveyancing services body” and “relevant legal services” have the meaning given by section 32A.
- (9) The Council is capable of being designated as a licensing authority for the purposes of, and subject to, Part 5 of the Legal Services Act 2007 (alternative business structures).]

Textual Amendments

F97 Words in s. 32(1)(a) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 207, [Sch. 17 para. 20\(2\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

F98 Words in s. 32(1)(b) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 207, [Sch. 17 para. 20\(3\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

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- F99** S. 32(1)(ba) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(4)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F100** Word in s. 32(1)(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(5)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F101** Word in s. 32(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, 210, Sch. 17 para. 20(6), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)** (subject to art. 4)
- F102** Words in s. 32(3)(a) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F103** S. 32(3)(aa) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F104** S. 32(3)(c)(ca)(cb) substituted (31.3.2009) for s. 32(3)(c) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F105** S. 32(3)(d) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, 210, Sch. 17 para. 20(7)(d), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)** (subject to art. 4)
- F106** Words in s. 32(3)(e) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(c)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F107** Word in s. 32(3)(e) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, 210, Sch. 17 para. 20(7)(e)(ii), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)** (subject to art. 4)
- F108** Words in s. 32(3)(e) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(c)(iii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F109** S. 32(3)(ea) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(f)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F110** S. 32(3)(fa)(fb) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(g)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F111** Words in s. 32(3)(g) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(7)(h)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F112** S. 32(3A)-(3G) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(8)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F113** S. 32(4)(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, 210, Sch. 17 para. 20(9), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)** (subject to art. 4)
- F114** Word in s. 32(6)(a) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, 210, Sch. 17 para. 20(10)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)** (subject to art. 4)
- F115** S. 32(6)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(10)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F116** S. 32(8)(9) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 207, **Sch. 17 para. 20(11)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)

Modifications etc. (not altering text)

- C8** S. 32 amended (1.4.1991 for certain purposes, otherwise 7.12.2004) by Courts and Legal Services Act 1990 (c. 41), ss. 53, 124, **Sch. 8 para. 11** (with s. 59(1)); S.I. 1991/608, **art. 2**, Sch; S.I. 2004/2950, **art. 2(a)**

[^{F117}32A Conveyancing services bodies

- (1) For the purposes of section 32 a “conveyancing services body” means a body (corporate or unincorporate) in respect of which—
 - (a) the management and control condition, and
 - (b) the services condition,
 are satisfied.
- (2) The management and control condition is satisfied in the case of a partnership if at least one of the partners is a licensed conveyancer.

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- (3) The management and control condition is satisfied in the case of an unincorporated body (other than a partnership), or a body corporate which is managed by its members, if at least one of those members is a licensed conveyancer.
- (4) The management and control condition is satisfied in the case of any other body corporate if at least one director of the body is a licensed conveyancer.
- (5) The services condition is satisfied in respect of a body if the body is carrying on a business consisting of the provision of—
 - (a) conveyancing services, or
 - (b) conveyancing services and other relevant legal services.

- (6) For the purposes of this section—

“authorised person” means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007);

“relevant legal services”, in relation to a body, means—

- (a) conveyancing services, and
- (b) where authorised persons are managers or employees of, or have an interest in, the body, services such as are provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007);

and a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).]

Textual Amendments

F117 S. 32A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 21 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

Modifications etc. (not altering text)

C9 S. 32A modified (temp.) (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 209, 211, Sch. 22 para. 15 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(e) (subject to art. 4)

Miscellaneous and supplemental

[^{F118}33 Legal professional privilege.

- (1) Subsection (2) applies where a licensed conveyancer or recognised body acts as such for a client.
- (2) Any communication, document, material or information is privileged from disclosure in like manner as if the licensed conveyancer or body had at all material times been acting as the client's solicitor.
- (3) This section does not apply to a recognised body which holds a licence under Part 5 of the Legal Services Act 2007 (alternative business structures).]

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Textual Amendments

F118 S. 33 substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 22](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)

[^{F119}33A Administration of oaths by licensed conveyancers

The Council may make rules prescribing its arrangements for authorising licensed conveyancers, for the purposes of the [Legal Services Act 2007](#), to carry on activities which consist of the administration of oaths.]

Textual Amendments

F119 S. 33A inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(iii\)](#) (with art. 9)

34 Modification of existing enactments relating to conveyancing etc.

(1) In the following provisions, namely—

- (a) sections 69 and 75(1) of the ^{M4}Law of Property Act 1925; ^{F120} . . .
- (b) ^{F120}

any reference to a solicitor shall be construed as including a reference to a licensed conveyancer and any reference to a person's solicitor shall be construed as including a reference to a licensed conveyancer acting for that person.

(2) In the following provisions, namely—

- (a) sections 10(2), 48 and 182 of the Law of Property Act 1925;
- (b) ^{F121}
- (c) ^{F122}
- (d) ^{F122}
- (e) ^{F122}
- ^{F123}(f)

any reference to a solicitor shall be construed as including a reference to a licensed conveyancer or to a recognised body, and any reference to a person's solicitor shall be construed as including a reference to a licensed conveyancer or recognised body acting for that person.

(3) The Estate Agents Act 1979 shall not, by virtue of section 1 of that Act, apply to things done in the course of the provision of conveyancing services by a licensed conveyancer or a recognised body.

Textual Amendments

F120 S. 34(1)(b) and preceding word repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 135, 136(2), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); S.I. 2003/1725, [art. 2\(1\)](#)

F121 S. 34(2)(b) repealed (23.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 135, 136(2), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); S.I. 2003/1725, [art. 2\(1\)](#)

F122 S. 34(2)(c)-(e) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 24](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

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F123 S. 34(2)(f) and the word immediately preceding it repealed (1.10.1997) by 1996 c. 27, s. 66(3), Sch.10 (with Sch. 9 para. 5); S.I. 1996/1892, art. 3(1)(iv)

Marginal Citations

M4 1925 c. 20.

35 Penalty for pretending to be a licensed conveyancer or recognised body.

- (1) An individual shall not describe himself or hold himself out as a licensed conveyancer unless he holds a licence in force under this Part.
- (2) A body ^{F124} . . . shall not describe itself or hold itself out as a recognised body unless it is for the time being recognised under section 32.
- (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.

Textual Amendments

F124 Words in s. 35(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 25, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)(f)(v)(aa)

36 Offences by bodies corporate.

- ^{F125}(1) Where an offence under this Part which has been 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 ^{F126}officer of the body corporate], he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- ^{F127}(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.
- (3) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
 - (4) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.
 - (5) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.
 - (6) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.

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- (7) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (8) In this section “officer”, in relation to a body corporate, means—
- (a) any director, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity.]

Textual Amendments

- F125** S. 36 renumbered (31.3.2009) as s. 36(1) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 26(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F126** Words in s. 36(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 26(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F127** S. 36(2)-(8) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 26(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

37 Service of documents.

Any notice or other document authorised or required to be given or served under this Part may be sent by post; and for the purpose of the application to this section of section 7 of the ^{M5}Interpretation Act 1978 (service by post) the proper address of a licensed conveyancer shall be the address of any place specified in the register as his place of business or one of his places of business.

Marginal Citations

M5 1978 c. 30.

38 Rules.

- ^{F128}(1)
- (2) Any [^{F129}rules made by the Council under this Part] may make different provision for different circumstances.
- (3) Without prejudice to the generality of subsection (2), any rules prescribing a fee may provide for that fee to be reduced, or to be waived by the Council, in such circumstances as may be specified in the rules.

Textual Amendments

- F128** S. 38(1) repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, **Sch. 17 para. 27(a)**, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(iii)(i)(iv)(gg)** (with art. 9)
- F129** Words in s. 38(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 27(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)

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39 Interpretation of Part II.

(1) In this Part—

“associate” means, in the case of a licensed conveyancer practising in partnership with other persons, any partner of his not holding a licence in force under this Part or any employee of such a partner;

“client” means—

- (a) in relation to a licensed conveyancer, any person by whom or on whose behalf instructions regarding the provision of conveyancing services are given to the licensed conveyancer ^{F130} ;
- (b) in relation to a recognised body, any person by whom or on whose behalf such instructions are given to the body;

and “client account” means an account in whose title the word “client” is required by rules under section 22(2);

“conveyancing services” shall be construed in accordance with section 11(3);

“the Council” means the Council for Licensed Conveyancers;

^{F131}

“fees” includes charges, disbursements, expenses and remuneration;

“functions” includes powers and duties;

“licence” and “licensed conveyancer” have the meaning given by section 11(2);

^{F131}

[^{F132}“manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);]

“recognised body” means a body ^{F133} . . . for the time being recognised under section 32;

^{F134}

^{F135}

(2) Any reference in this Part to a licensed conveyancer practising as a sole practitioner is a reference to a licensed conveyancer practising either as the sole principal in the practice or in partnership with other persons of whom none are licensed conveyancers.

Textual Amendments

F130 S. 39(1): words in the definition of “client” repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 28\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

F131 S. 39(1): definitions of “director” and “officer” repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 28\(b\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

F132 S. 39(1): definition of “manager” inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 28\(d\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)

F133 S. 39(1): word in the definition of “recognised body” repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 28\(d\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

F134 Definition in s. 39(1) omitted (1.10.1991) by virtue of S.I. 1991/1997, [regs. 1, 2](#), [Sch. para. 55\(3\)](#) (with [reg. 4](#))

F135 S. 39(1): definition repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt. XIV](#).

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PART III

LEGAL AID

Legal aid complaints

40 Legal aid complaints: preliminary.

- (1) For the purposes of this Part of this Act a legal aid complaint is a complaint relating to the conduct of a barrister or solicitor in connection with [^{F136}the provision for any person of services [^{F137}funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service] including, in the case of a solicitor, provision for any person of such services in the capacity of agent for that person’s solicitor.]
- (2) In this Part—
- “legally assisted person” means a person to whom aid is ordered to be given under section 28 of the ^{M6}Legal Aid Act 1974;
- “the Senate” means the Senate of the Inns of Court and the Bar; and
- “Senate Disciplinary Tribunal” means any committee of the Senate which in accordance with the regulations of the Senate is to be known as a Disciplinary Tribunal.
- (3) In the Legal Aid Act 1974, sections 12(3) to (5) and 38(2) to (6) (which are superseded by this Part) shall cease to have effect.

Textual Amendments

F136 Words substituted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45(1), [Sch. 5 para. 17](#)

F137 Words in s. 40(1) substituted (1.4.2000) by 1999 c. 22, s. 24, [Sch. 4 para.33](#) (with [Sch. 14 para. 7\(c\)](#)); [S.I. 2000/774](#), [art. 2\(a\)\(ii\)](#) (subject to arts. 3, 4)

Modifications etc. (not altering text)

C10 [S. 40](#) applied (with modification) by [S.I. 2000/1119](#), [Sch. 4 para. 24\(1\)](#) (as substituted (1.7.2009) by [The Legal Services Act 2007 \(Registered European Lawyers\) Order 2009 \(S.I. 2009/1587\)](#), arts. 1(1), [3\(17\)](#))

Marginal Citations

M6 [1974 c. 4](#).

[^{F138}41 Application to legal aid complaints against barristers of disciplinary provisions.

- (1) The disciplinary provisions applicable to barristers shall apply to legal aid complaints relating to the conduct of barristers as they apply to other complaints about their conduct.
- (2) Subject to any exclusion or restriction made by those provisions [^{F139}and despite section 157 of the Legal Services Act 2007 (approved regulators not to make provision for redress)], any disciplinary tribunal which hears a legal aid complaint relating to the conduct of a barrister may, if it thinks fit and whether or not it makes any other order, order that any fees [^{F140}otherwise payable by the Legal Services Commission in

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connection with services provided by him as part of the Community Legal Service or Criminal Defence Service]] shall be reduced or cancelled.

- (3) ^{F141}
- (4) An appeal shall lie in the case of an order under subsection (2) above in the same manner as an appeal would lie in the case of any other order of such a tribunal.
- (5) The reference in subsection (2) above to a disciplinary tribunal is a reference to a tribunal acting under the disciplinary provisions applicable to barristers and it includes a reference to a member exercising any functions of the tribunal delegated to him.

Textual Amendments

- F138** Ss. 41, 42 substituted by Legal Aid Act 1988 (c. 34, SIF 70:1), s. 33
- F139** Words in s. 41(2) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, Sch. 21 para. 66 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h) (with art. 9)
- F140** Words in s. 41(2) substituted (1.4.2000) for s. 41(2)(a)(b) by 1999 c. 22, s. 24, Sch. 4 para. 34 (with Sch. 14 para. 7(2)); S.I. 2000/774, art. 2(a)(ii) (subject to arts. 3, 4)
- F141** S. 41(3) repealed (2.4.2001) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with Sch. 2 para. 2)

[^{F142}42 Exclusion of barristers from legal aid work.

- (1) Subject to any exclusion or restriction made by the disciplinary provisions applicable to barristers, where a disciplinary tribunal hears a charge of professional misconduct or breach of professional standards against a barrister, it may order that he shall be excluded from [^{F143}providing representation funded by the Legal Services Commission as part of the Criminal Defence Service]], either temporarily or for a specified period, if it determines that there is good reason for the exclusion arising out of—
- (a) his conduct in connection with any such services as are mentioned in section 40(1), or
- (b) his professional conduct generally.
- (2) Subsection (4) of section 41 shall apply to an order under subsection (1) as it applies to an order under subsection (2) of that section.
- (3) The disciplinary provisions applicable to barristers shall include provision enabling a barrister who has been excluded from [^{F143}providing representation funded by the Legal Services Commission as part of the Criminal Defence Service] under this section to apply for an order terminating his exclusion ^{F144} . . .
- (4) In this section—
- (a) the reference to a disciplinary tribunal shall be construed in accordance with section 41(5); ^{F145} . . .
- (b)

Textual Amendments

- F142** Ss. 41, 42 substituted by Legal Aid Act 1988 (c. 34, SIF 70:1), s. 33
- F143** Words in s. 42(1)(3) substituted (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 para.35 (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 3(a) (with Sch. 2 para. 2)

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- F144** Words in s. 42(3) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt.I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with Sch. 2 para. 2)
- F145** S. 42(4)(b) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt.I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with Sch. 2 para. 2)

43 Jurisdiction and powers of Solicitors Disciplinary Tribunal in relation to complaints against solicitors.

- (1) The Solicitors Disciplinary Tribunal shall have jurisdiction to hear and determine any legal aid complaint relating to the conduct of a solicitor and made to the Tribunal under this section by or on behalf of the Law Society.
- (2) In the following provisions of the ^{M7}Solicitors Act 1974, namely—
 - (a) subsections [^{F146}(9) to](11) of section 46 (procedure of Tribunal); and
 - (b) section 47(2) (powers of Tribunal),
 any reference to a complaint or to a complaint made to the Tribunal under that Act shall be construed as including a reference to a legal aid complaint or to a legal aid complaint made to the Tribunal under this section.
- (3) On the hearing of a legal aid complaint against a solicitor the Tribunal may, if it thinks fit and whether or not it makes any other order on the hearing, order that [^{F147}any costs otherwise payable by the Legal Services Commission in connection with services provided by the solicitor as part of the Community Legal Service or Criminal Defence Service] shall be reduced or cancelled.
- (4) ^{F148}
- [^{F149}(5) An appeal under section 49 of the Solicitors Act 1974 against an order of the Tribunal under subsection (3) lies only at the instance of the solicitor with respect to whom the legal aid complaint was made.]
- (6) In this section “costs” includes fees, charges, disbursements, expenses and remuneration.

Textual Amendments

- F146** Words in s. 43(2)(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 84(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**
- F147** Words in s. 43(3) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 36** (with Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(a)(ii)** (subject to arts. 3, 4)
- F148** S. 43(4) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with Sch. 2 para. 2)
- F149** S. 43(5) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 84(4)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**

Modifications etc. (not altering text)

- C11** S. 43 applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(1) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), 3(17))

Marginal Citations

- M7** 1974 c. 47.

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44 Exclusion of solicitor from legal aid work.

(1) Section 47 of the Solicitors Act 1974 (jurisdiction and powers of the Solicitors Disciplinary Tribunal) shall be amended as follows.

(2) In subsection (2), after paragraph (b) there shall be inserted—

“(bb) in the circumstances referred to in subsection (2A), the exclusion of that solicitor from legal aid work (either permanently or for a specified period);”.

(3) After that subsection there shall be inserted—

“(2A) An order of the Tribunal may make provision for the exclusion of a solicitor from legal aid work as mentioned in subsection (2)(bb) where the Tribunal determines that there is good reason for doing so arising out of—

[^{F150}(a) his conduct, including conduct in the capacity of agent for another solicitor, in connection with the provision for any person of services under the Legal Aid Act 1988; or

(b) his professional conduct generally.]

(2B) Where the Tribunal makes any such order as is referred to in subsection (2A) in the case of a solicitor who is a member of a firm of solicitors, the Tribunal may, if it thinks fit, order that any other person who is for the time being a member of the firm shall be excluded (either permanently or for a specified period) from legal aid work.

(2C) The Tribunal shall not make an order under subsection (2B) excluding any person from legal aid work unless an opportunity is given to him to show cause why the order should not be made.

(2D) Any person excluded from legal aid work by an order under this section may make an application to the Tribunal for an order terminating his exclusion from such work.”.

(4) ^{F151}

Textual Amendments

F150 Words substituted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45(1), [Sch. 5 para. 19\(a\)](#)

F151 [S. 44\(4\)](#) repealed (2.4.2001) by [1999 c. 22, s. 106, Sch. 15 Pt.I](#) (with [Sch. 14 paras. 7\(2\), 36\(9\)](#)); [S.I. 2001/916, art. 3\(b\)](#) (with [Sch. 2 para. 2](#))

Advice and assistance

45 ^{F152}

Textual Amendments

F152 [Ss. 45, 46](#) repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45(2), [Sch. 6](#)

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Legal aid in criminal proceedings

46 F153

Textual Amendments
 F153 Ss. 45, 46 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45(2), Sch. 6

PART IV

THE SUPREME COURT AND COUNTY COURTS

Proceedings relating to estates of deceased persons and trusts

47 Power of High Court to make judgments binding on persons who are not parties.

- (1) This section applies to actions in the High Court relating to the estates of deceased persons or to trusts and falling within any description specified in rules of court.
- (2) Rules of court may make provision for enabling any judgment given in an action to which this section applies to be made binding on persons who—
 - (a) are or may be affected by the judgment and would not otherwise be bound by it; but
 - (b) have in accordance with the rules been given notice of the action and of such matters connected with it as the rules may require.
- (3) Different provision may be made under this section in relation to actions of different descriptions.

48 Power of High Court to authorise action to be taken in reliance on counsel’s opinion.

- (1) Where—
 - (a) any question of construction has arisen out of the terms of a will or a trust; and
 - (b) an opinion in writing given by a [F154 person who has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990,] has been obtained on that question by the personal representatives or trustees under the will or trust,
 the High Court may, on the application of the personal representatives or trustees and without hearing argument, make an order authorising those persons to take such steps in reliance on the said opinion as are specified in the order.
- (2) The High Court shall not make an order under subsection (1) if it appears to the court that a dispute exists which would make it inappropriate for the court to make the order without hearing argument.

Status: Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.

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Textual Amendments

F154 Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 63](#)

49 Powers of High Court on compromise of probate action.

- (1) Where on a compromise of a probate action in the High Court—
- (a) the court is invited to pronounce for the validity of one or more wills, or against the validity of one or more wills, or for the validity of one or more wills and against the validity of one or more other wills; and
 - (b) the court is satisfied that consent to the making of the pronouncement or, as the case may be, each of the pronouncements in question has been given by or on behalf of every relevant beneficiary,
- the court may without more pronounce accordingly.

- (2) In this section—

“probate action” means an action for the grant of probate of the will, or letters of administration of the estate, of a deceased person or for the revocation of such a grant or for a decree pronouncing for or against the validity of an alleged will, not being an action which is non-contentious or common form probate business; and

“relevant beneficiary”, in relation to a pronouncement relating to any will or wills of a deceased person, means—

- (a) a person who under any such will is beneficially interested in the deceased’s estate; and
- (b) where the effect of the pronouncement would be to cause the estate to devolve as on an intestacy (or partial intestacy), or to prevent it from so devolving, a person who under the law relating to intestacy is beneficially interested in the estate.

50 Power of High Court to appoint substitute for, or to remove, personal representative.

- (1) Where an application relating to the estate of a deceased person is made to the High Court under this subsection by or on behalf of a personal representative of the deceased or a beneficiary of the estate, the court may in its discretion—
- (a) appoint a person (in this section called a substituted personal representative) to act as personal representative of the deceased in place of the existing personal representative or representatives of the deceased or any of them; or
 - (b) if there are two or more existing personal representatives of the deceased, terminate the appointment of one or more, but not all, of those persons.
- (2) Where the court appoints a person to act as a substituted personal representative of a deceased person, then—
- (a) if that person is appointed to act with an executor or executors the appointment shall (except for the purpose of including him in any chain of representation) constitute him executor of the deceased as from the date of the appointment; and
 - (b) in any other case the appointment shall constitute that person administrator of the deceased’s estate as from the date of the appointment.

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- (3) The court may authorise a person appointed as a substituted personal representative to charge remuneration for his services as such, on such terms (whether or not involving the submission of bills of charges for taxation by the court) as the court may think fit.
- (4) Where an application relating to the estate of a deceased person is made to the court under subsection (1), the court may if it thinks fit, proceed as if the application were, or included, an application for the appointment under the ^{M8}Judicial Trustees Act 1896 of a judicial trustee in relation to that estate.
- (5) In this section “beneficiary”, in relation to the estate of a deceased person, means a person who under the will of the deceased or under the law relating to intestacy is beneficially interested in the estate.
- (6) In section 1 of the Judicial Trustees Act 1896, after subsection (6) there shall be added—
 - “(7) Where an application relating to the estate of a deceased person is made to the court under this section, the court may, if it thinks fit, proceed as if the application were, or included, an application under section 50 of the Administration of Justice Act 1985 (power of High Court to appoint substitute for, or to remove, personal representative).”.

Marginal Citations
M8 1896 c. 35.

51 Amendments relating to jurisdiction of county courts and district probate registrars in probate proceedings.

- (1) For section 32 of the ^{M9}County Courts Act 1984 there shall be substituted—

“32 Contentious probate jurisdiction.

- (1) Where—
 - (a) an application for the grant or revocation of probate or administration has been made through the principal registry of the Family Division or a district probate registry under section 105 of the [^{F155}Senior Courts Act 1981]; and
 - (b) it is shown to the satisfaction of a county court that the value at the date of the death of the deceased of his net estate does not exceed the county court limit,

the county court shall have the jurisdiction of the High Court in respect of any contentious matter arising in connection with the grant or revocation.

- (2) In subsection (1) “net estate”, in relation to a deceased person, means the estate of that person exclusive of any property he was possessed of or entitled to as a trustee and not beneficially, and after making allowances for funeral expenses and for debts and liabilities.”.

- (2) ^{F156}

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Textual Amendments

F155 Words in s. 51 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

F156 [S. 51\(2\)](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), s. 1\(1\)](#), {Sch. 1 Pt. 1 Group 4}

Marginal Citations

M9 [1984 c. 28.](#)

Garnishee proceedings

52 Administrative and clerical expenses of garnishees.

(1) Section 40A of the ^{M10}[^{F157}Senior Courts Act 1981] and section 109 of the ^{M11}County Courts Act 1984 (administrative and clerical expenses of garnishees) shall each be amended as follows.

(2) For subsection (1) there shall be substituted—

“(1) Where an order nisi made in the exercise of the jurisdiction mentioned in subsection (2) of the preceding section is served on any deposit-taking institution, the institution may, subject to the provisions of this section, deduct from the relevant debt or debts an amount not exceeding the prescribed sum towards the administrative and clerical expenses of the institution in complying with the order; and the right of an institution to make a deduction under this subsection shall be exercisable as from the time the order nisi is served on it.

(1A) In subsection (1) “the relevant debt or debts”, in relation to an order nisi served on any such institution as is mentioned in that subsection, means the amount, as at the time the order is served on the institution, of the debt or debts of which the whole or a part is expressed to be attached by the order.

(1B) A deduction may be made under subsection (1) in a case where the amount referred to in subsection (1A) is insufficient to cover both the amount of the deduction and the amount of the judgment debt and costs in respect of which the attachment was made, notwithstanding that the benefit of the attachment to the creditor is reduced as a result of the deduction.”.

(3) In subsection (2), for “The prescribed sum may not” there shall be substituted “An amount may not in pursuance of subsection (1)”.

(4) In subsection (4), the word “and” shall be omitted, and after paragraph (b) there shall be inserted—

“(c) may provide for this section not to apply to deposit-taking institutions of any prescribed description.”.

Textual Amendments

F157 Words in s. 52 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

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Marginal Citations

M10 1981 c. 54.

M11 1984 c. 28.

Reimbursement of costs

53 Reimbursement of additional costs resulting from death or incapacity of presiding judge etc.

(1) Where—

- (a) the judge, or (as the case may be) any of the judges, presiding at any proceedings to which this section applies becomes temporarily or permanently incapacitated from presiding at the proceedings, or dies, at any time prior to the conclusion of the proceedings; and
- (b) any party represented at the proceedings incurs any additional costs in consequence of the judge's incapacity or death,

the [^{F158}Secretary of State] may, if he thinks fit, reimburse that party in respect of any such additional costs, or in respect of such part thereof as he may determine; but the amount of any such reimbursement shall not exceed such sum as the [^{F158}Secretary of State] may by order prescribe for the purposes of this section.

(2) Subject to subsection (3), this section applies to—

- (a) proceedings in the civil division of the Court of Appeal;
- (b) civil proceedings in the High Court; and
- (c) proceedings in a county court;

and, in the case of any interlocutory proceedings falling within paragraphs (a) to (c), applies separately to any such proceedings and to any other proceedings in the cause or matter in question.

(3) ^{F159}

(4) For the purposes of this section the amount of any additional costs incurred by any person as mentioned in subsection (1)(b) shall be such amount as may be agreed between the [^{F158}Secretary of State] and that person or, in default of agreement, as may be ascertained by taxation.

(5) Where any proceedings to which this section applies—

- (a) are due to be begun before a judge at a particular time; but
- (b) are not begun at that time by reason of the judge becoming temporarily or permanently incapacitated from presiding at the proceedings or by reason of his death,

subsection (1) shall have effect in relation to the incapacity or death of the judge as it has effect in relation to any such incapacity or death of a presiding judge as is mentioned in paragraph (a) of that subsection, but as if any reference to any party represented at the proceedings were a reference to any party who would have been so represented but for the judge's incapacity or death.

(6) In this section ^{F160} . . . “judge” in relation to any proceedings, includes—

- (a) a master, registrar or other person acting in a judicial capacity in the proceedings; or

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- (b) a person assisting at the proceedings as an assessor or as an adviser appointed by virtue of section 70(3) of the ^{M12}[^{F161}Senior Courts Act 1981];
- and, in relation to any such person as is mentioned in paragraph (b), any reference to presiding at any proceedings shall be construed as including a reference to assisting at the proceedings.
- (7) Any order made by the [^{F158}Secretary of State] under this section shall be made with the concurrence of the Treasury, and shall be so made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Any sums required by the [^{F158}Secretary of State] for making payments under this section shall be paid out of money provided by Parliament.

Textual Amendments

- F158** Words in s. 53 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), [arts. 1\(2\), 9](#), {Sch 2. para. 6(a)}
- F159** [S. 53\(3\)](#) repealed (27.9.1999) by [1999 c. 22, ss. 106, 108\(3\)\(f\)](#), [Sch. 15 Pt.III](#) (with Sch. 14 paras. 7(2), 36(9))
- F160** Words in s. 53(6) repealed (27.9.1999) by [1999 c. 22, ss. 106, 108\(3\)\(f\)](#), [Sch. 15 Pt.III](#) (with Sch. 14 paras. 7(2), 36(9))
- F161** Words in s. 53 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

Marginal Citations

- M12** [1981 c. 54](#).

Register of county court judgments

54 Register of county court judgments.

^{F162}

Textual Amendments

- F162** [S. 54](#) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(3), 111, [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(aa\)](#)

Relief from forfeiture in county court

55 Power of county court to grant relief from forfeiture for non-payment of rent.

- (1) Section 138 of the County Courts Act 1984 (provisions as to forfeiture for non-payment of rent) shall be amended as provided in subsections (2) to (4) of this section.
- (2) In subsection (5), the words “Subject to subsection (6),” shall be omitted.
- (3) In subsection (7)—
- (a) for “enforced” there shall be substituted “enforceable”; and

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(b) after “the lessee shall” there shall be inserted “, subject to subsections (8) and (9A),”.

(4) After subsection (9) there shall be inserted—

“(9A) Where the lessor recovers possession of the land at any time after the making of the order under subsection (3) (whether as a result of the enforcement of the order or otherwise) the lessee may, at any time within six months from the date on which the lessor recovers possession, apply to the court for relief; and on any such application the court may, if it thinks fit, grant to the lessee such relief, subject to such terms and conditions, as it thinks fit.

(9B) Where the lessee is granted relief on an application under subsection (9A) he shall hold the land according to the lease without any new lease.

(9C) An application under subsection (9A) may be made by a person with an interest under a lease of the land derived (whether immediately or otherwise) from the lessee’s interest therein in like manner as if he were the lessee; and on any such application the court may make an order which (subject to such terms and conditions as the court thinks fit) vests the land in such a person, as lessee of the lessor, for the remainder of the term of the lease under which he has any such interest as aforesaid, or for any lesser term.

In this subsection any reference to the land includes a reference to a part of the land.”.

(5) In section 139 of the ^{M13}County Courts Act 1984 (service of summons and re-entry), after subsection (2) there shall be inserted—

“(3) Subsections (9B) and (9C) of section 138 shall have effect in relation to an application under subsection (2) of this section as they have effect in relation to an application under subsection (9A) of that section.”.

Marginal Citations

M13 1984 c. 28.

Interpretation

56 Interpretation of Part IV.

In this Part—

“action” means any civil proceedings commenced by writ or in any other manner prescribed by rules of court;

“judgment” includes an order;

“will” includes a nuncupative will and any testamentary document of which probate may be granted.

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PART V

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

57 F163

Textual Amendments

F163 S. 57 repealed (4.9.1996, 1.4.1999, 28.2.2000 for specified purposes and 6.1.2010 for N.I. in so far as not already in force) by 1996 c. 31, ss. 19(2), 16, Sch. 2 (with s. 20(2)); S.I. 1999/817, art. 2(b); S.I. 2000/222, art. 3(b); S.I. 2009/2858, art. 3(d)

58 F164

Textual Amendments

F164 S. 58 repealed (31.1.1997) by 1996 c. 23, s. 107(2), Sch.4; S.I. 1996/3146, art.3(with art. 4, Sch. 2)

59 Pensions Appeal Tribunals: provision for appeals by non-residents to be heard in Scotland or Northern Ireland.

- (1) The Schedule to the ^{M14}Pensions Appeal Tribunals Act 1943 shall be amended as follows.
- (2) In paragraph 6 (which provides for appeals by persons not resident in Scotland or Northern Ireland to be heard by one of the Tribunals appointed for England and Wales), after “and” there shall be inserted “, subject to any provision made by virtue of paragraph 6A of this Schedule.”.
- (3) After paragraph 6 there shall be inserted—

“6A

Rules made under this Schedule may make provision for enabling an appeal brought by a person who, at the time when the notice of appeal was given, did not reside in any part of the United Kingdom to be heard by one of the Tribunals appointed for Scotland or, as the case may be, for Northern Ireland where, on an application in that behalf by the appellant made in such manner as may be prescribed by the rules to such authority as may be so prescribed, that authority is satisfied—

- (a) that the appellant has a closer connection with Scotland or, as the case may be, with Northern Ireland than with England and Wales; or
- (b) that there is some other good reason for the appeal to be heard in Scotland or, as the case may be, Northern Ireland.”.

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Marginal Citations

M14 1943 c. 39.

60

F165

Textual Amendments

F165 S. 60 repealed by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(2), **Sch. 8**

61 Constitution of [^{F166}youth courts] in London.

In Schedule 2 to the ^{M15}Children and Young Persons Act 1963 (which by virtue of section 17(1) of that Act has effect as Schedule 2 to the ^{M16}Children and Young Persons Act 1933), in Part II (constitution of [^{F166}youth courts] in Inner London and the City), after paragraph 15 there shall be inserted—

- (1) Where, in the case of any sitting of a [^{F166}youth court], a person nominated under paragraph 15(b) of this Schedule—
 - (a) is available to act as chairman; but
 - (b) considers that it would be appropriate for another member of the court to act as chairman,
 he may nominate that member to act as chairman at that sitting.
- (2) A member of a [^{F166}youth court] nominated to act as chairman under subparagraph (1) shall only so act while the person making the nomination continues to sit as a member of the court.”.

Textual Amendments

F166 Words in s. 61 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(1)(2)(p)**; S.I. 1992/333, art. 2(2), **Sch.2**

Marginal Citations

M15 1963 c. 37.

M16 1933 c. 12.

62 Amendments of Judicature (Northern Ireland) Act 1978.

- (1) In section 70(2)(a) of the ^{M17}Judicature (Northern Ireland) Act 1978 the words “and is in practice as such” (which disqualify non-practising barristers and solicitors for appointment as statutory officers under section 70(2) of that Act) shall be omitted.
- (2) In section 103(3) of that Act (appointment and removal from office of justices of the peace) for the words from “on behalf” to “Chancellor” there shall be substituted the words “by the Lord Chancellor by instrument on behalf and in the name of Her Majesty”.

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Marginal Citations

M17 1978 c. 23.

63 F167

Textual Amendments

F167 S. 63 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 109(5), 125(7), Sch. 20

64 Northern Ireland rules of court with respect to disclosure of expert evidence etc.

(1) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings, or in connection with the obtaining or giving of legal advice, are in certain circumstances privileged from disclosure, provision may be made by rules of court for requiring, in the case of civil proceedings of any description specified in the rules—

- (a) a party who has been afforded a medical examination of another party to disclose to that other party the result of the examination;
- (b) a party who proposes to adduce at the trial expert evidence with respect to medical matters, or matters of any other class specified in the rules, to disclose that evidence to every other party to the proceedings;

and any such disclosure shall be made by the furnishing of any such document or documents as may be specified in the rules, and shall be so made by such time as may be determined by or in accordance with the rules.

(2) Provision may be made by rules of court as to the conditions subject to which expert evidence may be given in civil proceedings.

(3) Without prejudice to the generality of subsection (2), rules of court made in pursuance of that subsection may make provision for prohibiting a party from adducing, except with the leave of the court, any expert evidence the contents of which were required to be, but have not been, disclosed by him in accordance with rules under subsection (1) (b).

(4) Any rules of court made in pursuance of this section may make different provision for different classes of cases and for other different circumstances.

(5) In this section “rules of court” means—

- (a) rules of court made under section 55 of the ^{M18}Judicature (Northern Ireland) Act 1978; or
- (b) county court rules made under Article 47 of the ^{M19}County Courts (Northern Ireland) Order 1980;

and nothing in this section shall prejudice the generality of either of those provisions.

(6) Section 71 of the ^{M20}Administration of Justice Act 1982 (which is superseded by this section) shall cease to have effect.

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Marginal Citations

- M18 1978 c. 23.
- M19 S.I. 1980/397 (N.I. 13).
- M20 1982 c. 53.

65 F168

Textual Amendments

- F168 S. 65 repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch.1**

Supplementary

66 F169

Textual Amendments

- F169 S. 66 repealed by **Building Societies Act 1986** (c. 53, SIF 16), ss. 54(3)(a)(5), 119(5), 120, **Sch. 19 Pt. I**

67 Consequential amendments and repeals.

- (1) The enactments specified in Schedule 7 shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.
- (2) The enactments specified in Schedule 8 are hereby repealed to the extent specified in the third column of that Schedule.

68 Extent: power to make corresponding provision for Northern Ireland.

- (1) With the exception of the provisions referred to in subsection (2), this Act does not extend to Scotland or Northern Ireland.
- (2) Those provisions are—
 - (a) sections 59 and 60;
 - (b) sections 62 to 64, section 67(2) and Schedule 8 so far as they relate to the ^{M21}Justices Protection (Ireland) Act 1849, the ^{M22}Judicature (Northern Ireland) Act 1978 and the ^{M23}Administration of Justice Act 1982, and paragraph 16 of Schedule 9.
 - (c) section 66;
 - (d) this section; and
 - (e) section 69.
- (3) Of those provisions—

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- (a) subsections (1) to (5) of section 60 extend to the Isle of Man as well as to Scotland and Northern Ireland;
 - (b) the provisions referred to in subsection (2)(b) extend to Northern Ireland only; and
 - (c) section 66 does not extend to Northern Ireland.
- (4) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M24}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of section 45 or 52 of this Act—
- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
 - (b) shall be subject to annulment in pursuance of a resolution of either House.

Marginal Citations

- M21** 1849 c. 16.
- M22** 1978 c. 23.
- M23** 1982 c. 53.
- M24** 1974 c. 28.

69 Short title, commencement, transitional provisions and savings.

- (1) This Act may be cited as the Administration of Justice Act 1985.
- (2) Subject to subsections (3) and (4), this Act shall come into force on such day as the ^{F170}Lord Chancellor may by order made by statutory instrument appoint; and an order under this subsection may appoint different days for different provisions and for different purposes.
- (3) The following provisions of this Act shall come into force on the day this Act is passed—
- (a) section 63;
 - (b) Part I of Schedule 8 and section 67(2) so far as relating thereto;
 - (c) section 68;
 - (d) this section and Schedule 9.
- (4) The following provisions of this Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed—
- (a) sections 45, 49, 52, 54, 56 to 62 and 64 and 65;
 - (b) paragraph 8 of Schedule 7 and section 67(1) so far as relating thereto;
 - (c) Part II of Schedule 8 and section 67(2) so far as relating thereto.
- (5) The transitional provisions and savings contained in Schedule 9 shall have effect; but nothing in that Schedule shall be taken as prejudicing the operation of sections 16 and 17 of the ^{M25}Interpretation Act 1978 (which relate to repeals).

Subordinate Legislation Made

- P1** Power of appointment conferred by s. 69(2) partly exercised: [S.I. 1986/364](#), 1503, 2260; 1988/1341; 1989/287; 1991/2683

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Textual Amendments

F170 Words in s. 69(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 208, 211, **Sch. 21 para. 67** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(e)**

Marginal Citations

M25 1978 c. 30.

Status:

Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

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