

## SCHEDULES

### SCHEDULE 1

Articles 36(1), 37(1), 38, 39.

#### PART I

#### PROPERTY IN THE CONTROL OR POSSESSION OF CERTAIN SOLICITORS AND OTHER PERSONS

##### *Interpretation*

**1.** In this Schedule—

*Definition rep. by 1989 NI 14*

“documents” means deeds, wills, documents constituting or evidencing the title to any property, papers, books of account, records, vouchers and other documents.

##### *Production, delivery and taking possession of documents*

**2.—(1)** The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession of all documents in the possession or control of the solicitor or his firm (including documents which are the property of the solicitor or his firm and not of his or their clients), or relating to any controlled trust.

(2) If the Society have reason to suspect that any documents which relate wholly or in part to the solicitor's or his firm's practice or former practice (whether or not the documents are the property of the solicitor or his firm) or to any controlled trust are in the possession or control of some person other than the solicitor or his firm or any of his or his firm's clients or any other solicitor instructed by any such client, the Society may require that person to produce or deliver such documents to any person appointed by the Society at a time and place to be fixed by the Society and may take possession of such documents.

**3.—(1)** If any person having possession or control of any such documents fails to comply forthwith with any requirement made under paragraph 2—

(a) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding<sup>F1</sup> level 3 on the standard scale]; and

(b) <sup>F2</sup> . . . the High Court may, on the application of the Society, order that person to comply with the requirement within such time as may be specified in the order, and may at the same time or later order that on that person's failure to comply with such requirement one or more officers of the Society, or one or more persons appointed by the Society for the purpose, may forthwith enter upon any premises (using such force as is reasonably necessary) to search for, and take possession of, the documents.

(2) On an application under this paragraph, the court shall have regard to the interests of the persons to whom the documents which are the subject of the application belong or to whose business they relate or, where they relate to a controlled trust, to the interests of the beneficiaries under that trust.

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**F1** 1984 NI 3  
**F2** 1989 NI 14

4. Upon taking possession of any such documents, the Society shall serve upon the solicitor and every person from whom those documents were received, or from whose premises they were taken by virtue of an order made under paragraph 2, a notice giving particulars and the date of taking possession thereof.

5. Within fourteen days after the service of a notice under paragraph 4, the solicitor or other person upon whom the notice was served may, on serving not less than forty-eight hours' notice upon the Society and (if the notice served under paragraph 4 gives the name of the solicitor instructed by the Society) upon that solicitor, apply to a judge of the High Court in chambers for an order directing the Society to return those documents to the person from whom they were received, or from whose premises they were taken, as the case may be, by the Society, or to such other person as the applicant may require; and on the hearing of any such application the judge may make such order with respect to the matter as he thinks fit.

6. If no application is made under paragraph 5 or if the judge to whom any such application is made directs that the documents shall remain in the custody or control of the Society, the Society may make inquiries to ascertain the person to whom those documents belong or to whose business they relate and may deliver those documents to either of such persons or deal with them in accordance with the directions of either of those persons; so however that—

- (a) before delivering such documents the Society may take copies of, or extracts from, any such documents, and may if requested by the solicitor, supply copies to him at his expense; and
- (b) the Society may, if they consider that such documents include documents which are the property of the solicitor, require the person to whom the documents are delivered, as a condition precedent to such delivery to undertake to permit the solicitor to inspect such documents and take copies of, or extracts from, them.

7. At any time after a period of six years from the date on which the Society have taken possession of a document under the powers of this Schedule, if no person claims it, the Society may dispose of or destroy the document.

8.—(1) The provisions of this Schedule shall have effect in relation to documents notwithstanding any lien on, or right of retention of, those documents which may be vested in the solicitor or any other person<sup>F3</sup>, but the Society may, before appointing any person under paragraph 2(1), require from that person such undertakings (including undertakings as to the payment of money) as will, in the opinion of the Society, ensure that a solicitor or other person who is deprived of any such lien or right in consequence of anything done under this Schedule does not suffer any financial loss as a result of being so deprived].

(2) In any case in which this Schedule applies to a solicitor<sup>F3</sup> . . . or the personal representatives of a solicitor by virtue of any provision of this Order or of any other enactment, the Society shall before exercising any of their functions under this Schedule (other than making an application to<sup>F3</sup> . . . the High Court under<sup>F3</sup> paragraph 22A) in relation to him or them, notify him or them in writing that this Schedule so applies:

Provided that the Society may, if they think fit, include a notification to a solicitor<sup>F3</sup> . . . under this paragraph in any notification given to him under Article 38.

**F3** 1989 NI 14

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### Control of moneys

9.—(1) <sup>F4</sup> . . . the High Court may, on the application of the Society, order that no payment shall be made without the leave of <sup>F4</sup> . . . the High Court—

- (a) by any bank<sup>F4</sup> or building society] (whether or not named in the order) out of any<sup>F4</sup> . . . account in which any money (whether received before, on or after the date of the order) of the solicitor or his firm is held or which the solicitor or his firm has the right to operate on or otherwise deal with; or
- (b) by any other person (whether or not named in the order) of any money placed with him by the solicitor or his firm (whether before, on or after the date of the order) or held by him (in whatever manner and whether received before, on or after that date) on behalf of the solicitor or his firm.

(2) No order under this paragraph shall take effect in relation to any person to whom it applies unless—

- (a) the Society have served a copy of the order on that person (whether or not he is named in the order) and he either knows that he holds money on behalf of the solicitor or his firm or has failed to exercise due diligence to ascertain whether any money is so held by him; and
- (b) if that person is a banker<sup>F4</sup> or building society officer], the Society have informed him of the branch of the bank<sup>F4</sup> or building society] at which the money to which the order relates is believed by them to be held.

**F4** 1989 NI 14

10. The Society may, on a resolution in that behalf made by the Council, take control of all sums of money due from the solicitor or his firm to, or held by him or his firm (in whatever manner or in whatever account and whether received before, on or after the date of the resolution) on behalf of, his or his firm's clients or subject to any controlled trust, and for that purpose the Society shall serve upon the solicitor or his firm, and, except where the provisions of Article 40 apply, upon any bank<sup>F5</sup> or building society] and upon any other person having possession or control of any such sums of money a notice, together with a certified copy of such resolution, prohibiting the payment out of such sums of money otherwise than pursuant to paragraph 12 or 13.

**F5** 1989 NI 14

11. Within fourteen days of the service of a notice under paragraph 10 the solicitor or his firm, or the bank<sup>F6</sup>, building society] or other person upon whom the notice was served may, on serving not less than forty-eight hours' notice upon the Society and (if the notice served under paragraph 10 gives the name of the solicitor instructed by the Society) upon that solicitor, apply to a judge of the High Court in chambers for an order directing the Society to withdraw the notice, and on the hearing of any such application the judge may make such order with respect to the matter as he thinks fit.

**F6** 1989 NI 14

12. Subject to the service of any notice under paragraph 10, and to any application that may be made under paragraph 11 the Society or any person in that behalf appointed by the Society may withdraw the money, or any part of the money, which is in any account in the name of the solicitor or his firm, or which is in the possession or control of any person on whom a notice was duly served under paragraph 10, and any money in the office of the solicitor or his firm due to or held on behalf of his clients, and pay them into a special account or special accounts in the name of the Society

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or such person appointed as aforesaid and may operate on, and otherwise deal with, such special account or accounts as the solicitor or his firm might have operated on, or otherwise dealt with, the said account; so however that a bank<sup>F7</sup> or a building society] with whom such special account or accounts is or are kept shall be under no obligation to ascertain whether that account or those accounts is or are being so operated on or otherwise dealt with.

**F7** 1989 NI 14

**13.**—(1) If any person fails to comply with the requirements of any notice given under paragraph 10—

- (a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F8</sup> level 4 on the standard scale]; and
- (b) <sup>F9</sup> . . . the High Court may, on the application of the Society—
  - (i) order him to comply with the requirements of the notice within such time as may be specified in the order; or
  - (ii) appoint the Society to act as the attorney of the solicitor named in that paragraph.

*Sub-paras. (2)-(4) rep. by 1989 NI 14*

**F8** 1984 NI 3

**F9** 1989 NI 14

**14.**—(1) If the Society have reason to suspect that any person holds any money on behalf of the solicitor or his firm, the Society may for the purpose of enabling them to perform any of their functions under this Schedule require that person to give to the Society such information as to such money or the accounts in which the money is held as may be reasonably required.

(2) If any person who holds any money on behalf of the solicitor or his firm fails to give to the Society such information as he is required to give under sub-paragraph (1) or knowingly makes any misstatement in respect thereof he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F10</sup> level 3 on the standard scale].

**F10** 1984 NI 3

#### *Re-direction of postal packets*

**15.**—(1) <sup>F11</sup> . . . the High Court, on the application of the Society, may order that for such time not exceeding eighteen months as the judge thinks fit, postal packets (as defined by<sup>F12</sup> section 125(1) of the Postal Services Act 2000]) addressed to the solicitor or his firm at any place or places mentioned in the order for re-direction shall be directed to any other address there mentioned.

(2) Where such an order is made the Society shall pay to the<sup>F12</sup> postal operator (as defined by section 125(1) of the Postal Services Act 2000) concerned] the like charges (if any) as would have been payable for the re-direction of such packets<sup>F12</sup>. . . , if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the<sup>F12</sup> postal operator] to re-direct them to him at the address mentioned in the order.

**F11** 1989 NI 14

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**F12** SI 2001/1149

#### *Removal of solicitor-trustee from trust*

**16.**—(1) If the solicitor is a trustee of a controlled trust, the Society may apply to<sup>F13</sup> . . . the High Court for an order for the appointment of a new trustee in substitution for him.

(2) The Trustee Act (Northern Ireland) 1958 shall have effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 40 of that Act.

**F13** 1989 NI 14

#### *General*

**17.** Subject to any order for the payment of costs that may be made on an application under paragraph 3, 5, 9, 11, 13, 15, 16 or 19 any costs incurred by the Society for the purposes of this Schedule shall be paid by the solicitor and shall be recoverable from him as a debt owing to the Society.

**18.** The Society may do all things which in their opinion are necessary for the purpose of facilitating the exercise of their functions under this Schedule and in particular may for that purpose employ and pay agents.

**19.** The Society may apply to<sup>F14</sup> . . . the High Court for an order making provision for the disposal and destruction of any documents which may be in their possession by virtue of this Schedule or for the transfer or payment by or to any person of any moneys to which this Schedule relates.

**F14** 1989 NI 14

**20.** If any claim or charge is made or any proceeding is taken against the Society or their servants or agents for any act or omission by the Society or their servants or agents done or made in good faith and in the execution or purported execution of the functions conferred under this Schedule the Society or their servants or agents, as the case may be, shall be reimbursed out of the Compensation Fund established under Article 55 for all or any costs or damages which they may have incurred in relation to such claim, charge or proceeding.

**21.** The Society may make regulations for the purposes of carrying the provisions of this Schedule into effect and such regulations may include incidental, ancillary or supplemental provisions.

**22.** References in this Schedule to a banking<sup>F15</sup> or building society] account include references to any deposit or other such account as well as to a current or drawing account.

**F15** 1989 NI 14

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## PART II

### POWERS EXERCISABLE BY THE SOCIETY AS ATTORNEY

[<sup>F16</sup>**22A.**—(1) Without prejudice to paragraph 13(1)(b)(ii), the High Court may at any time, on the application of the Society, by order appoint the Society as the attorney of any solicitor named in a resolution passed by the Council under Article 36.

(2) Where the Society are appointed under paragraph 13(1)(b)(ii) or this paragraph to act as attorney of a solicitor—

- (a) the Society shall have power, either in their name or in the name of the solicitor, to do all or any of the acts and things mentioned in paragraph 23 and all such other acts and things in relation to the solicitor's practice or property or assets as appear to the Society to be necessary for any of the purposes of this Order, as fully and effectively in all respects as if they were done by the solicitor present in person (irrespective of where he then may be); and
- (b) the solicitor shall be precluded from doing any of the acts and things mentioned in head (a) which may be done by the Society as his attorney.

(3) The Society shall have a claim on the property of the solicitor for all costs (if any) incurred by the Society as his attorney.]

**F16** 1989 NI 14

**23.** The powers exercisable pursuant to [<sup>F17</sup> paragraph 22A(2)] are as follows—

(1) To operate all banking [<sup>F17</sup> or building society] accounts in the name or under the control of the solicitor, and to open and operate any new <sup>F17</sup> . . . account and to sign, endorse and negotiate cheques, dividend and interest warrants, bills of exchange and negotiable instruments payable to the solicitor and to close all or any of such <sup>F17</sup> . . . accounts.

(2) To demand, sue for, recover, enforce and give good and sufficient receipts, discharges, releases and indemnities for and in respect of all property, money, securities, costs, legacies, gifts, rights and debts belonging to the solicitor or in which he has any interest and to effect a compromise or release of, or to abandon, any claim in respect thereof and to pay, satisfy or compromise any such debts, liabilities or claims.

(3) To carry on, wind-up, transfer, sell or otherwise dispose of the practice of the solicitor and the office furniture, fittings, papers, documents, books, machines and apparatus connected therewith.

(4) To take possession of all or any property whatsoever belonging to the solicitor or in which he has any estate, title, right or interest including all property, title deeds, documents, papers and books in the possession, custody or control of the solicitor.

(5) To manage, let, sell, mortgage, charge or otherwise dispose of and convey, assign, transfer, surrender, sub-lease or grant in fee any property whatsoever of the solicitor or in which he has any estate, title, right or interest or any part thereof on such terms and conditions as the Society think fit.

(6) To furnish bills of costs in respect of any action, cause, suit, proceeding, sale, transaction or matter in which the solicitor is or has been engaged or retained, to institute proceedings for recovery of such costs, to compromise any claim in respect of such costs and to give good and sufficient receipts for such costs.

(7) To engage an accountant for the purpose of preparing such balance sheet and statement in connection with the practice of the solicitor as will show all money held by the solicitor on his own behalf and for or on account of clients and other persons and where and how at the date of such balance sheet and statement the solicitor holds such money.

(8) To give, vary and revoke instructions as to the manner in which any money payable to or by the solicitor (whether periodically or otherwise) is to be paid or dealt with and as to the custody and disposal of any personal property, including securities and documents of title.

(9) To apply and subscribe for (whether absolutely or conditionally), pay calls on, buy, accept or otherwise acquire, and to sell, assign, exchange or otherwise dispose of, stocks, funds, shares, debentures, debenture stock, securities and investments of every description, however constituted and wherever issued, and whether now existing or hereafter to be created belonging to the solicitor or in which he has any interest, and any options or rights in respect thereof; and generally to manage and vary investments.

(10) To effect and maintain insurance against loss, damage, and liability in connection with the property or assets of the solicitor or his practice and to recover under such insurance.

(11) In respect of any will, intestacy, settlement or trust or any agreement or other instrument or matter, to approve apportionments and accounts, and to sanction investments or the exercise of any power or the doing of any act for which the approval or sanction of the solicitor is required, otherwise than as trustee.

(12) In connection with any stocks, funds, shares, debentures, debenture stock, securities, or investments belonging to the solicitor or in which he has any interest, to attend and vote or appoint any person to attend and vote as proxy for the solicitor at meetings of holders thereof, and to effect, sanction or oppose any exercise or modification of rights.

(13) In regard to any property whatsoever belonging to the solicitor or in which he has any interest, to institute, carry on, defend, compromise or discontinue any action or other proceeding, and in any such proceeding to give security or indemnities for costs, to pay money into court and to obtain payment of money lodged in court; and to settle, compromise or submit to arbitration any dispute arising in relation to any such property or interest.

(14) To present, support or oppose any petition for winding-up or bankruptcy; to join in, sanction or oppose any composition or arrangement; to attend and vote or appoint any person to attend and vote as proxy for the solicitor at any meetings of creditors; to make and file proofs of claim; and generally to represent the solicitor in any liquidation, bankruptcy or insolvency.

(15) To engage, remunerate, dismiss, and fix and vary the duties and terms of service of persons employed to carry on or to assist in carrying on the practice of the solicitor including any employees of the solicitor.

(16) To settle or pay any account, debt or reckoning whatsoever wherein the solicitor is or will be in anywise interested or concerned with any person whomsoever and to pay or receive the balance thereof as the case may require.

(17) To deliver to clients of the solicitor or to other persons any documents of title, papers, books, securities, money or other property on such terms as the attorney thinks fit.

(18) To pay all rent, rates, taxes, assessments and outgoings (including repairs and insurance against fire and other contingencies) in connection with any property of the solicitor or in which he has any estate, title, right or interest and in connection with the practice of the solicitor to pay all expenses of carrying on the same including any insurance against negligence or otherwise.

(19) Subject to the rights of the clients of the solicitor, to act upon any retainer given, to prosecute or defend any action, cause, suit or proceeding which the solicitor has commenced or for which he has been retained, to complete any sale or purchase of registered or unregistered land in which the solicitor has been engaged or for which he has been retained, to carry out and complete any other sale, purchase, transaction or matter in which the solicitor is engaged or for which he has been retained and to receive and give good and sufficient receipts for any damages, compensation, deposit, purchase money or other money payable in respect of any such action, cause, suit, proceeding, sale, transaction or matter, and to pay over any money and do all things necessary to complete any such action, suit, proceeding, sale, transaction or matter.

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(20) For all or any of the foregoing purposes to enter into and sign, seal, execute, perfect and deliver any contract, instrument, deed, surrender, assurance or other instrument whatsoever, and to take all steps necessary to procure the registration of any such instrument in the books of any company or other body or in any register kept in pursuance of any enactment.

(21) Generally to act in relation to the solicitor's practice and estate as fully and effectively as the solicitor could do.

**F17** 1989 NI 14

## <sup>F18</sup>SCHEDULE 1A

Article 26A(7).

### INCORPORATED PRACTICES: SUPPLEMENTARY PROVISIONS

**F18** 1989 NI 14

#### Interpretation

1.—(1) Subject to sub#paragraph (2), references in this Schedule to a recognised body are references to a body corporate for the time being recognised under Article 26A.

(2) References in this Schedule to a recognised body in relation to—

- (a) a complaint (other than such a complaint as is mentioned in paragraph 19(1)(a)); or
- (b) any such application as is mentioned in paragraph 18(2),

include references to a body corporate that was recognised under Article 26A at the time when the conduct to which the complaint or application relates took place.

(3) References in this Schedule to an officer of a recognised body include references to a director, manager or secretary of that body<sup>F19</sup> and references in this Schedule to a director, in relation to a limited liability partnership, are references to a member of the limited liability partnership] .

(4) In Article 3(2) the definitions of “client”, “contentious business” and “non-contentious business” shall apply for the purposes of—

- (a) this Schedule; and
- (b) any other provision of this Order in so far as it has effect in relation to a recognised body by virtue of this Schedule,

as if for any reference to a solicitor there were substituted a reference to a recognised body; and for those purposes “controlled trust”, in relation to a recognised body, means a trust of which it is sole trustee or co-trustee only with one or more of its officers or employees and “unqualified person” does not include a recognised body.

**F19** SR 2004/307

#### Appeal against refusal or revocation by Council of recognition

2.—(1) A body corporate aggrieved by a decision of the Council refusing an application for recognition under Article 26A may, within one month from the date on which notice of that decision is served on it, appeal to the Lord Chief Justice who may—

- (a) affirm the decision; or



(b) direct the Council to grant recognition of the body in question under Article 26A; and the Lord Chief Justice may make such order as to the payment of costs by the Council or by that body as he thinks proper.

(2) Regulations may make provision, as respects any application for recognition that is neither granted nor refused by the Council within such period as may be prescribed, for enabling an appeal to be brought under sub-paragraph (1) in relation to the application as if it had been refused by the Council.

(3) A body corporate aggrieved by a decision of the Council to revoke the recognition of that body under regulations made under Article 26A(2)(d) may, within one month from the date on which notice of that decision is served on it, appeal to the Lord Chief Justice who may affirm or revoke the decision and make such order as to the payment of costs by the Council or by that body as he thinks proper.

### Power of registrar to inspect files relating to certain proceedings

3. Article 15(5) shall apply in relation to proceedings which have been brought with respect to a recognised body for any of the following purposes, namely—

- (a) for the winding-up of the body,<sup>F20</sup> . . .
- (b) for the appointment of a receiver or manager of property of the body,<sup>F21</sup> or
- (c) for the appointment of an administrator under Schedule B1 to the Insolvency (Northern Ireland) Order 1989,<sup>]</sup>

as it applies in relation to proceedings in bankruptcy which have been taken against a solicitor.

**F20** Word in Sch. 1A para. 3(a) repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), 31, Sch. 2 para. 10(a), Sch. 9; S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2-7)

**F21** Sch. 1A para. 3(c) and preceding word inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 10(b); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2-7)

### Acting as agent for unqualified person

4.—(1) No recognised body shall wilfully and knowingly

- (a) act as agent in any action, suit, matter or transaction for any unqualified person; or
- (b) permit its name to be in any way made use of in any action, suit, matter or transaction upon the account, or for the profit, of any unqualified person; or
- (c) send any process to an unqualified person; or
- (d) do any other act so as to enable an unqualified person to appear, act or practice in any respect as a solicitor in any action, suit, matter or transaction.

(2) Subparagraph (1) does not apply where the recognised body is acting by virtue of an appointment made pursuant to Article 32.

### Sharing of profits or fees with unqualified persons

5.—(1) Subject to sub-paragraph (2), a recognised body which knowingly shares any of its profits or fees with an unqualified person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Sub-paragraph (1) shall not apply in any of the following cases, namely—

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- (a) where a body corporate which has ceased its business as a recognised body receives from a recognised body a share of the profits or fees of that recognised body as a price or value of the body corporate's business; or
  - (b) where an agreement for sharing fees is made between a recognised body in Northern Ireland and a body or person carrying on the business or profession of providing professional legal services in some other part of the United Kingdom or in any country outside the United Kingdom; or
  - (c) where, for the purposes of making legal aid and advice more readily available to persons in need, the Council have directed in writing that sub-paragraph (1) shall not apply in relation to a non-profit making organisation.
- (3) References in this paragraph to the profits and fees of a recognised body are to the profits and fees of the business of that body as a recognised body.

#### Employment of persons struck off roll or suspended

6. Article 29 (except paragraph (4)) shall apply to a recognised body and its business as such as it applies to a solicitor and his practice as such.

#### Failure to disclose fact of name having been struck off the roll, etc.

7. Article 30 shall apply in relation to employment by a recognised body in connection with its business as it applies in relation to employment by a solicitor in connection with his practice.

#### Employment of persons found guilty of offences or party to misconduct

8. In Article 31(1) to (4)—

- (a) any reference to a person who is or was an employee of a solicitor, but is not himself a solicitor shall be construed as including a reference to a person who is or was employed by a recognised body but is not himself a solicitor; and
- (b) any other reference to a solicitor or to his practice as a solicitor shall be construed as including a reference to a recognised body or to its business as such a body.

#### Winding-up practice of a deceased solicitor

9. In Article 32 the reference to a duly qualified solicitor shall be construed as including a reference to a recognised body.

#### Interest on clients' money

10.—(1) Where regulations made under Article 33 and containing any such provision as is referred to in Article 34(1)(a)(i) are applied to recognised bodies in accordance with Article 26A(2)(f), then, except as provided by the regulations and subject to sub#paragraph (2), a recognised body which in pursuance of the regulations maintains an account in which it keeps money received or held for or on account of its clients generally shall not be liable to account to any person for interest received by it on money in that account.

(2) Nothing in any such regulations or in sub#paragraph (1) shall—

- (a) affect any arrangement in writing between a recognised body and any of its clients as to the application of the client's money or interest on it; or
- (b) apply to money received by a recognised body being money subject to a trust of which the body is a trustee.

#### Accountants' reports

11.—(1) In Article 35—

(a) paragraphs (1) and (2); and  
(b) subject to any regulations made under that Article and applied to recognised bodies in accordance with Article 26A(2)(f), paragraph (3),  
shall apply to a recognised body as they apply to a solicitor.

(2) A certificate under the hand of the secretary of the Society shall, unless the contrary is proved, be evidence that a recognised body has or, as the case may be, has not delivered to the Society an accountant's report or supplied any evidence required under Article 35 or under any such regulations as are referred to in sub-paragraph (1)(b).

### Control of recognised body's property in certain cases

**12.**—(1) Where the Council have reasonable cause to believe and have passed a resolution stating that they have reasonable cause to believe, that—

- (a) an officer or employee of a recognised body has been guilty of dishonesty in connection with that body's business or in connection with any trust of which that body is a trustee; or
- (b) in consequence of the act on default of an officer or employee of a recognised body—
  - (i) there has been undue delay in connection with any matter in which the recognised body has been instructed on behalf of a client or any matter which relates to the administration of a controlled trust; or
  - (ii) any sum of money due from the recognised body to, or held by it on behalf of, its clients or subject to any controlled trust is in jeopardy while in the control or possession of that body,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(2) Subject to sub#paragraph (3), where—

- (a) the Council are satisfied that a recognised body has failed to comply with any regulations applicable to it by virtue of Article 26A; or
- (b) a person has been appointed receiver or manager of property of a recognised body; or
- (c) a winding-up order has been made with respect to a recognised body, or a resolution for voluntary winding-up has been passed with respect to a recognised body (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate),

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(3) Those powers shall only be exercisable by virtue of sub#paragraph (2)(a) if the Society have given the recognised body notice in writing that the Council are satisfied that the body has failed to comply with the regulations specified in the notice and also (at the same or any later time) notice that those powers are accordingly exercisable in its case by virtue of sub#paragraph (2)(a).

(4) Where the Council have passed a resolution to the effect that they are satisfied that a recognised body—

- (a) has failed to comply with—
  - (i) any provision respecting the keeping of accounts contained in regulations made under Article 33 and applied to recognised bodies in accordance with Article 26A(2)(f) or with any requirement made in pursuance of any such regulations so applied for the production of books of account or other documents; or
  - (ii) the provisions of Article 35 or of any regulations made thereunder and applied to recognised bodies in accordance with Article 26A(2)(f); and

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(b) has been informed that such failure will have the consequence that the provisions of Schedule 1 shall apply in relation to the body and its business,  
the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(5) Where a recognised body—

- (a) having more than one office or place of business at any one time (disregarding, where it has a Belfast agent, the office or place of business of such agent) has been invited by the Society to satisfy them that its officers and employees who are solicitors exercise adequate personal supervision over each such office or place of business and, having failed so to satisfy the Society, has been notified in writing by the Society that it has so failed; or
- (b) having been invited by the Society to give an explanation in respect of any matter relating to the conduct of a director of the body and having failed to give the Society such an explanation as appears to them to be satisfactory, has been notified in writing by the Society that it has so failed,

the Council may direct that the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(6) Where the Tribunal have made a recommendation to the Council under paragraph 24 in respect of any recognised body the Council may direct that the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

**13.—(1)** Where the recognition of a body corporate under Article 26A—

- (a) has been revoked under regulations made under Article 26A(2)(d) or by an order of the Tribunal under this Schedule; or
- (b) has expired and no further recognition of that body has been granted under that Article, that body shall within three weeks from the material date satisfy the Council that it has made suitable arrangements for making available to its clients or to some other recognised body or solicitor instructed by his clients or, with the approval of the Council, instructed by itself—
  - (i) all deeds, wills, documents constituting or evidencing title to any property, papers, books of accounts, records, vouchers or other documents in its possession or control, or relating to any controlled trust; and
  - (ii) all sums of money due from it to, or held by it on behalf of, its clients or subject to any controlled trust,

and if it fails so to satisfy the Council, the provisions of Schedule 1 shall apply in relation to the body and its former business in like manner as they apply in relation to a solicitor and his practice.

(2) In sub-paragraph (1) “the material date” means whichever is the latest of the following dates, that is to say—

- (a) the date on which the recognition of the body corporate under Article 26A expires;
- (b) where an application for further recognition of the body corporate under Article 26A has been made before the date specified in head (a), the last date on which an appeal against the decision not to grant further recognition of the body corporate may be lodged;
- (c) the last date on which an appeal against the decision or order revoking the recognition may be lodged;
- (d) the date on which any appeal mentioned in head (b) or (c) is dismissed or abandoned.

(3) Where the powers conferred by Schedule 1 are exercisable in relation to a recognised body in accordance with paragraph 12 or 14 they shall continue to be so exercisable after that body's recognition under Article 26A has been revoked or has otherwise ceased to be in force.

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#### 14. Where—

- (a) a complaint is made to the Council that there has been undue delay on the part of a recognised body in connection with any matter in which it has been instructed on behalf of a client or any matter which relates to the administration of a controlled trust or in complying with an order of the Tribunal under paragraph 21(2)(c), (d) or (e) or (3) or Article 51A; and
- (b) the Council have by notice invited the body to give an explanation in respect of the matter; and
- (c) the body has, within a period of not less than fourteen days specified in the said notice or such longer period as the Council may determine failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory; and
- (d) the body has been notified in writing by the Society that it has so failed,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice; but as regards the documents specified in paragraph 2 and the sums of money specified in paragraph 10 of Part I of that Schedule only in so far as they relate to the matter of the complaint.

15. In connection with the application of Schedule 1 for the purposes of this Schedule, in Schedule 1 any reference to the solicitor or to his practice shall be construed as including a reference to the body corporate in relation to which the powers conferred by that Schedule are exercisable by virtue of paragraph 12, 13 or 14 of this Schedule or to its business (or former business) as a recognised body.

#### Powers of Council in respect of inadequate professional services

##### 16.—(1) In Article 41A (except paragraphs (8) and (9))—

- (a) any reference to a solicitor shall be construed as including a reference to a recognised body; and
- (b) any reference to professional services provided by a solicitor in connection with any matter in which he or his firm had been instructed by a client shall be construed as including a reference to professional services provided by a recognised body in connection with any matter in which it had been instructed by a client.

(2) The powers conferred on the Council by Article 41A(1)(a) shall be exercisable in relation to a body corporate in accordance with this paragraph notwithstanding that it is no longer a recognised body.

(3) If a body corporate fails to comply with a direction given under Article 41A by virtue of this paragraph which has taken effect, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.

#### Examination of files

17.—(1) Where the Council are satisfied that it is necessary to do so for the purpose of investigating—

- (a) any such complaint as is mentioned in head (b), (c) or (d) of paragraph 19(1); or
- (b) any complaint made to the Society and relating to the quality of any professional services provided by a recognised body,

the Society may give notice to the recognised body to which the complaint relates requiring the production or delivery to any person appointed by the Society, at a time and a place to be fixed by the Society, of all documents in the body's possession in connection with the matters to which the complaint relates (whether or not they relate also to other matters).

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(2) Paragraphs 2(2) to 8 and 17 to 21 of Schedule 1 shall apply in relation to the powers conferred by sub#paragraph (1) as they apply in relation to the powers conferred by sub-paragraph (1) of paragraph 2 of that Schedule, and accordingly in those provisions—

- (a) any reference to the solicitor shall be construed as including a reference to the body with respect to which the powers are exercisable by virtue of sub#paragraph (1);
- (b) any reference to a person appointed, or to a requirement, under paragraph 2(1) of that Schedule shall be construed as including a reference to a person appointed, or to a requirement, under sub#paragraph (1); and
- (c) any reference to any such documents as are mentioned in paragraph 2(1) of that Schedule shall be construed as including a reference to any such documents as are mentioned in sub#paragraph (1).

### Lay observers

**18.**—(1) Paragraph (1)(b) of Article 42 shall apply in relation to a complaint about a recognised body or an officer or employee of such a body as it applies in relation to a complaint about a solicitor or an employee of a solicitor.

(2) Where it appears to a lay observer, in examining any such allegation as is mentioned in paragraph (1)(b) of that Article—

- (a) that there arises out of the complaint in respect of which the allegation has been made both—
  - (i) a question as to the conduct of a recognised body, being conduct capable, in his view, of forming the subject#matter of any such complaint as is mentioned in head (b), (c) or (d) of paragraph 19(1); and
  - (ii) a question as to the quality of any professional services provided by the body as a recognised body; and
- (b) that it would be appropriate for the latter question to be considered by the Tribunal with a view to determining whether to exercise in relation to the body any of the powers conferred on the Tribunal by paragraph 22,

the lay observer may make an application to the Tribunal with respect to the body.

### Complaints to Tribunal with respect to recognised bodies

**19.**—(1) The Tribunal shall have jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to a recognised body, namely—

- (a) a complaint that the body has (while a recognised body) been convicted by any court in the United Kingdom of a criminal offence which renders it unsuitable to be recognised under Article 26A;
- (b) a complaint that the body has failed to comply with Article 35 or with any regulations applicable to it by virtue of Article 26A;
- (c) a complaint that the body has acted in contravention of paragraph 4 or Article 29 or of any terms and conditions subject to which a consent has been granted under Article 29; or
- (d) a complaint that the body has knowingly acted in contravention of an order under Article 31 or of any terms and conditions subject to which a consent has been granted under such an order.

(2) A complaint may be made to the Tribunal under this paragraph by any person.

## Procedure on applications and complaints

**20.** In Article 46 any reference to a solicitor shall be construed as including a reference to a recognised body.

### Powers of Tribunal with respect to recognised bodies

**21.—**(1) Where on an inquiry into any complaint made to it under this Schedule the Tribunal are satisfied that a recognised body—

- (a) has been convicted as mentioned in head (a) of paragraph 19(1); or
- (b) has failed to comply with Article 35 or with any such regulations as are mentioned in head (b) of paragraph 19(1); or
- (c) has acted as mentioned in head (c) or (d) of that provision; or
- (d) has failed to comply with any direction given to it under Article 41A by virtue of paragraph 16,

the Tribunal may, if they think fit, make one or more of the orders referred to in sub#paragraph (2).

(2) Those orders are—

- (a) an order revoking the recognition under Article 26A of the body to which the complaint relates;
- (b) an order directing the payment by that body of a fine not exceeding £3,000, to be paid to and applied for the purposes of the Society;
- (c) the payment by any party to the inquiry of the costs of any other party to be measured by the Tribunal, or of a stated sum as a contribution towards such costs;
- (d) the payment by any party to the inquiry of a sum to be measured by the Tribunal for the costs incurred by the Tribunal, or of a stated sum as a contribution towards such costs;
- (e) the making by any party of such restitution or satisfaction to any aggrieved party as the Tribunal thinks fit.

(3) On an inquiry into a complaint under paragraph 16(3) relating to a direction given under Article 41A, the Tribunal may, without prejudice to their powers under sub-paragraphs (1) and (2) or paragraph 22, make an order providing for the direction to be treated for the purposes of this Order as if it were an order of the Tribunal.

(4) In Article 51—

- (a) paragraph (5) shall apply to an order under sub-paragraph (2)(d) as it applies to an order under paragraph (1)(k) of that Article;
- (b) paragraphs (6) to (9) shall apply to an order under this paragraph as they apply to an order under that Article, but in paragraph (8) the reference to the solicitor shall be construed as a reference to the recognised body;
- (c) paragraphs (11) and (12) shall have effect in relation to the sum specified in sub# paragraph (2)(b) as they have effect in relation to the sum specified in paragraph (1)(b) of that Article.

### Powers of Tribunal in respect of inadequate professional services

**22.—**(1) The powers conferred on the Tribunal by Article 51A shall be exercisable on an inquiry into—

- (a) any complaint made to the Tribunal under this Schedule by or on behalf of the Society with respect to a recognised body; or

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- (b) any application made to the Tribunal under paragraph 18(2) by a lay observer with respect to a recognised body,

in like manner as they are exercisable on an inquiry into any complaint or application made as mentioned in Article 51A(1) with respect to a solicitor.

(2) Accordingly, in Article 51A as it applies in relation to any such complaint or application as is mentioned in sub#paragraph (1)(a) or (b)—

- (a) any reference to a solicitor shall be construed as including a reference to a recognised body; and
- (b) any reference to professional services provided by a solicitor in connection with any matter in which he or his firm had been instructed by a client shall be construed as including a reference to professional services provided by a recognised body in connection with any matter in which it had been instructed by a client.

### Powers of Tribunal in relation to legal aid

**23.—**(1) Where the Tribunal makes any such order as is referred to in Article 51B(1)(a) in the case of a solicitor who is an officer or employee of a recognised body, the Tribunal may, if they think fit, order that any solicitor who is for the time being a director of that body shall be<sup>F22</sup> excluded (either permanently or for a specified period) from legal aid work.

<sup>F23</sup>(2) The reference in sub-paragraph (1) to a person being excluded from legal aid work shall be construed in accordance with Article 51B(6).

**F22** prosp. subst. by 2003 NI 10

**F23** prosp. rep. by 2003 NI 10

### Power of Tribunal to make recommendation for application of Schedule 1 to recognised body

**24.—**(1) Where the Tribunal hold an inquiry into any application or complaint made under this Schedule with respect to a recognised body they may, whether or not they make any order on the inquiry, make a recommendation to the Council that the provisions of Schedule 1 should apply in relation to that recognised body.

(2) A recommendation made by the Tribunal under sub-paragraph (1) shall contain a statement of the findings on which the Tribunal based the recommendation.

### Effect, notice and recording of orders of Tribunal

**25.—**(1) Where the Tribunal make an order—

- (a) under paragraph 21(2)(b), (c), (d) or (e) or (3); or
- (b) under Article 51A(2), by virtue of paragraph 22,

the registrar, if so required in writing by the Society or by any other party in whose favour the order was made, shall lodge a duly authenticated copy of the order with the Master (Queen's Bench and Appeals) who shall forthwith cause such copy to be filed; and thereupon the order shall be of the like effect as a judgment of the High Court and enforceable accordingly.

(2) Where the Tribunal make an order revoking the recognition of a body corporate under Article 26A the registrar shall forthwith—

- (a) lodge a duly authenticated copy of the order with the Master (Queen's Bench and Appeals); and



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- (b) cause to be published in the Belfast Gazette and in such other manner as the Tribunal may direct, a notice stating the effect of the order.
- (3) Article 52(4) shall not apply to orders made by the Tribunal under this Schedule but the registrar shall maintain separate files on which such orders shall be entered in the following manner—
  - (a) on a file to be termed File C, there shall be entered, in alphabetical order against the names of the bodies corporate concerned, each order revoking the recognition under Article 26A of a body corporate;
  - (b) on a file to be termed File D, there shall be entered, in chronological order, all other orders.
- (4) Article 52(6), (7) and (8) shall apply to File C as they apply to File A and to File D as they apply to File B.

### Revocation of recognition by reason of default by director

#### 26.—(1) Where—

- (a) an order is made by the Lord Chief Justice under Article 20(1) or 27(1) in the case of a director of a recognised body;
- (b) any order is made by the Tribunal under Article 51 in the case of a director of a recognised body; or
- (c) an order is made by the High Court or the Court of Appeal that the name of a director of a recognised body be struck off the roll or that such a director be suspended from practice as a solicitor; or
- (d) any such order as is mentioned in head (a), (b) or (c) is made in the case of a person employed by a recognised body and the act or omission constituting the ground on which the order was made was instigated or connived at by a director of the recognised body or, if the act or omission was a continuing act or omission, a director of the body had or reasonably ought to have had knowledge of its continuance,

the Tribunal may, on an application made with respect to the recognised body by or on behalf of the Society, by order revoke its recognition under Article 26A.

(2) The Tribunal shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in sub#paragraph (1) being rendered inapplicable in that case, or while any such proceedings are pending.

(3) Any reference to a director of a recognised body in any of heads (a) to (d) of sub#paragraph (1) includes a reference to a person who was a director of the body at the time of the conduct leading to the making of the order referred to in that paragraph.

### Compensation Fund

27.—(1) On an application for recognition under Article 26A a body corporate shall pay to the Society with any fee required to be paid by virtue of paragraph (2)(a) of that Article a contribution to the Compensation Fund of such amount as the Council may from time to time determine; and Schedule 2 shall apply to an amount paid to the Society in pursuance of this sub#paragraph as if it were an annual contribution paid in pursuance of paragraph 2 of that Schedule.

(2) Where the Council, on an application for a grant being made to the Society, are satisfied—

- (a) that a person has suffered loss in consequence of dishonesty on the part of an officer or employee of a recognised body in connection with that body's business or purported business as a recognised body or in connection with any trust of which it is or was a trustee; or

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- (b) that a person has suffered or is likely to suffer hardship in consequence of the failure on the part of a recognised body to account for money which has come into its possession in connection with that body's business or purported business as a recognised body or in connection with any trust of which it is or was a trustee;

then, subject to the provisions of sub-paragraph (3), the Society may, if the Council think fit, make to that person a grant out of the Compensation Fund for the purpose of making good or mitigating that loss or (as the case may be) relieving such hardship.

(3) The following provisions shall have effect in relation to grants under sub-paragraph (2)—

- (a) the Society shall not make a grant unless the Council are satisfied that the recognised body in respect of whose act or default or in respect of whose officer's or employee's act or default the application is made has been given sufficient notice of the substance of the application and had not given, either to the applicant or to the Society, such explanation as satisfied the Council that no grant should be made;
- (b) the fact that the applicant is a solicitor, an employee of a solicitor, a recognised body or an officer or employee of such a body shall not disqualify the applicant from receiving a grant.

(4) Where the Council, on an application being made to the Society, are satisfied that a member of a recognised body has suffered or is likely to suffer loss or hardship by reason of his liability to any of that body's clients in consequence of some act or default of any officer or employee of that body, in circumstances where but for the liability of that member a grant might have been made out of the Compensation Fund to some other person, then, subject to the provisions of sub-paragraph (5), the Society may, if the Council think fit, make to that member a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

(5) The following provisions shall have effect in relation to grants under sub-paragraph (4)—

- (a) the Society shall not make a grant to a member of a recognised body in respect of any act or default of another member of that body unless the Council are satisfied that the other member (unless he is dead or it is impracticable to give notice to him) has been given sufficient notice of the substance of the application and has not given, either to the applicant or to the Society, such explanation as satisfies the Council that no grant should be made;
- (b) a grant may (if the Council think fit) take the form of a loan upon such terms and conditions (including conditions as to the time and manner of repayment, as to the payment of interest and as to security for repayment) as the Council may determine;
- (c) in relation to a grant made by way of loan, the Society may, upon such terms or conditions (if any) as the Council may think fit, at any time or times waive or refrain from enforcing the repayment of the whole or any part of the loan or any instalment of the loan or the payment of any interest or any of the other terms or conditions upon which the loan was granted.

(6) Sub-paragraph (7) applies—

- (a) to a grant made under sub-paragraph (2);
- (b) to a grant made under sub-paragraph (4) otherwise than by way of loan; and
- (c) where a grant has been made under sub-paragraph (4) by way of loan and thereafter—
  - (i) the repayment of any amount (being either the whole or some part of the loan) has been waived; or
  - (ii) the borrower fails to repay any amount (being either the whole or some part of the loan) the repayment of which has not been waived;to such a grant to the extent of any such amount.

(7) Where this sub-paragraph applies to a grant—

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- (a) the Society shall, to the extent of the amount of the grant, be subrogated to any rights and remedies of the person to whom it is made in relation to the act or default in respect of which it is made and such person shall not be entitled, whether by way of winding-up, bankruptcy or other legal proceedings or otherwise, to receive any sum out of the assets of the recognised body or an officer or employee of that body in respect of that act or default until the Society have been reimbursed the full amount of the grant;
  - (b) the fact that a person has received or may be likely to receive a grant from the Society shall not constitute any defence to an action brought by such person in respect of the act or default in relation to which such grant has been or may be made and the Society shall be entitled (whether before or after payment of the grant) upon giving to such person a sufficient indemnity against costs to require him to sue in his own name but on behalf of the Society for the purpose of giving effect to any rights conferred on the Society by head (a) and to permit the Society to have the conduct of the proceedings.
- (8) In subparagraphs (2) to (7)—
- (a) references to the person to whom a grant has been made or to any member, officer or employee of a recognised body in respect of whose act or default a grant has been made shall include, in the event of his death, bankruptcy or other disability, references to his personal representative or to any other person having authority to administer his estate;
  - (b) references to any recognised body in respect of whose act or default a grant has been made shall include, in the event of the winding up of that body, a reference to its liquidator.

#### Costs: general modification of provisions of Part V

**28.**—(1) In the provisions to which this paragraph applies—

- (a) any reference to a solicitor or to a client of a solicitor shall be construed as including a reference to a recognised body or to a client of such a body; and
- (b) any reference to a client's solicitor shall be construed as including a reference to any recognised body acting for a client.

(2) This paragraph applies to the following provisions (which relate to the remuneration of solicitors in respect of contentious and non-contentious business), namely—

- Article 64;
- Article 65 (except paragraph (5));
- Articles 66 and 67;
- Article 69;
- Article 71 (except paragraphs (1)(c) and (7));
- Articles 71A and 71B;
- Article 71D;
- Article 71E(1); and
- Articles 71F to 71H.

#### Effect of business agreements

**29.** A provision in a contentious or non-contentious business agreement made between a recognised body and a client that the body shall not be liable for the negligence of any of its officers or employees, or that it shall be relieved from any responsibility to which it would otherwise be subject in the course of carrying on its business as a recognised body, shall be void.

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### Effect on contentious business agreement of supervening incapacity of recognised body to act for client

**30.**—(1) If, after some business has been done under a contentious business agreement made between a recognised body and a client but before the body has wholly performed it, the body ceases to be capable of wholly performing it by reason of one of the following events, namely—

- (a) the body ceases (for any reason) to be a recognised body;
- (b) a winding-up order is made with respect to the body or a resolution for voluntary winding-up is passed with respect to the body (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate); or
- (c) the client terminates the retainer or employment of the body in favour of another recognised body or a solicitor (as, notwithstanding the agreement, he shall be entitled to do),

any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the recognised body were still capable of wholly performing it.

(2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by taxation, and in that case—

- (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and
- (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been wholly performed.

(3) If in such a case as is mentioned in subparagraph (1)(c) an order is made for the taxation of the amount due to the recognised body in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the termination of the body's retainer or employment has taken place, and the taxing officer, unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of any officer or employee of the body affording the client reasonable ground for terminating its retainer or employment, shall not allow to the body the full amount of the remuneration agreed to be paid to it.

(4) In this paragraph “the court” has the meaning assigned by Article 66(6) and in this paragraph and paragraph 31 “the taxing officer” has the meaning assigned by Article 66(7).

### Taxations with respect to contentious business

**31.** Subject to the provisions of any rules of court or county court rules, on every taxation of costs in respect of any contentious business done by a recognised body, the taxing officer may—

- (a) allow interest at such rate and from such time as he thinks just on money disbursed by the body for the client, and on money of the client in the possession of, and improperly retained by, the body; and
- (b) in determining the remuneration of the body, have regard to the skill, labour and responsibility on the part of any solicitor, being an officer or employee of the body, which the business involved.

### Orders as to remuneration for non-contentious business

**32.** In relation to an order under Article 71 regulating (in accordance with paragraph 28) the remuneration of recognised bodies in respect of non-contentious business, paragraph (7) of that Article shall have effect as if—

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- (a) in sub#paragraph (a), for “the solicitor” there were substituted “ the recognised body ”; and
- (b) in sub-paragraphs (d) and (g), for “the solicitor” there were substituted “ any solicitor, being an officer or employee of the recognised body, ”.

#### Power of court to order delivery of bill of costs, etc.

#### 33. Any jurisdiction—

- (a) of the High Court to make any such orders as are referred to in Article 71C(1) in relation to a solicitor (whether or not business has been done by him in the High Court); or
- (b) of the county court to make any such orders as are referred to in Article 71C(2) in relation to a solicitor,

shall be exercisable in like manner in relation to a recognised body.

#### Power of court to order recognised body to pay over clients' money

**34.** Any jurisdiction of the High Court to make, in the case of a solicitor who is acting or has acted as such for a client, an order requiring the payment or delivery up of, or otherwise relating to, money or securities which the solicitor has in his possession or control on behalf of the client shall be exercisable in like manner in the case of a recognised body which is acting or has acted as such for a client.

#### Actions to recover costs

**35.** Paragraph (2) of Article 71E shall have effect in relation to a bill of costs delivered by a recognised body as if—

- (a) for the words from “by the solicitor” to “the firm” there were substituted “ on behalf of the recognised body by any officer or employee of the body authorised by it to do so ”; and
- (b) for “the solicitor” (where last occurring) there were substituted “ the recognised body ”.

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#### Lien on documents

**36.** Article 72A shall apply in relation to a recognised body as it applies in relation to a solicitor.

#### Bank and building society accounts

**37.** Article 77 shall apply in relation to a recognised body as it applies in relation to a solicitor.

#### Privilege from disclosure etc.

**38.—**(1) Any communication made to or by a recognised body in the course of its acting as such for a client shall in any legal proceedings be privileged from disclosure in like manner as if the body had at all material times been a solicitor acting for the client.

(2) Any enactment or instrument making special provision in relation to a solicitor or other legal representative as to the disclosure of information, or as to the production, seizure or removal of documents, with respect to which a claim to professional privilege could be maintained shall, with any necessary modifications, have effect in relation to a recognised body as it has effect in relation to a solicitor.

(3) [<sup>F24</sup>In sections 748(4), 749 and 771(5) and (6) of the Income Tax Act 2007][<sup>F25</sup>and section 832(5) and (6) of the Corporation Tax Act 2010] any reference to a solicitor's client shall, in relation to a solicitor who is an officer or employee of a recognised body, be construed as a reference to a client of that body.

**Status:** Point in time view as at 01/04/2010.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Solicitors (Northern Ireland) Order 1976. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- F24** Words in [Sch. 1A para. 38\(3\)](#) substituted (1.4.2010 with effect as mentioned in [s. 381\(1\)](#) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), ss. 374, 381(1), **Sch. 8 para. 288** (with [Sch. 9 paras. 1-9, 22](#))
- F25** Words in [Sch. 1A para. 38\(3\)](#) inserted (1.4.2010 with effect as mentioned in [s. 1184\(1\)](#) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), ss. 1177, 1184(1), **Sch. 1 para. 168** (with [Sch. 2](#))

### Modification of enactments relating to conveyancing etc.

**39.** In the following provisions, namely—

- (a) sections 56 and 66 of the Conveyancing Act 1881;
  - (b) section 85(1)(e) of the Land Registration Act (Northern Ireland) 1970;
  - (c) paragraph (3) of Schedule 1 to the Registration of Deeds Act (Northern Ireland) 1970; and
- Sub-para. (d) rep. by 1998 NI 6*

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

## SCHEDULE 2

Articles 55, 56, 57, 59, 61, Schedule 1.

### THE COMPENSATION FUND

- 1.** The fund shall be maintained and administered by the Society and shall be held by the Society on trust for the purposes provided for in Part IV and this Schedule.
- 2.** Every solicitor shall on each occasion on which a practising certificate is issued to him pay to the Society with the fee payable in respect of that certificate under Article 10 a contribution (in this Schedule referred to as “the annual contribution”) of such sum as may be prescribed, and the Society shall pay that contribution into the fund:

Provided that—

- (a) a solicitor shall not be required to pay the annual contribution on the issue of the first three practising certificates issued to him after his admission; and
  - (b) on the issue of the fourth, fifth and sixth practising certificates issued to him after his admission a solicitor shall be liable to pay only one half of the amount of the annual contribution; and
  - (c) an annual contribution shall not be required to be paid by a solicitor who is employed as a full-time public officer or in the full-time service of a local or public authority and who does not engage in any form of private practice as a solicitor.
- 3.** The Society may invest in trustee<sup>F26</sup> investments] any money which forms part of the fund and is not immediately required for any of the purposes provided for by Part IV or this Schedule.

**F26** [2001 c. 14 \(NI\)](#)

- 4.** <sup>F27</sup> . . . the Society may borrow for the purposes of the fund from any lender and may charge any investments of the fund by way of security for any such loan:

**F27** 1991 NI 6

Provided that the aggregate sum owing at any one time in respect of such loans shall not exceed<sup>F28</sup> Â£1 million or such other amount as the Department of Finance and Personnel may by order subject to negative resolution specify].

**F28** 2004 NI 13

**F28** 2004 NI 13

5. The Society may insure with any person authorised by law to carry on insurance business within the United Kingdom for such purposes and on such terms as the Society may deem expedient in relation to the fund.

6. There shall be carried to the credit of the fund—

- (a) all moneys and all investments forming part of the Compensation Fund established under Article 55;
- (b) all annual contributions paid to the Society in pursuance of paragraph 2;
- (c) all interest, dividends and other income and accretions of capital arising from the investment of the fund or any part thereof;
- (d) the proceeds of any realisation of any investments of the fund;
- (e) all money borrowed for the purposes of the fund;
- (f) all sums received by the Society under any insurance effected by the Society under paragraph 5;
- (g) all sums received by the Society under Article 58( c) or 60( e);
- (h) any other money which may belong or accrue to the fund or be received by the Society in respect thereof.

7. All money from time to time forming part of the fund and all investments of the fund shall be applicable—

- (a) for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the fund;
- (b) for payment of any premiums on insurances effected by the Society under paragraph 5;
- (c) for repayment of any money borrowed by the Society for the purposes of the fund and for payment of interest on any money so borrowed;
- (d) for payment of any grants which the Society may make under Part IV;
- (e) for payment of costs, charges and expenses incurred by the Society in exercise of any power conferred by Article 36, 37 or 39 or Schedule 1;
- (f) for payment of any other sums properly payable out of the fund by virtue of Part IV or this Schedule.

8. Notwithstanding anything in Part IV or in this Schedule, the Society shall not make any grant out of the Compensation Fund in respect of any loss arising in connection with the employment of a solicitor as a full-time public officer or in the full-time service of a local or public authority or by reason of any breach of a fiduciary duty to which any such employment gave rise.

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### *Schedule 3—Repeals*



**Status:**

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