

SCHEDULE

Article 5

Extension of Law Society's power to make compensation rules for a transitional period

Interpretation

1. In this Schedule—

“the 1974 Act” means the Solicitors Act 1974⁽¹⁾;

“compensation rules” means rules made under section 36(1) of the 1974 Act (compensation claims)⁽²⁾;

“licensed body” means a body which holds a licence in force under Part 5 of the 2007 Act which is granted by the Society;

“the Society” has the same meaning as in the 1974 Act;

“transitional period” means the period which—

- (a) begins with the date on which this Schedule comes into force; and
- (b) ends with 31st December 2012.

Compensation rules

2. The Society's power to make compensation rules extends to making rules concerning the grant of compensation by the Society in respect of loss that a person has suffered, or is likely to suffer, as a result of—

- (a) an act or omission of a licensed body or former licensed body which occurs during the transitional period;
- (b) an act or omission of a manager or employee (or former manager or employee) of a licensed body or former licensed body which occurs during the transitional period;
- (c) an act or omission of any of the following persons which occurs during the transitional period—
 - (i) a person who has an interest or an indirect interest in a licensed body or former licensed body;
 - (ii) a person who holds a material interest in such a body;
 - (iii) a person who had or held an interest within sub-paragraph (c)(i) or (ii) at the time the act or omission occurred;
- (d) the exercise by the Society of any of its powers under Schedule 14 to the Legal Services Act 2007 which—
 - (i) occurs during the transitional period; or
 - (ii) occurs after the end of that period but relates to anything which occurred during that period.

3. In relation to compensation rules which include provision made by virtue of paragraph 2, section 36 of the 1974 Act has effect as if—

- (a) in subsection (2), after paragraph (f), there were inserted—

⁽¹⁾ 1974 c.47.

⁽²⁾ Sections 36 and 36A of the Solicitors Act 1974 were substituted by paragraphs 1 and 37 of Schedule 16 to the Legal Services Act 2007.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Legal Services Act 2007 (The Law Society and The Council for Licensed Conveyancers) (Modification of Functions) Order 2011 No. 1716*

- “(fa) for a grant to be made by way of making good a deficiency in monies held in trust by the Society under paragraph 3 or 4 of Schedule 14 to the Legal Services Act 2007;”;
- (b) in subsection (3)(b), for “within subsection (1)(a) or (b)”, there were substituted “involving an act or omission to which compensation rules apply”; and
- (c) for subsection (4), there were substituted—
- “(4) For the purposes of paragraph (f) or (fa) of subsection (2), there is a deficiency if the monies mentioned in the paragraph in question are insufficient to satisfy the claims of all persons with a beneficial interest in the monies.”.
4. In relation to compensation rules which include provision made by virtue of paragraph 2, section 36A of the 1974 Act (compensation funds) has effect as if—
- (a) for subsection (2), there were substituted—
- “(2) Compensation rules may require—
- (a) solicitors, or solicitors of a description prescribed in the rules; or
- (b) licensed bodies, or licensed bodies of a description prescribed in the rules;
- to make contributions to a compensation fund or funds of such amounts, at such times and in such circumstances, as may be prescribed in or determined in accordance with the rules.
- (2A) Where compensation rules require persons within subsection (2)(a) and persons within subsection (2)(b) to make contributions into the same compensation fund, anything that may be done in relation to the fund in accordance with this Act or the Legal Services Act 2007 (or any provision made under either Act) may be done—
- (a) irrespective of whether any money forming part of the compensation fund was contributed before or after the making of such compensation rules; and
- (b) irrespective of the persons or description of persons who contributed the money.”;
- (b) in subsection (3) for “such a requirement”, there were substituted “a requirement imposed by virtue of subsection (2)”;
- (c) after subsection (9)(d), there were inserted—
- “(da) payment of any costs, charges or expenses incurred by the Society in exercising its powers under Schedule 14 to the Legal Services Act 2007;”;
- (d) after the definition of “compensation rules” in subsection (10), there were inserted—
- ““licensed body” means a body which holds a licence in force under Part 5 of the Legal Services Act 2007 which is granted by the Society.”.