



# Solicitors Act 1974

## 1974 CHAPTER 47

### PART II

#### PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

#### *[<sup>F1</sup> Examination of files]*

#### Textual Amendments

**F1** S. 44B added by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 2, 69(5), [Sch. 9 para. 2](#)

#### **44B Power of society to examine files in connection with complaints**

- (1) Where the Council are satisfied that it is necessary to do so for the purpose of investigating any complaint made to the Society—
  - (a) alleging professional misconduct by a solicitor; or
  - (b) relating to the quality of any professional services provided by a solicitor,the Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society, at a time and place to be fixed by the Society, of all documents in the possession of the solicitor or his firm in connection with the matters to which the complaint relates (whether or not they relate also to other matters).
- (2) Sub-paragraphs (2) to (12) of paragraph 9 of Schedule 1, together with paragraphs 12 to 16 of that Schedule, shall apply in relation to the powers conferred by subsection (1) as they apply in relation to the powers conferred by sub-paragraph (1) of paragraph 9, and accordingly in those provisions—
  - (a) 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 (1); and

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- (b) 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 (1).

VALID FROM 31/03/2009

### **[<sup>F2</sup>44BA Power to require explanation of document or information**

- (1) The Society may, by notice, require a person to whom a notice is given under section 44B (or a representative of the person) to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced pursuant to the notice.
- (2) The Society may pay to any person such reasonable costs as may be incurred by that person in connection with that person's compliance with a requirement imposed under subsection (1).
- (3) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to a notice under this section, except that for this purpose—
  - (a) paragraph 9 of that Schedule has effect as if—
    - (i) in sub-paragraph (3) for “having” to “sub-paragraph (1)” there were substituted “refuses, neglects or otherwise fails to comply with a requirement under section 44BA(1)”, and
    - (ii) in sub-paragraph (4) for “produce” (in the first place) to the end there were substituted “provide an explanation of any information provided or document produced pursuant to a notice under section 44B (or a representative of such a person) to attend at a time and place specified in the order to provide an explanation of any information so provided or document so produced.”, and
  - (b) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

#### **Textual Amendments**

- F2** Ss. 44B-44BC substituted (31.3.2009) for s. 44B by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 44](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#) (subject to art. 4)

#### **Modifications etc. (not altering text)**

- C1** S. 44BA extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 5\(d\)](#)
- C2** S. 44BA applied by [Administration of Justice Act 1985 \(c. 61\)](#), Sch. 2 para. 14(6) (as substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 101](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(iii\)](#) (subject to art. 4))

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#### **44BB Provision of information and documents by other persons**

- (1) The High Court, on the application of the Society, may order a person to whom section 44B does not apply—
  - (a) to provide information, or information of a description, specified in the notice, or
  - (b) to produce documents, or documents of a description, specified in the notice.
- (2) The High Court may make an order under this section only if it is satisfied—
  - (a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and
  - (b) that there is reasonable cause to believe that the information or document is likely to be of material significance to an investigation into any of the matters mentioned in section 44B(3)(a) to (d).
- (3) An order under this section may direct the Society to pay to a person specified in the order such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to the order.
- (4) Section 44B(4) applies in relation to an order under this section as it applies in relation to a notice under section 44B.
- (5) Paragraphs 9(5A) and (7) to (12), 12, 13, 15 and 16 of Schedule 1 apply in relation to an order under this section as they apply in relation to an order under paragraph 9(4) of that Schedule, except that for this purpose—
  - (a) the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule is to be construed as a reference to the person in respect of whom the order under this section is made,
  - (b) the reference in paragraph 9(12) of that Schedule to the Society is to be read as including a reference to a person specified under section 44B(4)(c) (as applied by subsection (4) of this section), and
  - (c) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

#### **Textual Amendments**

- F2** Ss. 44B-44BC substituted (31.3.2009) for s. 44B by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 44](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#) (subject to art. 4)

VALID FROM 31/03/2009

#### **44BC Information offences**

- (1) It is an offence for a person who knows or suspects an investigation into any of the matters mentioned in section 44B(3)(a) to (d) is being or is likely to be conducted—

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- (a) to falsify, conceal, destroy or otherwise dispose of a document which the person knows or suspects is or would be relevant to the investigation, or
  - (b) to cause or permit the falsification, concealment, destruction or disposal of such a document.
- (2) In proceedings for an offence under subsection (1) it is a defence for the accused to show that the accused had no intention of concealing facts disclosed by the documents from the person conducting the investigation.
- (3) It is an offence for a person, in purported compliance with a requirement imposed on the person under section 44B, 44BA or 44BB—
- (a) to provide information which the person knows to be false or misleading in a material particular, or
  - (b) recklessly to provide information which is false or misleading in a material particular.
- (4) A person who is guilty of an offence under subsection (1) or (3) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.
- (5) In relation to an offence under subsection (1) or (3) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (4)(a) to 12 months is to be read as a reference to 6 months.]

#### Textual Amendments

- F2** Ss. 44B-44BC substituted (31.3.2009) for s. 44B by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 44](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#) (subject to art. 4)

#### Modifications etc. (not altering text)

- C3** S. 44BC extended (with modifications) (1.7.2009) by [S.I. 2000/1119](#), [Sch. 4 para. 7\(2\)Table](#) (as amended by [The Legal Services Act 2007 \(Registered European Lawyers\) Order 2009 \(S.I. 2009/1587\)](#), [art. 3\(7\)\(e\)](#))  
S. 44BC extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 5\(e\)](#)
- C4** S. 44BC(1) applied by [Administration of Justice Act 1985 \(c. 61\)](#), [Sch. 2 para. 14\(7\)](#) (as substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 101](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#) (subject to art. 4))
- C5** S. 44BC(2)(4)(5) applied by [Administration of Justice Act 1985 \(c. 61\)](#), [Sch. 2 para. 14\(7\)](#) (as substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 101](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4))
- C6** S. 44BC(3) applied by [Administration of Justice Act 1985 \(c. 61\)](#), [Sch. 2 para. 14\(8\)](#) (as substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 101](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4))
- C7** S. 44BC(4)(5) applied by [Administration of Justice Act 1985 \(c. 61\)](#), [Sch. 2 para. 14\(8\)](#) (as substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 101](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to art. 4))

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