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Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)

SCHEDULES

SCHEDULE 1 **E+W**

INTERVENTION IN SOLICITOR’S PRACTICE

Modifications etc. (not altering text)

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

PART II **E+W**

POWERS EXERCISABLE ON INTERVENTION

Money

- 5 (1) The High Court, on the application of the Society, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm.
- (2) No order under this paragraph shall take effect in relation to any person to whom it applies unless the Society has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank [^{F1}or other financial institution], has indicated at which of its branches the Society believes that the money to which the order relates is held.
- (3) A person shall not be treated as having disobeyed an order under this paragraph by making a payment of money if he satisfies the court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.
- (4) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

Textual Amendments

- F1** Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, Sch. 1 para. 13(3)

Modifications etc. (not altering text)

- C1** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), Sch. 2 paras. 32–35

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C2 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

- 6 (1) Without prejudice to paragraph 5, if the Council pass a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Society, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Society on trust to exercise in relation to them the powers conferred by this Part of this Schedule and subject thereto upon trust for the persons beneficially entitled to them.
- (2) This paragraph applies—
- (a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;
 - (b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and
 - (c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.
- (3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.
- (4) Within [^{F2}8]days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.
- (5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.
- (6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F3}level 3 on the standard scale].

Textual Amendments

- F2** Number substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(4)**
F3 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46

Modifications etc. (not altering text)

- C3** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
C4 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

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- [^{F4}6A (1) Without prejudice to paragraph 5, if the Society passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Society, those rights shall vest accordingly.
- (2) This paragraph applies to any right to recover or receive debts due to the solicitor or his firm in connection with his practice or former practice.
- (3) Any sums recovered by the Society by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Society and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.
- (4) The Society shall serve on the solicitor or his firm, and any person who owes a debt to which the order applies, a certified copy of the Society's resolution.

Textual Amendments

- F4** Sch. 1 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 77(6) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i) (subject to art. 4)

VALID FROM 01/03/2009

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

Textual Amendments

- F4** Sch. 1 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 77(6) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i) (subject to art. 4)

- 7 (1) If the Society takes possession of any sum of money to which paragraph 6 applies, the Society shall pay it into a special account in the name of the Society or of a person nominated on behalf of the Society, [^{F5}or into a client account of a solicitor nominated on behalf of the society, and any such person or solicitor] shall hold that sum on trust to permit the Society to exercise in relation to it the powers conferred by this Part of this Schedule and subject thereto on trust for the persons beneficially entitled to it.
- (2) A bank [^{F6}or other financial institution] at which a special account is kept shall be under no obligation to ascertain whether it is being dealt with properly.

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Textual Amendments

- F5** Words substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 8, **Sch. 1 para. 13(5)(a)**
F6 Words inserted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 8, **Sch. 1 para. 13(5)(b)**

Modifications etc. (not altering text)

- C5** [Sch. 1 Pt. II paras. 5–16](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 9, 69(2), **Sch. 2 paras. 32–35**
C6 [Sch. 1 Pt. II paras. 5–16](#) extended (with modifications) (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 89, 124(3), **Sch. 14 para. 5**

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

Modifications etc. (not altering text)

- C7** [Sch. 1 Pt. II paras. 5–16](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 9, 69(2), **Sch. 2 paras. 32–35**
C8 [Sch. 1 Pt. II paras. 5–16](#) extended (with modifications) (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 89, 124(3), **Sch. 14 para. 5**

Documents

- 9 (1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—
- (a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and
 - (b) where they are exercisable by virtue of paragraph 3, of all documents in the possession of the solicitor or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).
- (2) The person appointed by the Society may take possession of any such documents on behalf of the Society.
- (3) Except in a case where an application has been made to the High Court under sub-paragraph (4), if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub-paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F7}level 3 on the standard scale].
- (4) The High Court, on the application of the Society, may order a person required to produce or deliver documents under sub-paragraph (1) to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.

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- (5) If on an application by the Society the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub-paragraph (1) are exercisable have come into the possession of some person other than the solicitor or his firm, the court may order that person to produce or deliver the documents to any person appointed by the Society at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Society.
- (6) On making an order under this paragraph, or at any later time, the court, on the application of the Society, may authorise a person appointed by the Society to enter any premises (using such force as is reasonably necessary) to search for and take possession of any documents to which the order relates.
- (7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society’s behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.
- (8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours’ notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.
- (9) A notice under sub-paragraph (8) shall be given within 8 days of the service of the Society’s notice under sub-paragraph (7).
- (10) Without prejudice to the foregoing provisions of this Schedule, the Society may apply to the High Court for an order as to the disposal or destruction of any documents in its possession by virtue of this paragraph or paragraph 10.
- (11) On an application under sub-paragraph (8) or (10), the Court may make such order as it thinks fit.
- (12) Except so far as its right to do so may be restricted by an order on an application under sub-paragraph (8) or (10), the Society may take copies of or extracts from any documents in its possession by virtue of this paragraph or paragraph 10 and require any person to whom it is proposed that such documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Society.

Textual Amendments

F7 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

Modifications etc. (not altering text)

- C9** [Sch. 1 Pt. II paras. 5–16](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), **ss. 9, 69(2)**, **Sch. 2 paras. 32–35**
- C10** [Sch. 1 Pt. II paras. 5–16](#) extended (with modifications) (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **ss. 89, 124(3)**, **Sch. 14 para. 5**
- C11** [Sch. 1 Pt. II para. 9\(2\)](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), **ss. 9, 69(2)**, **Sch. 2 para. 14(2)**
- C12** [Sch. 1 Pt. II paras. 9\(3\)–\(12\)](#) extended (*prosp.*) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), **ss. 9, 69(2)**, **Sch. 2 para. 14(2)**

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Mail

- 10 (1) The High Court, on the application of the Society, may from time to time order that for such time not exceeding 18 months as the court thinks fit postal packets (as defined by section 87(1) of the ^{M1}Post Office Act 1953) addressed to the solicitor or his firm at any place or places mentioned in the order shall be directed to the Society or any person appointed by the Society at any other address there mentioned; and the Society, or that person on its behalf, may take possession of any such packets received at that address.
- (2) Where such an order is made the Society shall pay to the Post Office the like charges (if any), as would have been payable for the re-direction of the packets by virtue of any scheme made under section 28 of the ^{M2}Post Office Act 1969, if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the Post Office to redirect them to him at the address mentioned in the order.
- (3) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

Modifications etc. (not altering text)

C13 Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**

C14 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

Marginal Citations

M1 1953 c. 36.

M2 1969 c. 48.

Trusts

- 11 (1) If the solicitor or his personal representative is a trustee of a controlled trust, the Society may apply to the High Court for an order for the appointment of a new trustee in substitution for him.
- (2) The ^{M3}Trustee Act 1925 shall have effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.

Modifications etc. (not altering text)

C15 Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**

C16 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**

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Marginal Citations

M3 1925 c. 19.

General

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

Modifications etc. (not altering text)

- C17** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C18** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C19** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

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

Modifications etc. (not altering text)

- C20** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C21** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C22** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

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[^{F8}13A(1) The High Court, on the application of the Society, may order a former partner of the solicitor to pay a specified proportion of the costs mentioned in paragraph 13.

(2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the solicitor was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.

(3) In this paragraph “specified” means specified in the order made by the High Court.]

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Textual Amendments

- F8** Sch. 1 para. 13A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(13)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

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

Modifications etc. (not altering text)

- C23** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C24** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C25** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

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

Modifications etc. (not altering text)

- C26** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C27** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C28** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

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

Modifications etc. (not altering text)

- C29** Sch. 1 Pt. II paras. 5–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 paras. 32–35**
- C30** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 89, 124(3), **Sch. 14 para. 5**
- C31** Sch. 1 Pt. II paras. 12–16 extended (*prosp.*) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 9, 69(2), **Sch. 2 para. 14(2)**

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