

*Status: Point in time view as at 31/03/2009.*

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

## SCHEDULES

### SCHEDULE 1

#### 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

#### 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 [<sup>F1</sup>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 (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 paras. 119-123 (with ss. 29, 192, 193)); S.I. 2009/503, art. 2(b)(i) (subject to art. 4)

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**C2** Sch. 1 Pt. II paras. 5;16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

- 6 (1) Without prejudice to paragraph 5, if the [<sup>F2</sup>Society passes] 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 [<sup>F3</sup>Society'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 [<sup>F4</sup>and to rules under paragraph 6B] 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
    - [<sup>F5</sup>(i) his practice or former practice,
    - (ii) any trust of which he is or formerly was a trustee, or
    - (iii) any trust of which a person who is or was an employee of the solicitor is or was a trustee in the person's capacity as such an employee;]
  - (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 [<sup>F6</sup>in connection with which the Society is satisfied there has been undue delay as mentioned in sub-paragraph (a) of that paragraph].
- (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 [<sup>F7</sup>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 [<sup>F8</sup>level 3 on the standard scale].

#### Textual Amendments

- F2** Words in Sch. 1 para. 6(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(5)(a)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F3** Word in Sch. 1 para. 6(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(5)(a)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

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- F4** Words in Sch. 1 para. 6(1) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 77\(5\)\(a\)\(iii\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#) (subject to art. 4)
- F5** Words in Sch. 1 para. 6(2)(a) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 77\(5\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#) (subject to art. 4)
- F6** Words in Sch. 1 para. 6(2)(c) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 77\(5\)\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#) (subject to art. 4)
- F7** Number substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 8, [Sch. 1 para. 13\(4\)](#)
- F8** 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 (1.1.1992) by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 9, [Sch. 2 paras. 32–35](#); S.I. 1991/2683, [art. 2](#) (which extending provisions were amended (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 paras. 119–123](#) (with ss. 29, 192, 193)); S.I. 2009/503, [art. 2\(b\)\(ii\)](#)
- C4** Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 89, [Sch. 14 Pt. II para. 5](#); S.I. 1991/1883, [art. 3](#), [Sch.](#)

- [<sup>F9</sup>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

- F9** [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)

- 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

- F9** [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)

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- 7 (1) If the Society takes possession of any sum of money to which paragraph 6 <sup>[F10]</sup>or 6A(3)] 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, <sup>[F11]</sup>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 <sup>[F12]</sup>and to rules under paragraph 6B] on trust for the persons beneficially entitled to it.
- (2) A bank <sup>[F13]</sup>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.

#### Textual Amendments

- F10** Words in Sch. 1 para. 7(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(7)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F11** Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(5)(a)**
- F12** Words in Sch. 1 para. 7(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(7)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F13** 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 (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119-123** (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**
- C6** Sch. 1 Pt. II paras. 5-16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

- 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 (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119-123** (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**
- C8** Sch. 1 Pt. II paras. 5-16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

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