



Administration of Justice Act 1985

1985 CHAPTER 61

PART II

LICENSED CONVEYANCING

Modifications etc. (not altering text)

- C1** Pt. II (ss. 11–39): power to amend conferred (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53(8)
- C2** Pt. II (ss. 11–39) applied with modifications (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53(9)

Preliminary

11 Provision of conveyancing services by licensed conveyancers.

- (1) The provisions of this Part shall have effect for the purpose of regulating the provision of conveyancing services by persons who hold licences in force under this Part.
- (2) In this Part—
“licence” means a licence to practise as a licensed conveyancer;
“licensed conveyancer” means a person who holds a licence in force under this Part;
and references in this Part to practising as a licensed conveyancer are references to providing, as the holder of such a licence, conveyancing services in accordance with the licence.
- (3) References in this Part to conveyancing services are references to the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land; and for the purposes of this subsection—
(a) “disposition”—

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- (i) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the ^{M1}Law of Property Act 1925 (short leases); but
 - (ii) subject to that, includes in the case of leases both their grant and their assignment; and
- (b) “acquisition” has a corresponding meaning.
- (4) Section 22(1) of the ^{M2}Solicitors Act 1974 (restriction on person preparing certain instruments when not qualified to act as a solicitor) shall not apply to any act done by a licensed conveyancer in the course of the provision of any conveyancing services if he is not precluded from providing those services as a licensed conveyancer by any conditions imposed as mentioned in section 16(3)(a).

Marginal Citations

M1 1925 c. 20.

M2 1974 c. 47.

The Council for Licensed Conveyancers

12 Establishment of the Council.

- (1) For the purposes of this Part there shall be a body to be known as the Council for Licensed Conveyancers.
- (2) It shall be the general duty of the Council to ensure that the standards of competence and professional conduct among persons who practise as licensed conveyancers are sufficient to secure adequate protection for consumers, and that the conveyancing services provided by such persons are provided both economically and efficiently.
- (3) Schedule 3 shall have effect with respect to the Council.

Training and licensing of persons seeking to practise as licensed conveyancers

13 Training rules.

- (1) The Council shall make rules relating to the education and training of those seeking to practise as licensed conveyancers, and those rules shall, in particular, include provisions prescribing—
 - (a) the examinations to be taken by such persons; and
 - (b) requirements as to practical training and experience.
- (2) Rules made by the Council under this section may—
 - (a) prescribe minimum standards of general education that must have been attained by persons who seek to practise as licensed conveyancers;
 - (b) provide for the recognition by the Council of courses of study provided by educational institutions or other bodies as being adequate for the purpose of preparing candidates for any examinations held in pursuance of subsection (1) (a);
 - (c) prescribe any education or training to be undergone by persons who are licensed conveyancers, and, in connection therewith, provide for the approval

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- by the Council of courses of study provided by educational institutions or other bodies;
 - (d) include provision for the charging of fees by the Council;
 - (e) make different provision in relation to different classes of persons.
- (3) Rules under subsection (1)(b) may provide—
- (a) for the manner in which a person may satisfy the Council that he has complied with any requirement of the rules as to practical experience;
 - (b) for attendance by a person at a training course approved by the Council for the purposes of the rules to count as practical training for those purposes.
- (4) Without prejudice to the generality of subsection (2)(e), rules under this section may provide for persons who—
- (a) hold such qualifications as may be specified in the rules; or
 - (b) have acquired such experience in relation to the provision of conveyancing services as may be so specified; or
 - (c) satisfy such other conditions as may be so specified, to be exempt from any of the requirements of the rules.
- (5) The Council may—
- (a) appoint, or approve the appointment of, persons as examiners or moderators in connection with examinations held in pursuance of subsection (1)(a); and
 - (b) remunerate any person appointed by it under paragraph (a) of this subsection.

14 Applications for licences.

- (1) An application for a licence under this Part shall be made to the Council in such manner, and shall be accompanied by such fee, as may be prescribed by rules made by the Council under this section.
- (2) Any such rules—
- (a) may prescribe the forms to be used in connection with applications for licences under this Part;
 - (b) may provide for applications of any description specified in the rules to be exempt from any of the requirements of the rules.

15 Issue of licences by Council.

- (1) If, on an application for a licence under this Part made in accordance with section 14, the Council is satisfied—
- (a) that the applicant has complied with such rules under section 13 (if any) as are applicable in his case; and
 - (b) that he has made adequate arrangements for the purpose of complying with any rules made under or for the purposes of section 21(1); and
 - (c) that he is a fit and proper person to practise as a licensed conveyancer or, in the case of an applicant in relation to whom section 16 has effect, that he is a fit and proper person to practise as such a conveyancer subject to his complying with any particular conditions that may be imposed under that section,
- the Council shall issue the applicant either with a licence free of conditions or with a licence subject to such conditions as aforesaid, as the case may require.

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- (2) If the Council is for any reason not so satisfied it shall refuse the application, and shall notify the applicant of the refusal of the application and of the grounds on which it has been refused.
- (3) Where—
- (a) an application for a licence has been made in accordance with section 14; and
 - (b) the Council has within the period of 21 days beginning with the date when the application was received by the Council neither issued a licence in pursuance of the application nor refused the application under subsection (2),
- then, for the purposes of this Part, the application shall be deemed to have been so refused by the Council, and the applicant shall be deemed to have been notified of the refusal at the end of the said period.
- (4) Subject to the provisions of this Part, the period for which a licence shall be in force under this Part shall be the period of twelve months beginning with the date of its issue.
- (5) Where—
- (a) an application for a licence is made in accordance with section 14 by a person who, at the date of the application, already holds a licence under this Part; and
 - (b) no new licence is issued to him in pursuance of the application before the time when his existing licence would, apart from this subsection, expire in accordance with subsection (4),
- his existing licence shall not expire at that time but shall continue in force until a new licence is issued to him in pursuance of the application or, if the application is refused by the Council—
- (i) until the end of the period within which an appeal may be brought against the refusal under section 29(1)(a); or
 - (ii) if such an appeal is brought, until the appeal is determined or abandoned.
- (6) Where an applicant for a licence under this Part has held such a licence at any time within the period of twelve months ending with the date of his application, any licence granted to him in pursuance of the application shall, unless the Council directs otherwise, be deemed to have been issued on the day following the date when his previous licence expired in accordance with subsection (4) (or would have so expired but for subsection (5)) and accordingly to have been held by him as from that day.
- [^{F1}(7) A licence issued under this Part may be endorsed by the Council as—
- (a) a full licence, if the Council is satisfied that the person to whom it is issued has complied, or will comply, with the requirements made under this Part with respect to professional indemnity and compensation; or
 - (b) as a limited licence, if the Council is not so satisfied.
- (8) Rules made under section 21 may make provision for the making, or removal, of endorsements while a licence is in force and for the recording of any such endorsement, or of its removal, in the register maintained under section 19.]

Textual Amendments

F1 S. 15(7)(8) added (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, **Sch. 8 para. 23**

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Modifications etc. (not altering text)

- C3 S. 15(3)–(6) applied with modifications (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, Sch. 8 para. 4(3)

16 Conditional licences.

- (1) Subject to subsection (4), this section has effect in any case where a person applies for a licence under this Part—
- (a) for the first time;
 - (b) when each licence previously held by him under this Part has been subject to conditions under this section;
 - (c) when, on the first day of the period to which the licence would (if granted) relate, a period of twelve months or more will have elapsed since he held a licence in force under this Part;
 - (d) after the Discipline and Appeals Committee established under section 25 have made any order in his case under section 26;
 - (e) after he has been invited by the Council to give an explanation in respect of any matter relating to his conduct and has failed to give an explanation in respect of that matter which the Council regards as satisfactory, and has been notified in writing by the Council that he has so failed;
 - (f) while he is an undischarged bankrupt . . . ^{F2};
 - (g) after having been adjudged bankrupt [^{F3}and discharged] or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors;
 - (h) while he is a person as to whom powers have been exercised under section 98 of the ^{M3}Mental Health Act 1983 (judge's powers in cases of emergency);
 - [^{F4}(i) after having been committed to prison in civil or criminal proceedings; or]
 - [^{F4}(i) after having been committed to prison in civil proceedings;
 - (ia) after having been convicted of an offence involving dishonesty or deception or a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984); or]
 - (j) after having had given against him any judgment which involves the payment of money, not being a judgment—
 - (i) limited to the payment of costs; or
 - (ii) as to whose whole effect upon him he is entitled to indemnity or relief from some other person; or
 - (iii) evidence of whose satisfaction has been produced to the Council.
- (2) In any case where this section has effect the Council may, on issuing a licence to the applicant under section 15, issue it subject to such conditions as the Council thinks fit; and the Council's decision in any such case to impose any particular conditions under this subsection may be made by reference to such criteria of general application as may have been determined by the Council.
- (3) Without prejudice to the generality of subsection (2), conditions may be imposed under that subsection—
- (a) for restricting the kinds of conveyancing services that may be provided by the applicant as a licensed conveyancer; or

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- (b) for requiring the applicant to take any specified steps that will, in the opinion of the Council, be conducive to his carrying on an efficient practice as a licensed conveyancer;
- and conditions may be imposed under that subsection (whether for the purpose mentioned in paragraph (b) or otherwise) notwithstanding that they may result in expenditure being incurred by the applicant.
- (4) Where a licence free of conditions is issued by the Council under section 15 to an applicant in relation to whom this section has effect by reason of any such circumstances as are mentioned in paragraph (d), (e), (f), (g), (h), (i) or (j) of subsection (1), then, except in the case of any circumstances of whose existence the Council is unaware at the time the licence is issued, this section shall not thereafter have effect in relation to that person by reason of those circumstances.
- (5) Where the Council decides to issue an applicant with a licence subject to conditions, it may, if it thinks fit, direct that the conditions shall not have effect—
- (a) pending the hearing and determination of any appeal brought by the applicant under section 29(1)(b); or
 - (b) if this section has effect in relation to the applicant by reason only of any such circumstances as are mentioned in paragraph (f), (i) or (j) of subsection (1) and an appeal has been made to the appropriate court against the order or judgment in question, pending the hearing and determination of that appeal.

Textual Amendments

- F2** Words repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(3), **Sch. 10 Pt. III** (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, **Sch. 11 para. 10**)
- F3** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1), **Sch. 8 para. 40** (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, **Sch. 11 para. 10**)
- F4** [S. 16\(1\)\(i\)\(ia\)](#) substituted (*prosp.*) for s. 16(1)(i) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 53, 124(3), **Sch. 8 para. 24**

Modifications etc. (not altering text)

- C4** [S. 16\(4\)\(5\)](#) extended with modifications (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 53, **Sch. 8, para. 5(7)**

Marginal Citations

- M3** 1983 c. 20.

VALID FROM 31/03/2009

^{F5}16A Additional fee payable by certain persons when applying for licences

- (1) This section applies where a person applies for a licence at a time when section 16 has effect in relation to him by reason of the circumstances mentioned in section 16(1)(ea).
- (2) The application must be accompanied by an additional fee of an amount prescribed by rules made by the Council for the purposes of this section.]

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Textual Amendments

F5 S. 16A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 6** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

17 Imposition of conditions during currency of licence.

- (1) Subject to the provisions of this section the Council may in the case of any licensed conveyancer direct that his licence shall have effect subject to such conditions as the Council thinks fit.
- (2) The power to give a direction under this section in the case of any licensed conveyancer shall be exercisable by the Council at any time during the period for which his licence is in force if—
 - (a) in the event of an application for a licence being made by him at that time, section 16 would have effect in relation to him by reason of any such circumstances as are mentioned in paragraph (d), (e), (i) or (j) of subsection (1) of that section; or
 - (b) ^{F6}
 - (c) he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors.
- (3) Subject to subsection (4), the conditions specified in a direction under this section shall have effect as from the time when the licensed conveyancer concerned is notified of the Council's decision to give the direction.
- (4) The Council may, if it thinks fit, provide in a direction given under this section in the case of any licensed conveyancer that the conditions specified in the direction shall not have effect—
 - (a) pending the hearing and determination of any appeal brought by the licensed conveyancer under section 29(1)(c); or
 - (b) if an appeal has been made by the licensed conveyancer to the appropriate court against any order or judgment which, if successful, would result in subsection (2) no longer being applicable to him, pending the hearing and determination of that appeal.
- (5) Subsection (3) of section 16 shall apply for the purposes of subsection (1) of this section as it applies for the purposes of subsection (2) of that section.

Textual Amendments

F6 S. 17(2)(b) repealed by Insolvency Act 1985 (c. 65, SIF 66), s. 235(3), **Sch. 10 Pt. III** (with saving in Insolvency Act 1986 (c. 45, SIF 66), s. 437, **Sch. 11 para. 10**)

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^{F7}17A Variation of conditions

- (1) This section applies where a licensed conveyancer's licence has effect subject to conditions.

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- (2) On an application made by the licensed conveyancer, the Council may in prescribed circumstances direct—
 - (a) the removal of a condition;
 - (b) the variation of a condition in the manner described in the application.
- (3) “Prescribed” means prescribed by rules made by the Council.
- (4) Section 14 (applications for licences) applies in relation to an application under this section as it applies in relation to applications for a licence under this Part.]

Textual Amendments

- F7** S. 17A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 8 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

18 Suspension or termination of licences.

- (1) Where an adjudication in bankruptcy is made against a licensed conveyancer, any such adjudication shall operate immediately to suspend the licence held by that person under this Part; and, subject to subsection (2), the suspension of the licence shall continue until the licence expires.
- (2) The suspension of a licence by virtue of subsection (1) shall terminate if the adjudication in question is annulled and an office copy of the order annulling the adjudication is served on the Council.
- (3) A licence held by a person under this Part shall terminate if that person becomes a patient within the meaning of Part VII of the ^{M4}Mental Health Act 1983.
- (4) For the purposes of this Part a licence shall be treated as not being in force at any time while it is suspended by virtue of any provision of this Part.

Marginal Citations

- M4** 1983 c. 20.

19 Register of licensed conveyancers.

- (1) The Council shall establish and maintain, in such form as the Council may determine, a register containing the names and places of business of all persons who for the time being hold licences in force under this Part.
- (2) The Council shall accordingly cause the appropriate entries and deletions to be made in the register on the issue and termination of licences under this Part; and where any licence held by a person is for the time being suspended by virtue of any provision of this Part the Council shall cause that fact to be noted in the register against that person’s name.
- (3) Any change in a licensed conveyancer’s place or places of business shall be notified by him to the Council within the period of fourteen days beginning with the date on which the change takes effect.

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- (4) The Council shall provide facilities for making the information contained in the entries in the register available for inspection in visible and legible form by any person during office hours and without payment.
- (5) A certificate signed by an officer of the Council appointed for the purpose and stating—
 - (a) that any person does or does not, or did or did not at any time, hold a licence in force under this Part; or
 - (b) that any licence held by any person is or was at any time either free of conditions or subject to any particular conditions,shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.

Code of conduct

20 Rules as to professional practice, conduct and discipline.

- (1) The Council shall, in pursuance of its general duty referred to in section 12(2), make rules for regulating the professional practice, conduct and discipline of licensed conveyancers.
- (2) Rules made by the Council under this section may provide for regulating the association of licensed conveyancers with other persons in connection with the provision of conveyancing services to members of the public.

Financial requirements

21 Professional indemnity and compensation.

- (1) The Council shall make rules for indemnifying licensed conveyancers and former licensed conveyancers against losses arising from claims in respect of any description of civil liability incurred by them, or by employees or associates or former employees or associates of theirs, in connection with their practices as licensed conveyancers.
- (2) The Council shall also make rules for the making of grants or other payments for the purpose of relieving or mitigating losses suffered by persons in consequence of—
 - (a) negligence or fraud or other dishonesty on the part of licensed conveyancers, or of employees or associates of theirs, in connection with their practices (or purported practices) as licensed conveyancers; or
 - (b) failure on the part of licensed conveyancers to account for money received by them in connection with their practices (or purported practices) as licensed conveyancers.
- (3) For the purpose of providing such indemnity and of enabling such grants or other payments to be made, rules under this section—
 - (a) may authorise or require the Council to establish and maintain a fund or funds;
 - (b) may authorise or require the Council to take out and maintain insurance with authorised insurers;
 - (c) may require licensed conveyancers or licensed conveyancers of any specified description to take out and maintain insurance with authorised insurers.

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- (4) Without prejudice to the generality of the preceding subsections, rules under this section—
- (a) may specify the terms and conditions on which indemnity or a grant or other payment is to be available, and any circumstances in which the right to it is to be excluded or modified;
 - (b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (3)(a) and require licensed conveyancers or licensed conveyancers of any specified description to make payments to any such fund;
 - (c) may require licensed conveyancers or licensed conveyancers of any specified description to make payments towards the premium payable on any insurance policy maintained by the Council by virtue of subsection (3)(b);
 - (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (3)(c);
 - (e) may authorise the Council to determine the amount of any payments required by the rules, subject to such limits, or in accordance with such provisions, as may be prescribed by the rules;
 - (f) may specify circumstances in which, where a licensed conveyancer for whom indemnity is provided has failed to comply with the rules, the Council or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which there has been a failure to comply with the rules;
 - (g) may specify circumstances in which, where a grant or other payment is made in consequence of the act or omission of a licensed conveyancer, the Council or insurers may take proceedings against him in respect of the sum so paid;
 - (h) may specify circumstances in which licensed conveyancers are exempt from any of the requirements of the rules;
 - (i) may empower the Council to take such steps as it considers necessary or expedient to ascertain whether or not the rules are being complied with; and
 - (j) may contain incidental, procedural or supplementary provisions.
- (5) In subsection (3) “authorised insurers” means a person permitted under the ^{M5}Insurance Companies Act 1982 to carry on—
- (a) insurance business of class 13 in Schedule 2 to that Act; or
 - (b) insurance business of classes 1, 2, 14, 15, 16 and 17 in that Schedule.

Marginal Citations

M5 1982 c. 50.

22 Keeping of accounts and establishment of client accounts.

- (1) The Council shall make rules requiring licensed conveyancers to keep such accounts in relation to their practices as may be prescribed by the rules.
- (2) The Council shall also make rules requiring licensed conveyancers—
 - (a) to open and keep at authorised institutions accounts for clients’ money;
 - (b) to hold and pay out money so received in such manner as may be prescribed by the rules; and

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- (c) without prejudice to the generality of subsection (1), to keep accounts containing particulars and information as to money received or held or paid by them for or on account of their clients;
- and rules under this subsection shall specify the institutions which are authorised for the purposes of rules under paragraph (a).
- (3) Rules under subsection (1) or (2) of this section may empower the Council—
- (a) to require licensed conveyancers to deliver to the Council at such intervals as may be prescribed by the rules reports given by qualified accountants and containing such information as may be so prescribed—
- (i) for the purpose of giving a true and fair view of the state of their businesses; or
- (ii) for the purpose of enabling the Council to ascertain whether or not the rules have been complied with;
- (b) to take such other steps as it considers necessary or expedient for the latter purpose;
- and any such rules may specify circumstances in which persons are exempt from any of the requirements of the rules.
- (4) Subject to subsection (5), an accountant shall be qualified to give any such report as is referred to in subsection (3)(a) if he is a member of a relevant body of accountants or is for the time being authorised by the Secretary of State under section 389(1)(b) of the ^{M6}Companies Act 1985.
- (5) An accountant shall not be qualified to give any such report in relation to a licensed conveyancer if he is an employee or partner of, or an employee of a partner of, the licensed conveyancer.

Marginal Citations

M6 1985 c. 6.

23 Interest on clients' money.

- (1) Rules made under subsection (2) of section 22 shall make provision for requiring a licensed conveyancer who has received money from a client to account, in such cases as may be prescribed by the rules, to the person who is or becomes entitled to the money for the interest which was, or could have been, earned by putting the money in a separate deposit account at an institution authorised for the purposes of rules under paragraph (a) of that subsection.
- (2) The cases in which a licensed conveyancer may be required to account for interest by rules made by virtue of subsection (1) may be defined by reference to, among other things, the amount of the sum held or received by him or the period for which it is likely to be retained, or both; and any such rules may include provision for enabling a client (without prejudice to any other remedy) to require that any question arising under the rules in relation to the client's money be referred to and determined by the Council.
- (3) Except as provided by any rules so made and subject to subsection (4), a licensed conveyancer who maintains an account in pursuance of section 22(2)(a) in which he

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keeps money received or held for or on account of his clients generally shall not be liable to account to any person for interest received by him on money in that account.

- (4) Nothing in this section or in any rules under section 22(2) shall affect any arrangement in writing between a licensed conveyancer and his client as to the application of the client's money or the payment of interest on it.

Disciplinary and other proceedings

24 Preliminary investigation of disciplinary cases.

- (1) The Council shall establish a committee, to be known as the Investigating Committee, for the preliminary investigation of cases in which—

- (a) it is alleged that a licensed conveyancer—
- (i) has (whether while a licensed conveyancer or not) been convicted by any court in the United Kingdom of a criminal offence which renders him unfit to practise as a licensed conveyancer; or
 - (ii) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject; or
 - (iii) has failed to comply with any rules made by the Council under this Part; or
- (b) a complaint is made to the Council by or on behalf of a member of the public about a licensed conveyancer,

with a view to determining whether such cases ought to be referred by the Committee to the Discipline and Appeals Committee established under the following section for hearing and determination by that Committee under section 26.

- (2) For the purposes of subsection (1)(b) a complaint about a person who at the time when the conduct to which the complaint relates took place was an employee or associate of a licensed conveyancer shall be treated as a complaint about the licensed conveyancer.
- (3) Any reference in subsection (1) or (2) to a licensed conveyancer in relation to any such allegation or complaint as is mentioned in paragraph (a)(ii) or (iii) or paragraph (b) of subsection (1) includes a reference to a person who was a licensed conveyancer at the time when the conduct to which the allegation or complaint relates took place.
- (4) The Council shall make rules as to the constitution of the Investigating Committee and any such rules may provide for the appointment to the Committee of persons (whether licensed conveyancers or not) who are not members of the Council.
- (5) where it appears to the Investigating Committee—
- (a) that any such allegation or complaint as is mentioned in subsection (1) ought to be referred to the Discipline and Appeals Committee for hearing and determination by that Committee under section 26; and
 - (b) that it is necessary for the protection of consumers to do so,
- the Investigating Committee may, if they think fit, direct that any licence held by the licensed conveyancer in question shall be suspended until the allegation or complaint is determined by the Discipline and Appeals Committee or until the expiration of such period as may be prescribed by rules made by the Council, whichever is the earlier.

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[F8]24A Determination of allegations by Investigating Committee

- (1) Where, on hearing an allegation by virtue of section 24(1A)(a), the Investigating Committee are satisfied that a licensed conveyancer—
 - (a) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject, or
 - (b) has failed to comply with any rules made by the Council under this Part, the Committee may, if they think fit, make an order directing the payment by the licensed conveyancer of a penalty to be forfeited to Her Majesty.
- (2) In relation to proceedings before the Investigating Committee by virtue of section 24(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council,
 - (b) the licensed conveyancer against whom the proceedings were brought, or
 - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
- (3) In subsection (2), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A).
- (4) The amount of any penalty required to be paid under subsection (1) may not exceed such amount as may be prescribed by rules made by the Council for the purposes of this subsection.
- (5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—
 - (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and
 - (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.
- (6) A person against whom an order is made by the Investigating Committee by virtue of subsection (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (7) Where an order is made by the Investigating Committee by virtue of subsection (2), a person listed in paragraphs (a) to (c) of that subsection may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (8) Where an order is made by the Discipline and Appeals Committee under subsection (6) or (7)—
 - (a) a party to the appeal, or
 - (b) if not within paragraph (a), the Council,may appeal against the order to the High Court.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

(9) On an appeal under subsection (8) the High Court may make such order as it thinks fit.

(10) The decision of the High Court on an appeal under subsection (8) shall be final.]

Textual Amendments

F8 S. 24A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 13 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

25 The Discipline and Appeals Committee.

- (1) The Council shall establish a committee, to be known as the Discipline and Appeals Committee, for the hearing and determination of—
 - (a) cases referred to them by the Investigating Committee under section 24; and
 - (b) applications and appeals made or brought under sections 27 to 29.
- (2) The Council shall make rules as to the constitution of the Discipline and Appeals Committee, the times and places of the meetings of the Committee, the quorum and the mode of summoning the members of the Committee.
- (3) Rules under this section—
 - (a) shall secure that a person who acted in relation to any case as a member of the Investigating Committee does not act in relation to that case as a member of the Discipline and Appeals Committee;
 - (b) may provide for the appointment to the Discipline and Appeals Committee of persons (whether licensed conveyancers or not) who are not members of the Council.

26 Proceedings in disciplinary cases.

- (1) Where on the hearing of any allegation the Discipline and Appeals Committee are satisfied that a licensed conveyancer—
 - (a) has been convicted as mentioned in section 24(1)(a)(i) of an offence which renders him unfit to practise as a licensed conveyancer;
 - (b) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject; or
 - (c) has failed to comply with any rules made by the Council under this Part,
 the Committee may, if they think fit, make one or more of the orders referred to in subsection (2).
- (2) Those orders are—
 - (a) an order revoking any licence held by the licensed conveyancer;
 - (b) an order directing that the licensed conveyancer shall be disqualified (either permanently or during a specified period) from holding a licence under this Part;
 - (c) an order suspending any licence held by the licensed conveyancer;
 - (d) an order that any such licence shall have effect subject to such conditions as may be specified in the order;

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Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

- (e) an order directing the payment by the licensed conveyancer of a penalty not exceeding £3,000, to be forfeited to Her Majesty;
 - (f) an order that the licensed conveyancer be reprimanded by the Council;
 - (g) an order requiring the licensed conveyancer to pay the costs incurred in bringing against him the proceedings before the Committee or a contribution towards those costs, being a contribution of such amount as the Committee consider reasonable.
- [^{F9}(3) Where, on the hearing of any allegation or complaint, it appears to the Committee that the professional services provided by a licensed conveyancer in connection with any matter in which he or his firm had been instructed by a client were in any respect not of the quality that could reasonably have been expected of him as a licensed conveyancer the Committee may, if they think fit—
- (a) determine that the fees to which the licensed conveyancer or his firm shall be entitled in respect of those services shall be limited to such amount as may be specified in their determination; and
 - (b) by order direct him to comply, or to secure compliance, with such one or more of the following requirements as appear to them to be necessary in order to give effect to their determination, namely—
 - (i) a requirement to refund the whole or part of any amount already paid by or on behalf of the client in respect of the fees of the licensed conveyancer or his firm in respect of those services;
 - (ii) a requirement to remit the whole or part of those fees;
 - (iii) a requirement to waive, whether wholly or to any specified extent, the right to recover those fees.]
- (4) References in this section to a licensed conveyancer include, in relation to an allegation or complaint which has been referred to the Committee in pursuance of section 24 (3), references to any such person as is mentioned in that provision.
- (5) If it appears to the Lord Chancellor that there has been a change in the value of money since the relevant date, he may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament substitute for the sum for the time being specified in subsection (2)(e) such other sum as appears to him to be justified by the change.
- (6) In subsection (5) “the relevant date” means—
- (a) in relation to the first order under that subsection, the commencement of this section;
 - (b) in relation to each subsequent order, the last occasion when the sum specified in subsection (2)(e) was altered.
- (7) A person against whom an order is made by the Committee by virtue of subsection (1) may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.
- (8) The decision of the High Court on an appeal under subsection (7) shall be final.

Textual Amendments

- F9** S. 26(3) repealed (*prosp.*) (with saving) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3)(4), 125(6)(7), Sch. 19 para. 15(1)(b), Sch. 20

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

27 Removal of disqualification from holding a licence.

- (1) Where the Discipline and Appeals Committee have made any such order as is referred to in section 26(2)(b), the person to whom the order relates shall not, while his disqualification continues in force, be issued with a licence under this Part unless the Committee, on an application made to them in that behalf, direct otherwise.
- (2) An application under subsection (1) shall not be made by a person to the Committee—
 - (a) within ten months of the date of the Committee's order; or
 - (b) within ten months of a previous such application by that person.

28 Revocation of licence on grounds of fraud or error.

- (1) Where the Discipline and Appeals Committee are satisfied that a licence was issued to a person as a result of any error, or as a result of fraud on the part of that person, the Committee may, if they think fit, by order revoke the licence.
- (2) A person may be issued with a licence under this Part notwithstanding that a licence previously held by him has been revoked under this section; but if it was so revoked on the ground of fraud he shall not be issued with a licence except on an application made in that behalf to the Committee.
- (3) On any such application the Committee may, if they think fit, direct that the applicant shall be disqualified from holding a licence under this Part until the expiration of such period as may be specified in the direction.
- (4) Section 27 shall apply in relation to a direction under subsection (3) as it applies in relation to any such order as is referred to in section 26(2)(b).

29 Appeals from decisions of Council in relation to licences.

- (1) Where, in the case of any person, the Council—
 - (a) refuses an application for a licence made by that person;
 - (b) decides to issue that person with a licence subject to conditions under section 16; or
 - (c) decides to give a direction in relation to that person under section 17,that person may appeal to the Discipline and Appeals Committee against that refusal or decision within one month of being notified of it.
- (2) On an appeal under this section the Discipline and Appeals Committee may—
 - (a) in the case of an appeal under subsection (1)(a) or (b), by order direct the Council to issue the appellant with—
 - (i) a licence free from conditions; or
 - (ii) a licence subject to such conditions as may be specified by the Committee in the direction;
 - (b) in the case of an appeal under subsection (1)(c), by order—
 - (i) revoke the direction of the Council under section 17; or
 - (ii) direct that the appellant's licence shall have effect subject to such conditions as may be specified by the Committee in the direction;
 - (c) in any case, except an appeal in respect of a deemed refusal under section 15(3), affirm the refusal or decision of the Council appealed against;

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Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

- (d) in the said excepted case, by order direct the Council not to issue a licence to the appellant.
- (3) On an appeal under this section the Committee may make such order as to the payment of costs by the Council or by the appellant as they think fit.

30 Supplementary provisions relating to disciplinary and other proceedings.

Schedule 4 (which contains provisions supplementary to sections 26 to 29) shall have effect.

Intervention by Council

31 Intervention in licensed conveyancer's practice and examination of files.

- (1) The powers conferred by Part II of Schedule 5 shall be exercisable in the circumstances specified in Part I of that Schedule.
- (2) Where the Investigating Committee are satisfied that it is necessary to do so for the purpose of investigating any such allegation or complaint as is mentioned in paragraph (a)(ii) or (iii) or paragraph (b) of section 24(1), the Committee may give notice to the licensed conveyancer to whom the allegation or complaint relates, or to his firm, requiring the production or delivery to any person appointed by the Committee, at a time and place to be fixed by the Committee, of all documents in the possession of the licensed conveyancer or his firm in connection with the matters to which the allegation or complaint relates (whether or not they relate also to other matters).
- (3) Sub-paragraphs (2) to (12) of paragraph 9 of Schedule 5, together with paragraphs 11 and 12 of that Schedule, shall apply in relation to the powers conferred on the Investigating Committee by subsection (2) as they apply in relation to the powers conferred on the Council by sub-paragraph (1) of paragraph 9, and accordingly in those provisions—
 - (a) any reference to the Council shall be construed as including a reference to the Committee;
 - (b) 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 (2); and
 - (c) 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 (2).
- (4) The reference in subsection (2) to a licensed conveyancer includes a reference to a person who was a licensed conveyancer at the time when the conduct to which the allegation or complaint relates took place; and references to the licensed conveyancer in the provisions applied by subsection (3) shall be construed accordingly.

Recognised bodies

32 Provision of conveyancing services by recognised bodies.

- (1) The Council may make rules—

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

- (a) making provision as to the management and control by licensed conveyancers (or by licensed conveyancers together with persons who are not licensed conveyancers) of bodies corporate carrying on businesses consisting of the provision of conveyancing services;
 - (b) prescribing the circumstances in which such bodies may be recognised by the Council as being suitable bodies to undertake the provision of such services;
 - (c) prescribing the conditions which (subject to any exceptions provided by the rules) must at all times be satisfied by bodies so recognised if they are to remain so recognised; and
 - (d) regulating the conduct of the affairs of such bodies.
- (2) In this Part “recognised body” means a body corporate for the time being recognised under this section.
- (3) Rules made by the Council may also make provision—
- (a) for the manner and form in which applications for recognition under this section are to be made, and for the payment of fees in connection with such applications;
 - (b) for regulating the names that may be used by recognised bodies;
 - (c) as to the period for which any recognition granted under this section shall (subject to the provisions of this Part) remain in force;
 - (d) for the imposition by the Council, when granting recognition of a body corporate under this section, of restrictions on the kinds of conveyancing services that it may undertake to provide as a recognised body, and for enabling such restrictions to be imposed by reference to criteria of general application;
 - (e) for the keeping by the Council of a list containing the names and principal places of business of all bodies corporate which are for the time being recognised under this section, and for the information contained in any such list to be available for inspection;
 - (f) for rules made under any other provision of this Part to have effect in relation to recognised bodies with such additions, omissions or other modifications as appear to the Council to be necessary or expedient;
 - (g) for empowering the Council to take such steps as it considers necessary or expedient to ascertain whether or not any rules applicable to recognised bodies by virtue of this section are being complied with;
 - (h) for the manner of service on recognised bodies of documents authorised or required to be served on such bodies under this Part.
- (4) Notwithstanding section 24(2) of the ^{M7}Solicitors Act 1974 (application of penal provisions to bodies corporate), section 22(1) of that Act shall not apply to a body corporate by reason of any act done by an officer or employee of the body if—
- (a) at the time it was done the body was a recognised body; and
 - (b) it was done in the course of the provision of conveyancing services which the body was not precluded from undertaking to provide as a recognised body by any restrictions imposed in pursuance of subsection (3)(d) of this section.
- (5) Section 22(1) of that Act shall also not apply to any officer or employee of a body corporate by reason of any act done by him if—
- (a) the conditions specified in paragraphs (a) and (b) of the preceding subsection are satisfied in relation to that act; and

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Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

- (b) it was done by him at the direction and under the supervision of another person who was at the time an officer or employee of the body; and
 - (c) it could have been done by that other person for or in expectation of any fee, gain or reward without committing an offence under the said section 22.
- (6) A certificate signed by an officer of the Council and stating—
- (a) that any body corporate is or is not, or was or was not at any time, a recognised body; or
 - (b) that no restrictions were imposed in pursuance of subsection (3)(d) on the grant of a body corporate’s recognition under this section or that any particular restrictions were so imposed,
- shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.
- (7) Schedule 6 shall have effect with respect to recognised bodies.

Modifications etc. (not altering text)

C5 S. 32 amended (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, Sch. 8 para. 11

Marginal Citations

M7 1974 c. 47.

VALID FROM 31/03/2009

[^{F10}32A Conveyancing services bodies

- (1) For the purposes of section 32 a “conveyancing services body” means a body (corporate or unincorporate) in respect of which—
 - (a) the management and control condition, and
 - (b) the services condition,are satisfied.
- (2) The management and control condition is satisfied in the case of a partnership if at least one of the partners is a licensed conveyancer.
- (3) The management and control condition is satisfied in the case of an unincorporated body (other than a partnership), or a body corporate which is managed by its members, if at least one of those members is a licensed conveyancer.
- (4) The management and control condition is satisfied in the case of any other body corporate if at least one director of the body is a licensed conveyancer.
- (5) The services condition is satisfied in respect of a body if the body is carrying on a business consisting of the provision of—
 - (a) conveyancing services, or
 - (b) conveyancing services and other relevant legal services.
- (6) For the purposes of this section—

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

“authorised person” means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007);

“relevant legal services”, in relation to a body, means—

- (a) conveyancing services, and
- (b) where authorised persons are managers or employees of, or have an interest in, the body, services such as are provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007);

and a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).]

Textual Amendments

F10 S. 32A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 21** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

Modifications etc. (not altering text)

C6 S. 32A modified (temp.) (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 209, 211, **Sch. 22 para. 15** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(e)** (subject to art. 4)

Miscellaneous and supplemental

33 Legal professional privilege.

(1) Any communication made—

(a) to or by a licensed conveyancer in the course of his acting as such for a client;
or

(b) 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 licensed conveyancer or body had at all material times been acting as the client’s solicitor.

VALID FROM 01/01/2010

[^{F11}33A Administration of oaths by licensed conveyancers

The Council may make rules prescribing its arrangements for authorising licensed conveyancers, for the purposes of the Legal Services Act 2007, to carry on activities which consist of the administration of oaths.]

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

Textual Amendments

F11 S. 33A inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 23 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(iii) (with art. 9)

34 Modification of existing enactments relating to conveyancing etc.

- (1) In the following provisions, namely—
 - (a) sections 69 and 75(1) of the ^{M8}Law of Property Act 1925; and
 - (b) sections 14(1) and 144(1)(iii) and (xiv) of the ^{M9}Land Registration Act 1925, any reference to a solicitor shall be construed as including a reference to a licensed conveyancer and any reference to a person's solicitor shall be construed as including a reference to a licensed conveyancer acting for that person.
- (2) In the following provisions, namely—
 - (a) sections 10(2), 48 and 182 of the Law of Property Act 1925;
 - (b) sections 113 and 144(1)(xxiv) of the Land Registration Act 1925;
 - (c) section 12 of the ^{M10}Land Charges Act 1972;
 - (d) section 13 of the ^{M11}Local Land Charges Act 1975;
 - (e) section 11(8) of the ^{M12}Estate Agents Act 1979; and
 - (f) sections 4(3) and 6(2) of the ^{M13}Matrimonial Homes Act 1983, any reference to a solicitor shall be construed as including a reference to a licensed conveyancer or to a recognised body, and any reference to a person's solicitor shall be construed as including a reference to a licensed conveyancer or recognised body acting for that person.
- (3) The Estate Agents Act 1979 shall not, by virtue of section 1 of that Act, apply to things done in the course of the provision of conveyancing services by a licensed conveyancer or a recognised body.

Marginal Citations

M8 1925 c. 20.
M9 1925 c. 21.
M10 1972 c. 61.
M11 1975 c. 76.
M12 1979 c. 38.
M13 1983 c. 19.

35 Penalty for pretending to be a licensed conveyancer or recognised body.

- (1) An individual shall not describe himself or hold himself out as a licensed conveyancer unless he holds a licence in force under this Part.
- (2) A body corporate shall not describe itself or hold itself out as a recognised body unless it is for the time being recognised under section 32.
- (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

36 Offences by bodies corporate.

Where an offence under this Part which has been 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 purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

37 Service of documents.

Any notice or other document authorised or required to be given or served under this Part may be sent by post; and for the purpose of the application to this section of section 7 of the ^{M14}Interpretation Act 1978 (service by post) the proper address of a licensed conveyancer shall be the address of any place specified in the register as his place of business or one of his places of business.

Marginal Citations

M14 1978 c. 30.

38 Rules.

- (1) Any rules made by the Council under this Part shall be made with the concurrence of the Lord Chancellor.
- (2) Any such rules may make different provision for different circumstances.
- (3) Without prejudice to the generality of subsection (2), any rules prescribing a fee may provide for that fee to be reduced, or to be waived by the Council, in such circumstances as may be specified in the rules.

39 Interpretation of Part II.

- (1) In this Part—

“associate” means, in the case of a licensed conveyancer practising in partnership with other persons, any partner of his not holding a licence in force under this Part or any employee of such a partner;

“client” means—

- (a) in relation to a licensed conveyancer, any person by whom or on whose behalf instructions regarding the provision of conveyancing services are given to the licensed conveyancer or his firm;
- (b) in relation to a recognised body, any person by whom or on whose behalf such instructions are given to the body;

and “client account” means an account in whose title the word “client” is required by rules under section 22(2);

“conveyancing services” shall be construed in accordance with section 11(3);

“the Council” means the Council for Licensed Conveyancers;

“fees” includes charges, disbursements, expenses and remuneration;

“functions” includes powers and duties;

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II. (See end of Document for details)

“licence” and “licensed conveyancer” have the meaning given by section 11(2);

“officer”, in relation to a recognised body, includes a director, manager or secretary;

“recognised body” means a body corporate for the time being recognised under section 32;

“relevant body of accountants” means—

the Institute of Chartered Accountants in England and Wales;

the Institute of Chartered Accountants of Scotland;

the Association of Certified Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 389(1)(a) of the ^{M15}Companies Act 1985 by the Secretary of State;

“the standard scale” has the meaning given by section 37 of the ^{M16}Criminal Justice Act 1982.

- (2) Any reference in this Part to a licensed conveyancer practising as a sole practitioner is a reference to a licensed conveyancer practising either as the sole principal in the practice or in partnership with other persons of whom none are licensed conveyancers.

Marginal Citations

M15 1985 c. 6.

M16 1982 c. 48.

Status:

Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Administration of Justice Act 1985, Part II.