



# Administration of Justice Act 1985

## 1985 CHAPTER 61

### PART II

#### LICENSED CONVEYANCING

##### *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.

[<sup>F1</sup>(2A) The power of the Council to make rules under subsection (2) shall apply in relation to the practices of licensed conveyancers mentioned in subsection (2B) as it applies to their practices as licensed conveyancers.

(2B) The practices referred to in subsection (2A) are the practices of licensed conveyancers which consist of carrying on a relevant activity by virtue of a licence issued under section 53 of the Courts and Legal Services Act 1990 (which provides for the Council to authorise the carrying on of certain reserved legal activities in relation to which the Council is designated as an approved regulator).

(2C) For the purposes of subsection (2B) “relevant activity” has the same meaning as in section 53 of the Courts and Legal Services Act 1990.]

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- (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.
- (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.

[<sup>F2</sup>(5)

“Authorised insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or

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- (c) a person who does not fall within sub-paragraph (i) or (ii) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member State other than the United Kingdom.
- (6) A contract of insurance is of a relevant class for the purposes of subsection (5) if it insures against a risk arising from—
  - (a) accident;
  - (b) credit;
  - (c) legal expenses;
  - (d) general liability to third parties;
  - (e) sickness;
  - (f) suretyship; or
  - (g) miscellaneous financial loss.
- (7) Subsections (5) and (6) must be read with—
  - (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.]

#### Textual Amendments

- F1** S. 21(2A)-(2C) substituted for s. 21(2A)(2B) (13.7.2011) by [The Legal Services Act 2007 \(The Law Society and The Council for Licensed Conveyancers\) \(Modification of Functions\) Order 2011 \(S.I. 2011/1716\)](#), arts. 2(1), 8
- F2** S. 21(5)-(7) substituted (1.12.2001) for s. 21(5) by [S.I. 2001/3649](#), arts. 1, 298

## 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
  - (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 <sup>F3</sup> . . . 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;

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(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.

[<sup>F4</sup>(4) Provision made in rules by virtue of subsection (3)(a) may provide that the reports delivered to the Council must be reports given by accountants in respect of whom requirements prescribed by the rules are met.]

#### Textual Amendments

**F3** Words in s. 22(3)(a) repealed (7.3.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 11\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2008/222, [art. 2\(k\)\(n\)\(ii\)](#)

**F4** S. 22(4) substituted (7.3.2008) for s. 22(4)(5) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 11\(b\)](#), (with ss. 29, 192, 193); S.I. 2008/222, [art. 2\(k\)](#)

### 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 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.

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