

Status: Point in time view as at 06/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Cross Heading: Disciplinary control of recognised bodies. (See end of Document for details)

SCHEDULES

SCHEDULE 6

BODIES RECOGNISED UNDER S.32: SUPPLEMENTARY PROVISIONS

Disciplinary control of recognised bodies

- 2 In addition to the functions conferred on them by sections 24 [^{F1}, 24A] and 25 the Investigating Committee and the Discipline and Appeals Committee shall have the functions conferred on them by the following provisions of this Schedule.

Textual Amendments

- F1** Words in Sch. 6 para. 2 inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(3), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i) (subject to art. 4)

- 3 (1) The Investigating Committee shall carry out a preliminary investigation of any case in which—

- (a) it is alleged that a recognised body—
(i) has (while a recognised body) been convicted ^{F2} . . . of a criminal offence which renders it unsuitable to be recognised under section 32; or
(ii) has failed to comply with any rules applicable to it by virtue of that section; or

- [^{F3}(aa) it is alleged that a manager or employee of a recognised body who is not a licensed conveyancer has failed to comply with any rules applicable to him by virtue of section 32;

- (ab) it is alleged that a recognised body (while a recognised body) has failed to comply with a condition subject to which its recognition has effect.]

- (b) ^{F4}

^{F5} . . .

- [^{F6}(1A) After making such an investigation, the Investigating Committee may—

- (a) hear and determine the allegation, or
(b) refer the allegation to the Discipline and Appeals Committee for hearing and determination by that Committee under paragraph 4.

- (1B) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.]

^{F7}(2)

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Textual Amendments

- F2** Words in Sch. 6 para. 3(1)(a)(i) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(4\)\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to [art. 4](#))
- F3** Sch. 6 para. 3(1)(aa)(ab) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(4\)\(b\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))
- F4** Sch. 6 para. 3(1)(b) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(4\)\(c\)\(i\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to [art. 4](#))
- F5** Words in Sch. 6 para. 3(1) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(4\)\(c\)\(ii\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to [art. 4](#))
- F6** Sch. 6 para. 3(1A)(1B) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(4\)\(d\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))
- F7** Sch. 6 para. 3(2) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 210, 211, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(f\)\(v\)](#)

- [^{F8}3A (1) Where, on hearing an allegation by virtue of paragraph 3(1A)(a), the Investigating Committee are satisfied—
- (a) in a case within paragraph 3(1)(a), that a recognised body has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, or
 - (b) in a case within paragraph 3(1)(aa), that a manager or employee has failed to comply with any such rules as are mentioned in that paragraph, or
 - (c) in a case within paragraph 3(1)(ab), that a recognised body has failed to comply with any condition mentioned in that paragraph,
- the Committee may make an order directing the payment by the recognised body, manager or employee of a penalty to be forfeited to Her Majesty.
- (2) In relation to proceedings before the Investigating Committee by virtue of paragraph 3(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
 - (b) the recognised body, manager or employee against whom the proceedings were brought;
 - (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 sub-paragraph (2), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.
- (4) The amount of any penalty required to be paid under sub-paragraph (1) may not exceed such amount as is prescribed by rules made by the Council for the purposes of this sub-paragraph.
- (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.

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- (6) A person against whom an order is made by the Investigating Committee by virtue of sub-paragraph (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) If an order is made by the Investigating Committee by virtue of sub-paragraph (2), a person listed in paragraphs (a) to (c) of that sub-paragraph 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 sub-paragraph (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.
- (9) On an appeal under sub-paragraph (8) the High Court may make such order as it thinks fit.
- (10) The decision of the High Court on an appeal under sub-paragraph (8) shall be final.]

Textual Amendments

F8 Sch. 6 para. 3A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 32(5), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i) (subject to art. 4)

- 4 (1) Where on the hearing of any allegation [^{F9}within paragraph 3(1)(a) or (ab)] the Discipline and Appeals Committee are satisfied that a recognised body—
- (a) has been convicted as mentioned in sub-paragraph (i) of paragraph (3)(1)(a); or
 - (b) has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph,
- [^{F10}, or
- (c) has failed to comply with any such condition as is mentioned in paragraph 3(1)(ab),]
- the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2).
- (2) Those orders are—
- (a) an order revoking the recognition under section 32 of the body to which the allegation relates;
 - (b) an order directing the payment by that body of a penalty not exceeding [^{F11}such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph], to be forfeited to Her Majesty;
 - [^{F12}(ba) an order reprimanding that body;
 - (bb) an order that the recognition of that body under section 32 is to have effect subject to such conditions as may be specified in the order;]
 - (c) [^{F13}.....
- [^{F14}(2A) Where on the hearing of any allegation within paragraph 3(1)(aa) the Discipline and Appeals Committee are satisfied that a manager or employee has failed to comply

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with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2B).

(2B) Those orders are—

- (a) an order directing the payment by the manager or employee of a penalty not exceeding such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph;
- (b) an order requiring the Council to consider taking such steps as the Committee may specify in relation to the manager or employee;
- (c) an order requiring the Council to refer to an appropriate regulator any matter relating to the conduct of the manager or employee.

(2C) For the purposes of sub-paragraph (2B)(c) an “appropriate regulator” in relation to a manager or employee means—

- (a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and
- (b) if the person carries on activities which are not reserved legal activities, any person who exercises regulatory functions in relation to the carrying on of such activities by the person.

(2D) In relation to proceedings under this paragraph, the Committee may make such order as they consider fit as to the payment of costs by—

- (a) the Council;
- (b) the recognised body or manager or employee against whom the proceedings were brought;
- (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.

(2E) In sub-paragraph (2D), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.]

^{F15}(3)

^{F15}(3A)

^{F16}(4)

Textual Amendments

- F9** Words in Sch. 6 para. 4(1) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(6\)\(a\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to art. 4)
- F10** Sch. 6 para. 4(1)(c) and preceding word inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(6\)\(b\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to art. 4)
- F11** Words in Sch. 6 para. 4(2)(b) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(6\)\(c\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to art. 4)
- F12** Sch. 6 para. 4(2)(ba)(bb) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 32\(6\)\(d\)](#), (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#) (subject to art. 4)
- F13** Sch. 6 para. 4(1)(c) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 32\(6\)\(e\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(ff\)](#) (subject to art. 4)

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- F14** Sch. 6 para. 4(2A)-(2E) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(6)(f)**, (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)
- F15** Sch. 6 para. 4(3)(3A) repealed (6.10.2010) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, **Sch. 17 para. 32(6)(g)**, **Sch. 23** (with ss. 29, 192, 193); S.I. 2010/2089, art. 2(c)(e)(v)
- F16** Sch. 6 para. 4(4) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, **Sch. 17 para. 32(6)(g)**, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(ff)**

- 5 (1) Where—
- (a) any order is made by the Discipline and Appeals Committee under section 26 [F17 or paragraph 4] in the case of a [F18 manager] of a recognised body; or
 - (b) any such order is made in the case of a person employed by a recognised body and the act or omission constituting the ground on which the order was made was instigated or connived at by a [F18 manager] of the recognised body, or, if the act or omission was a continuing act or omission, a [F18 manager] of the body had or reasonably ought to have had knowledge of its continuance, the Discipline and Appeals Committee may, if they think fit, by order revoke the recognition of that body under section 32.
- (2) The Committee shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in sub-paragraph (1) being rendered inapplicable in that case, or while any such proceedings are pending.
- (3) The reference to a [F19 manager] of a recognised body in paragraph (a) or (b) of sub-paragraph (1) includes a reference to a person who was a [F19 manager] of the body at the time of the conduct leading to the making of the order referred to in that paragraph.
- [F20(4) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
 - (b) the body to whose recognition the proceedings relate.]

Textual Amendments

- F17** Words in **Sch. 6 para. 5(1)** inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(a)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F18** Words in **Sch. 6 para. 5(1)** substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(a)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F19** Words in **Sch. 6 para. 5(3)** substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F20** **Sch. 6 para. 5(4)** inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 32(7)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

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