

SCHEDULES

SCHEDULE 15

Section 93(3).

INADEQUATE PROFESSIONAL SERVICES

The following are the provisions which are inserted in the Solicitors Act 1974 as Schedule 1A—

“SCHEDULE 1A

INADEQUATE PROFESSIONAL SERVICES

Circumstances in which Council’s powers may be exercised

- 1 (1) The Council may take any of the steps mentioned in paragraph 2 (“the steps”) with respect to a solicitor where it appears to them that the professional services provided by him in connection with any matter in which he or his firm have been instructed by a client have, in any respect, not been of the quality which it is reasonable to expect of him as a solicitor.
- (2) The Council shall not take any of the steps unless they are satisfied that in all the circumstances of the case it is appropriate to do so.
- (3) In determining in any case whether it is appropriate to take any of the steps, the Council may—
 - (a) have regard to the existence of any remedy which it is reasonable to expect to be available to the client in civil proceedings; and
 - (b) where proceedings seeking any such remedy have not been begun by him, have regard to whether it is reasonable to expect him to begin them.

Directions which may be given

- 2 (1) The steps are—
 - (a) determining that the costs to which the solicitor is entitled in respect of his services (“the costs”) are to be limited to such amount as may be specified in the determination and directing him to comply, or to secure compliance, with such one or more of the permitted requirements as appear to the Council to be necessary in order for effect to be given to their determination;
 - (b) directing him to secure the rectification, at his expense or at that of his firm, of any such error, omission or other deficiency arising in connection with the matter in question as they may specify;
 - (c) directing him to pay such compensation to the client as the Council sees fit to specify in the direction;
 - (d) directing him to take, at his expense or at that of his firm, such other action in the interests of the client as they may specify.
- (2) The “permitted requirements” are—

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- (a) that the whole or part of any amount already paid by or on behalf of the client in respect of the costs be refunded;
 - (b) that the whole or part of the costs be remitted;
 - (c) that the right to recover the costs be waived, whether wholly or to any specified extent.
- (3) The power of the Council to take any such steps is not confined to cases where the client may have a cause of action against the solicitor for negligence.

Compensation

- 3 (1) The amount specified in a direction by virtue of paragraph 2(1)(c) shall not exceed £1,000.
- (2) The Lord Chancellor may by order made by statutory instrument amend subparagraph (1) by substituting for the sum of £1,000 such other sum as he considers appropriate.
- (3) Before making any such order the Lord Chancellor shall consult the Law Society.
- (4) Any statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Taxation of costs

- 4 (1) Where the Council have given a direction under paragraph 2(1)(a), then—
- (a) for the purposes of any taxation of a bill covering the costs, the amount charged by the bill in respect of them shall be deemed to be limited to the amount specified in the determination; and
 - (b) where a bill covering the costs has not been taxed, the client shall, for the purposes of their recovery (by whatever means and notwithstanding any statutory provision or agreement) be deemed to be liable to pay in respect of them only the amount specified in the determination.
- (2) Where a bill covering the costs has been taxed, the direction shall, so far as it relates to the costs, cease to have effect.

Failure to comply with direction

- 5 (1) If a solicitor fails to comply with a direction given under this Schedule, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.
- (2) On the hearing of such a complaint the Tribunal may, if it thinks fit (and whether or not it makes any order under section 47(2)), direct that the direction be treated, for the purpose of enforcement, as if it were contained in an order made by the High Court.

Fees

- 6 (1) The Council may, by regulations made with the concurrence of the Lord Chancellor and the Master of the Rolls, make provision for the payment, by any client with respect to whom the Council are asked to consider whether to take any of the steps, of such fee as may be prescribed.

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- (2) The regulations may provide for the exemption of such classes of client as may be prescribed.
- (3) Where a client pays the prescribed fee it shall be repaid to him if the Council take any of the steps in the matter with respect to which the fee was paid.
- (4) In this paragraph “prescribed” means prescribed by the regulations.

Costs

- 7 Where the Council take any of the steps with respect to a solicitor they may also direct him to pay to the Council—
 - (a) the amount of the fee repayable by the Council to the client under paragraph 6(3); and
 - (b) an amount which is calculated by the Council as the cost to them of dealing with the complaint, or which in their opinion represents a reasonable contribution towards that cost.

Duty of Tribunal

- 8 Where the Tribunal—
 - (a) is considering, or has considered, an application or complaint with respect to a solicitor; and
 - (b) is of the opinion that the Council should consider whether to take any of the steps with respect to that solicitor,it shall inform the Council.

Interpretation

- 9 The Council’s powers under this Schedule are exercisable in relation to a person even though his name has been removed from, or struck off, the roll and references to a solicitor in this Schedule, so far as they relate to the exercise of those powers, shall be construed accordingly.”