# Solicitors Act 1965

## 1965 CHAPTER 31

An Act to extend the powers of The Law Society in relation to property in the control or possession of certain solicitors and other persons, including the distribution of clients' money; to enable grants to be made out of the Compensation Fund established under the Solicitors Act 1957 in additional circumstances and to provide for an additional payment into that Fund by solicitors; to confer further powers upon The Law Society to make regulations with respect to the education and training of persons seeking admission as solicitors; to make provision with regard to interest on clients' money; to amend the provisions of the said Act of 1957 relating to the admission of overseas solicitors, the applying for and issue of practising certificates and the application of fees payable thereon, accountants' certificates, the employment by solicitors of certain persons, proceedings before the disciplinary committee and appeals therefrom, restoration to the roll, the authentication of documents and local law societies; to provide for the revision of certain fees payable to The Law Society and certain penalties and for the recovery of moneys in certain cases; and for purposes connected with the matters aforesaid.

[5th August 1965]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Admission as solicitor*

Additional section to principal Act as to persons seeking admission as solicitors

1. The following section shall be inserted after section 2 of the principal Act:—

"Power of Society to make regulations as to the

"2A.—(1) The Society may with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls make regulations with respect to the legal education, training (including, if the

education and training of persons seeking admission as solicitors.

Society thinks fit, service under articles) and examinations to be undergone by a person seeking admission as a solicitor and the qualifications and duties of the person undertaking the education or training of such person, and in particular, but without prejudice to the generality of the foregoing, the conduct, duties and responsibilities towards one another of the persons undertaking and undergoing education or training, including the discharge of articles and the termination of training.

(2) Any such regulations may make different provisions for different circumstances and may include provision for the charging by the Society, and the application, of fees."

Amendment of section 3 of principal Act.

**2.** The following subsection shall be substituted for section 3(1) of the principal Act (which relates to admission as a solicitor):—

1949 c. 101.

"(1) Subject to the next following section and to section 20(3) of the Justices of the Peace Act 1949 (which relates to the admission as solicitors of certain persons who have served as assistant to a justices' clerk), no person shall be admitted as a solicitor unless he has obtained a certificate from the Society that the Society is satisfied that he has complied with the requirements prescribed in the regulations referred to in section 2A of this Act and that he is morally fit to be a solicitor of the Supreme Court."

Amendment of section 4 of principal Act.

**3.** In section 4(2) of the principal Act (which relates to admission as solicitors of certain overseas solicitors), for the words "in a territory such as is mentioned in subsection (4) of this section, Her Majesty in Council is satisfied on the report of a Secretary of State" there shall be substituted the words "in any territory (including a part of a territory) which is part of the Commonwealth outside the United Kingdom, Her Majesty in Council is satisfied".

*Practising certificates*

Re-enactment of sections 9 and 10 of principal Act.

**4.**—(1) The following sections shall be substituted for sections 9 and 10 of the principal Act (which relate to practising certificates):—

"Application for practising certificate.

9.—(1) Application by a solicitor for a practising certificate shall be made in such form or forms and in accordance with such requirements as may be prescribed by regulations made by the Society with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls.

(2) In the case of every application received by the Society under the foregoing subsection, the Society shall cause to be entered in a register kept for that purpose the applicant's full name, his place or places of business and the date of his admission, and any person may inspect that register during office hours without payment.

(3) If in, or in relation to, an application under this section any person makes any false statement material to the application, a complaint in respect of that statement may be made by or on behalf of the Society to the disciplinary committee.

Issue, date and expiry of practising certificate.

10.—(1) Subject to the provisions of the two next following sections of this Act, the Society shall on being satisfied that—

(*a*) the name of the applicant is on the roll;

(*b*) he is not for the time being suspended from practice; and

(*c*) the application referred to in the last foregoing section complies with the provisions of that section and of any regulations made thereunder,

within twenty-one days of the receipt of such application by the Society, issue to the applicant a practising certificate in accordance with, and in such form as may be prescribed by, such regulations as may be made by the Society with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls.

(2) Every practising certificate issued after the 31st October in any year and before the 1st January next following shall bear the date of the 1st November in that year, and every other practising certificate shall bear the date of the day on which it is issued.

(3) Every practising certificate shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the Society on the register referred to in the last foregoing section and on the roll.

(4) Every practising certificate shall expire at the end of the 31st October next after it is issued:

Provided that, where the name of a solicitor is removed from or struck off the roll, the practising certificate, if any, of that solicitor for the time being in force shall expire forthwith and the date of such expiration shall be entered on the said register."

(2) Every practising certificate in force on the date on which the provisions of subsection (1) of this section shall come into operation shall be deemed to expire on the 31st October next following such date:

Provided that, where the name of a solicitor is removed from or struck off the roll, the practising certificate of that solicitor shall expire forthwith.

Amendment of section 11 of principal Act.

**5.**—(1) In section 11(1) of the principal Act (which relates to the fees payable on the issue of practising certificates and the application of such fees) for the words " in respect of each practising certificate issued by it " there shall be substituted the words " in respect of, and before the issue of, each practising certificate to be issued by it " and the words from " and the Society " to the end of the subsection shall be omitted.

(2) For section 11(2) of the principal Act there shall be substituted the following subsections:—

" (2) Every fee received by the Society under this section shall be applied in such manner and to such extent as the Society may think fit for the purposes of the Society including the facilitating of the acquisition of legal knowledge.

(3) The Society shall submit annually to the judges mentioned in subsection (1) of this section an account of all such fees and of their application and cause a copy of the account to be deposited at the Society's hall for inspection by any solicitor."

Re-enactment of section 12 of principal Act.

**6.** The following section shall be substituted for section 12 of the principal Act (which relates to the discretion of the Society with respect to the issue of practising certificates in special cases):—

"Discretion of Society with respect to issue of practising certificates in special cases.

12.—(1) Subject to the provisions of this section and to section 15 of this Act, the next following subsection shall have effect where a solicitor applies for a practising certificate—

(*a*) for the first time; or

(*b*) not having held a practising certificate free of conditions since the date of his admission; or

(*c*) when on the first day of the period to which the practising certificate would, if granted, relate, a period of twelve months or more will have elapsed since he held a practising certificate in force; or

(*d*) after the disciplinary committee have ordered a penalty or costs to be paid by him or that he be reprimanded; or

(*e*) after he has been invited by the Society to give an explanation in respect of any matter affecting his conduct and has failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory, and has been notified in writing by the Society that he has so failed; or

(*f*) when, having been suspended from practice or having had his name removed from or struck off the roll, the period of his suspension has expired or his name has been restored to the roll, as the case may be; or

(*g*) whilst he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him; or

(*h*) after having been adjudicated a bankrupt and obtained his discharge or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or

(*i*) whilst he is a patient as defined by section 101 of the Mental Health Act 1959 (which relates to the judge's functions in relation to the patient), or a person as to whom powers are exercisable and have been exercised under section 104 of that Act (which relates to the judge's powers in cases of emergency); or 1959 c. 72.

(*j*) after having had an order of committal or an order for the issue of a writ of attachment made against him; or

(*k*) after having had given against him any judgment which involves the payment of moneys, not being a judgment—

(i) limited to the payment of costs; or

(ii) as to the whole effect of which upon him he is entitled to indemnity or relief from some other person; or

(iii) evidence of the satisfaction of which has been produced to the Society.

(2) Subject as aforesaid, the applicant shall, unless the Society or the Master of the Rolls otherwise orders, give to the Society not less than six weeks before his application for a practising certificate notice of his

intention to apply therefor, and the Society may in its discretion—

(*a*) grant or refuse the application; or

(*b*) decide to issue a certificate to the applicant subject to such terms and conditions as the Society may in its discretion think fit,

and where the Society decides to issue a certificate subject to conditions, it may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of any appeal under subsection (2) of the next following section.

(3) The Society shall not refuse an application by a solicitor for a practising certificate in a case where subsection (2) of this section has effect by reason only that the applicant is applying for the first time or has not held a practising certificate free of conditions since the date of his admission.

(4) Where a solicitor applies for a practising certificate—

(*a*) a certificate issued to him on that application shall not, in the case where subsection (2) of this section has effect by reason only of his not having held a practising certificate free of conditions since the date of his admission, be made subject to any conditions binding upon him in respect of any period beyond three years after the date on which the first practising certificate issued to him had effect;

(*b*) in a case in which the said subsection (2) has effect by virtue only of such circumstances as are mentioned in paragraph (*g*), (*j*) or (*k*) of subsection (1) of this section and an appeal has been made to the appropriate court against the order or judgment in question, the Society shall not refuse the application before the determination of that appeal unless in the opinion of the Society the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

(5) Where a practising certificate free of conditions is issued by the Society under subsection (2) of this section to a solicitor in relation to whom that subsection has effect by virtue of particular circumstances such as are mentioned in paragraph (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*h*), (*j*) or (*k*) of subsection (1) of this section, the said subsection (2) shall not thereafter have effect in relation to that solicitor by virtue of those circumstances."

*Further provisions with respect to solicitors acting without effective practising certificates*

**7.** The following section shall be added after section 23 of the principal Act:— Additional section to principal Act as to recovery of moneys paid or to be paid by solicitors acting without effective practising certificates.

"Recovery of moneys in certain cases.

23A. Nothing in section 18(2)(*b*) or in section 23 of this Act shall prevent the recovery of moneys paid or to be paid by a solicitor on behalf of a client in respect of anything done by the solicitor while acting for the client without holding a practising certificate in force provided that such moneys would have been recoverable if that solicitor had held such a certificate in force when so acting."

*Accounts etc.*

**8.**—(1) Rules made under section 29 of the principal Act shall make provision for requiring a solicitor, in such cases as may be prescribed by the rules, either— Interest on clients' money.

(*a*) to keep on deposit in a separate account at a bank for the benefit of the client money received for or on account of a client; or

(*b*) to make good to the client out of the solicitor's own money a sum equivalent to the interest which would have accrued if the money so received had been so kept on deposit.

(2) The cases in which a solicitor may be required to act in accordance with rules made pursuant to this section may be defined, among other things, by reference to the amount of any sum received or the period for which it is or is likely to be retained or both; and 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 Society.

(3) Except as provided by rules made pursuant to this section, a solicitor shall not be liable by virtue of the relation between solicitor and client to account to any client for interest received by the solicitor on moneys deposited at a bank being moneys received or held for or on account of his clients generally.

(4) Nothing in this section, or in rules made pursuant to this section, shall—

(*a*) affect any arrangement in writing, whenever made, between a solicitor and his client as to the application of the client's money or interest thereon; or

(*b*) apply to money received by a solicitor being money subject to a trust of which the solicitor is a trustee.

Amendment of section 30 of principal Act.

**9.**—(1) The following subsection shall be substituted for section 30(1) of the principal Act (which relates to accountants' certificates and rules relating thereto):—

"(1) Every solicitor shall once in each period of twelve months ending with the 31st October, unless he satisfies the Council that owing to the circumstances of his case it is unnecessary so to do, deliver by post or otherwise to the Society a report signed by an accountant (in this section referred to as 'an accountant's report') and containing such information as may be prescribed by rules made by the Council under this section:

Provided that an accountant's report shall be delivered to the Society not more than six months (or such other period as any rules made under this section may prescribe) after the end of the accounting period specified in that report."

(2) In section 30(2)(*c*) of the principal Act for the word "certificate" there shall be substituted the word "report".

(3) In section 30(3) of the principal Act:—

(*a*) after paragraph (*a*) there shall be inserted the following paragraph—

"(*aa*) the information to be contained in an accountant's report in accordance with subsection (1) of this section;" and

(*b*) in paragraph (*b*) for the word "certificate" there shall be substituted the word "report".

(4) For the words "accountant's certificate", wherever they occur in section 30 of the principal Act, there shall be substituted the words "accountant's report".

*Extension of power of Society to deal with property in control or possession of certain solicitors and other persons*

Re-enactment of Schedule 1 to principal Act.

**10.** The Schedule set out in Schedule 1 to this Act shall be substituted for Schedule 1 to the principal Act (which confers power to control the property of a solicitor in certain cases).

Solicitors guilty of undue delay in certain matters.

**11.**—(1) Where—

(*a*) a complaint is made to the Society that there has been undue delay on the part of a solicitor in connection with any matter in which he or his firm has been instructed on behalf of a client or any matter which relates to the administration of a trust of which that solicitor is the sole trustee or co-trustee only with one or more of his partners, clerks or servants; and

(*b*) the Society has by notice in writing invited the solicitor to give an explanation in respect of that matter; and

(*c*) the solicitor has, within a period of not less than eight days specified in the said notice, failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory; and

(*d*) the solicitor has been notified in writing by the Society that he has so failed,

the provisions of Schedule 1 to the principal Act, other than paragraphs 7 and 8 thereof, shall apply in relation to that solicitor, but as regards the documents specified in paragraph 1, and the sums of money specified in paragraph 10, of that Schedule, only in so far as they relate to the matter complained of:

Provided that for the purposes of the proviso to paragraph 6 of such Schedule the Society may take copies of, or extracts from, documents which relate to the matter complained of or to that matter and to other matters in the solicitor's practice.

(2) In this section the expressions "trust" and "trustee" have the same meanings as in section 29 of the principal Act (which relates to rules as to keeping of accounts by solicitors).

Control of clients' documents and money in the control or possession of certain solicitors.

**12.**—(1) Where a solicitor practises in his own name or as a sole solicitor under a firm name and—

(*a*) is an undischarged bankrupt or a receiving order in bankruptcy is in force against him; or

(*b*) has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or

(*c*) has had an order of committal or an order for the issue of a writ of attachment made against him; or

(*d*) is a patient as defined by section 101 of the Mental Health Act 1959 or a person as to whom powers are exercisable and have been exercised under section 104 of that Act, 1959 c. 72.

and the Council have reasonable cause to believe that in consequence of the act or default of the solicitor or of any clerk or servant of his—

(i) there has been undue delay in connection with any matter in which that solicitor or his firm has been instructed on behalf of a client or any matter which relates to the administration of a trust of which that solicitor is the sole trustee or co-trustee only with one or more of his clerks or servants; or

(ii) any sum of money due from the solicitor or his firm to, or held by him or his firm on behalf of, his clients or subject to any trust of which he is such sole trustee or co-trustee as aforesaid is in jeopardy while in the control or possession of such solicitor or his firm,

then the provisions of Schedule 1 to the principal Act, other than paragraph 7 thereof, shall apply in relation to that solicitor:

Provided that for the purposes of the proviso to paragraph 6 of such Schedule the Society may take copies of, or extracts from, documents which relate to any matter referred to in paragraph (i) of this subsection or to any sum of money referred to in paragraph (ii) of this subsection or to that matter or sum of money, as the case may be, and to other matters in the solicitor's practice.

(2) In this section the expressions " trust " and " trustee " have the same meanings as in section 29 of the principal Act.

Control of deceased solicitor's practice in certain circumstances.

**13.**—(1) Where—

(*a*) the Council have reasonable cause to believe that the personal representatives of a deceased solicitor who immediately before his death was practising as a solicitor in his own name, or as a sole solicitor under a firm name, have been guilty of dishonesty or undue delay in administering the affairs of that solicitor's practice or in connection with any trust of which that solicitor was the sole trustee or co-trustee only with one or more of his clerks or servants ; or

(*b*) a solicitor dies and immediately before his death the provisions of Schedule 1 to the principal Act applied to him,

the provisions of the said Schedule 1, other than paragraph 7 thereof, shall apply in relation to such personal representatives and shall continue to apply to the personal representatives of the solicitor last mentioned as they apply or applied, as the case may be, in relation to the solicitor referred to in those provisions and as if the words " the personal representatives " were, with the necessary adaptations, substituted for the words " the solicitor " wherever these words occur in those provisions.

(2) In this section, the expressions " trust " and " trustee " have the same meanings as in section 29 of the principal Act.

On death of solicitor practising on his own account Society to deal with banking accounts of practice.

**14.** On the death of a solicitor who immediately before his death was practising as a solicitor in his own name or as a sole solicitor in a firm name the right to operate on or otherwise deal with any banking account in the name of the solicitor or his firm, being an account in the title of which the word "client" appears, shall, notwithstanding anything in the principal Act or otherwise to the contrary, vest in the Society to the

exclusion of any personal representatives of such solicitor and shall be exercisable as from the death of the solicitor.

*Compensation Fund*

Power to make grants out of Compensation Fund in cases of hardship.

**15.**—(1) Where the Council, on a complaint being made to the Society against a solicitor, are satisfied that he has failed to account for money due to a person in connection with his practice as a solicitor, or in connection with any trust of which he is a trustee, and that that person has suffered or is likely to suffer hardship in consequence of the failure, the Society may, subject to the provisions of this section, make to that person a grant (hereafter in this section called a "hardship grant") out of the Compensation Fund maintained under section 32 of the principal Act.

(2) The Society shall not make a hardship grant unless—

(*a*) it has given to the solicitor (except in a case where he has died) at least eight days' notice in writing requiring of him an explanation of the state of affairs to which the complaint against him relates, and

(*b*) the solicitor has failed to comply with the notice, or he has complied with it but the Council are of the opinion, and have so notified the solicitor in writing, that his explanation does not constitute a sufficient assurance that the money will be accounted for within a reasonable time.

(3) A hardship grant may be made whether or not the solicitor had a practising certificate in force at the time of any act or default by him which is relevant to the matters giving rise to his failure to account, and notwithstanding that subsequently to that act or default the solicitor has died or had his name removed from or struck off the roll, or has ceased to practise or been suspended from practice.

(4) A hardship grant may be made either unconditionally or subject to the conditions of this subsection, and if the Society determines that it shall be so subject and, when making the grant, gives to the person receiving the grant notice in writing of its determination, the following provisions shall have effect, that is to say,—

(*a*) the Society shall to the amount of the grant be subrogated to any rights and remedies of that person in respect of any matters giving rise to the solicitor's failure to account, and

(*b*) that person shall have no right under bankruptcy or other legal proceedings or otherwise to receive in respect of those matters any sum out of the assets

of the solicitor until the Society has been reimbursed the full amount of the grant,

and in paragraphs (*a*) and (*b*) of this subsection references to the person to whom the grant is made or to the solicitor include, in the event of his death, insolvency or other disability, references to his personal representative or any other person having authority to administer his estate.

(5) The Council may make rules with respect to the procedure to be followed in giving effect to the provisions of this section, and of Schedule 2 to the principal Act, including rules as to the furnishing of particulars by a person appearing to be eligible for a hardship grant; and for the purposes of inquiring into any matters which may affect the making or refusal of a hardship grant, the Council or any committee appointed by the Council and authorised by them to exercise any of their functions or to assist them in the exercise of any such functions, may administer oaths.

(6) In this section the expressions "trust" and "trustee" have the same meanings as in section 29 of the principal Act.

(7) At the end of paragraph 7(*d*) of Schedule 2 to the principal Act (which enables the Compensation Fund to be applied in making grants under section 32 of that Act) there shall be added the words "or of any hardship grant which the Society may make under section 15 of the Solicitors Act 1965".

(8) The provisions of this section shall be supplemental to, and not derogate from, the provisions of section 32 of the principal Act (which enables grants to be made out of the Compensation Fund in the case of a solicitor's dishonesty).

Amendment of Schedule 2 to principal Act.

**16.**—(1) The following paragraph shall be substituted for paragraph 2 of Schedule 2 to the principal Act (which relates to the payment of annual contributions by solicitors to the Compensation Fund established under that Act):—

"2. Every solicitor shall on each occasion on which he applies for a practising certificate pay to the Society with the fee payable in respect of that certificate under section 11 of this Act a contribution (in this Schedule referred to as 'the annual contribution') of such sum not exceeding ten pounds as the Council may from time to time determine, and, where it appears from the written application made by the solicitor under section 9 of this Act in relation to which the said certificate is to be issued that the solicitor has held or received clients' money at any time during the period specified in the application, the Society may require the

solicitor to pay to the Society before the issue of the certificate, in addition to the annual contribution, a further contribution (in this Schedule referred to as 'a special levy') of such sum not exceeding fifty pounds as the Council may from time to time determine, and the Society shall pay such annual contribution and special levy into the fund:

Provided that—

(*a*) in respect of the issue of the first three practising certificates to be issued to a solicitor after his admission he shall be required to pay no annual contribution or special levy; and

(*b*) in respect of the issue of the fourth, fifth and sixth practising certificates to be issued to a solicitor after his admission he shall be required to pay only one-half of the amount of the annual contribution and of any special levy that may be payable."

(2) In paragraph 6(*a*) of the said Schedule 2 after the words "all annual contributions" there shall be inserted the words "and special levies", at the end of paragraph 6(*f*) of that Schedule there shall be added the words "or under section 15(4) of the Solicitors Act 1965;" and the following sub-paragraph shall be inserted after paragraph 7(*d*) of that Schedule:—

"(*dd*) for payment of all costs and damages incurred by the Society, its servants or agents by virtue of paragraph 16 of Schedule 1 to this Act".

*Restriction on employment of certain persons*

Amendment of section 36 of principal Act.

**17.**—(1) In section 36(1) of the principal Act (which relates to the employment of persons struck off the roll or suspended from practice), there shall be added at the end of the subsection the words "or that his practising certificate is suspended while he is an undischarged bankrupt".

(2) In section 36(2) of the principal Act there shall be added, at the end of the subsection, the words "and any appeal so made shall be subject to such regulations as may be made from time to time by the Master of the Rolls".

Amendment of section 38 of principal Act.

**18.**—(1) The following subsection shall be substituted for section 38(1) of the principal Act (which relates to the control of the employment of certain clerks):—

"(1) Where a person who is or was a clerk to a solicitor but is not himself a solicitor—

(*a*) has been convicted of a criminal offence which discloses such dishonesty that in the opinion of the

Society it would be undesirable that such person should be employed by a solicitor in connection with his practice; or

(*b*) with or without the connivance of the solicitor to whom he is or was clerk, has, in the opinion of the Society, been a party to, or has occasioned, an act or default in relation to that solicitor's practice in respect of which an application against that solicitor has been or might be made to the disciplinary committee under any other provision of this Act,

an application may be made to the disciplinary committee with respect to that person by or on behalf of the Society."

(2) The following subsection shall be inserted after section 38(2) of the principal Act:—

"(2A) An order made by the disciplinary committee under subsection (2) of this section, other than an order as to the payment of costs, may, on the application of the Society or of the person with respect to whom the application for the order was made, be revoked by a subsequent order of the disciplinary committee:

Provided that where in the opinion of the committee, or of the division thereof to which that application is referred, no prima facie case is shown in favour of an application, the committee or the division, as the case may be, may refuse the application without hearing the applicant."

*Disciplinary proceedings before disciplinary committee*

Amendment of section 46 of principal Act.

**19.**—(1) In paragraph (*a*) of section 46(5) of the principal Act, after the words "section thirty-eight" there shall be inserted the words "or paragraph (*c*) of section 47(1)" and after the word "and" there shall be inserted the words "in relation to applications under section 38(1)".

(2) In section 46(6) of the principal Act, after the word "complainant" there shall be inserted the words "or any of the parties to an application under the said paragraph (*c*) of section 47(1)".

Amendment of section 47 of principal Act.

**20.**—(1) The following paragraph shall be inserted after paragraph (*b*) of section 47(1) of the principal Act (which relates to the jurisdiction and powers of the disciplinary committee):—

"(*c*) by a former solicitor whose name has been removed from or struck off the roll to have his name restored to the roll,".

(2) The following paragraph shall be inserted after paragraph (*b*) of section 47(2) of the principal Act:—

"(*bb*) directing the Society to restore to the roll the name of a former solicitor whose name has been removed from or struck off the roll and to whom the application relates;".

Amendment of section 48 of principal Act.

**21.** In section 48(1) of the principal Act (which relates to appeals against orders of the disciplinary committee), for the words "the next following subsection" there shall be substituted the words "section 38(2A) of this Act and the two next following subsections"; in section 48(2) of the principal Act after the word "under", where it first occurs, there shall be inserted the words "subsection (2) of"; and the following subsection shall be added at the end of the section:—

"(3) An appeal against an order made on an application under section 38(2A) or under paragraph (*c*) of subsection (1) of the last foregoing section of this Act, or against the refusal of such an application, may be made by any of the parties to the application by petition presented in such manner, and subject to such regulations, as the Master of the Rolls may from time to time direct to the Master of the Rolls, who may by order either confirm or rescind the order, or confirm the refusal, or make such other order as he may think fit; and the decision of the Master of the Rolls on such appeal shall be final."

Amendment of section 49 of principal Act.

**22.** In section 49(2) of the principal Act (which relates to orders of the disciplinary committee), the words from "and as soon as" to the end of the subsection shall be omitted; in subsection (3), for the words "in the said paragraph (*d*)" there shall be substituted the words "in paragraph (*bb*) or (*d*) of the said subsection (2)"; and the following subsection shall be added at the end of the section:—

"(5) Every order made by the disciplinary committee or a division thereof under this Act shall, as soon as it has been filed under subsection (2) of this section or section 38(4) of this Act, as the case may be, be acted upon by the Society and be enforceable in the same manner as a judgment or order of the High Court to the like effect."

*Restoration to roll*

Restoration to roll of name struck off or removed.

**23.** On production to the Society of an order made by virtue of section 47 or section 48 of the principal Act for the restoration to the roll of the name of a former solicitor whose name has been removed from or struck off the roll, and payment to

the Society of such fee not exceeding fifteen pounds as the Council may from time to time determine, the Society shall restore that name accordingly.

*Miscellaneous provisions*

Amendment of section 75 of principal Act.

**24.**—(1) In section 75(2) of the principal Act (which relates to compulsory membership of the Society), the words " on each occasion on which a practising certificate is issued to him " shall be omitted; for the words from " together " to " section eleven of this Act " there shall be substituted the words " together with the fee payable by him under section 11 of this Act in respect of the practising certificate to be issued to him under section 10 of this Act "; and for the proviso there shall be substituted the following:—

" Provided that a solicitor to whom a practising certificate is issued after the 31st October in any year but before the 1st January next following shall, on payment of the said annual subscription, be deemed to have become a member of the Society on the 1st November in that year."

(2) In section 75(3) of the principal Act, for the words " the fifteenth day of November " there shall be substituted the words " the 31st October ".

Amendment of section 80 of principal Act.

**25.** For section 80(2) of the principal Act (which relates to powers to act on behalf of the Society) there shall be substituted the following subsection:—

" (2) Any document issued by the Society or the Council for any purpose whatsoever may be signed on behalf of the Society or the Council, as the case may be, by the Secretary of the Society or by such other officer of the Society as may from time to time be prescribed by the Council ".

Amendment of section 86 of principal Act.

**26.**—(1) In section 86(1) of the principal Act (which relates to the interpretation of expressions in the Act) there shall be inserted, after the definition of " disciplinary committee ", the following definition:—

" ' local law society ' means a society which is for the time being recognised by the Council as representative of solicitors in some particular part of England; ";

and the definition of " provincial law society " shall be omitted.

(2) Except in the said section 86(1), for the words " provincial law society ", wherever they occur in the principal Act, there shall be substituted the words " local law society ".

Revision of certain fees and penalties in principal Act.

**27.** There shall be substituted in the sections of the principal Act set out in column 1 of Schedule 2 to this Act, in respect of the fees or penalties referred to in those sections and described in column 2 of that Schedule, for the maximum amounts set out in column 3 of the Schedule the maximum amounts set out in column 4 of the Schedule.

*General provisions*

Interpretation 1957 c. 27.

**28.**—(1) In this Act " the principal Act " means the Solicitors Act 1957 and, save where the context otherwise requires, expressions used both in this Act and in the principal Act have the same meanings as in the principal Act.

(2) Save where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment, including any enactment contained in this Act.

Amendments and repeals.

**29.**—(1) The provisions of the principal Act specified in the first column of Schedule 3 to this Act shall have effect subject to the amendments specified in relation thereto in the second column of that Schedule, being minor amendments consequential on the foregoing provisions of this Act.

(2) The provisions of the principal Act are hereby repealed to the extent specified in Schedule 4 to this Act.

Citation, commencement and extent.

**30.**—(1) This Act may be cited as the Solicitors Act 1965, and the Solicitors Acts 1957 and 1959 and this Act may be cited together as the Solicitors Acts 1957 to 1965.

(2) This Act shall come into operation on such day as the Lord Chancellor may by order made by statutory instrument appoint and different dates may be so appointed for different provisions of this Act.

(3) This Act shall not extend to Scotland or Northern Ireland.

# SCHEDULES

Section 10.

## SCHEDULE 1

SUBSTITUTED SCHEDULE 1 TO PRINCIPAL ACT

Section 31.

SCHEDULE 1

PROPERTY IN THE CONTROL OR POSSESSION OF CERTAIN SOLICITORS AND OTHER PERSONS

1. The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession, of all deeds, wills, documents constituting or evidencing the title to any property, papers, books of account, records, vouchers and other documents in the possession or control of the solicitor or his firm, or relating to any trust of which he is a sole trustee or is co-trustee only with one or more of his partners, clerks or servants.

2. If any person having possession or control of any such documents fails to comply forthwith with any such requirement—

(*a*) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding fifty pounds; and

(*b*) the High Court or a judge thereof may, on the application of the Society, order that person to comply with the requirement within such time as may be specified in the order, and may at the same time further order that on that person's failure to comply with such requirement one or more officers of the Society, or one or more persons appointed by the Society for the purpose, may forthwith enter upon any premises (using such force as is reasonably necessary for the purpose) to search for, and take possession of, the documents referred to in the foregoing paragraph.

3. Upon taking possession of any such documents, the Society shall serve upon the solicitor and every person from whom those documents were received, or from whose premises they were taken by virtue of an order made under the last foregoing paragraph, a notice giving particulars and the date of taking possession thereof.

4. Any requirement or notice under this Schedule shall be made in writing under the hand of such person as may be appointed by the Society for the purpose and may be served on any person either by personal service or by being forwarded by registered letter, or by the recorded delivery service, addressed to his last known place of business or residence.

5. Within eight days after the service of a notice under paragraph 3 of this Schedule, or within a further six days thereafter, the solicitor or other person upon whom the notice was served may apply to a judge of the High Court in chambers for an order directing the Society to return those documents to the person from whom they were received, or from whose premises they were taken, as the case may be, by the Society, or to such other person as the applicant may require; and on the hearing of any such application the judge may make such order with respect to the matter as he may think fit.

SCH. 1

6. If no application is made under the last foregoing paragraph, or if the judge to whom any such application is made directs that the documents shall remain in the custody or control of the Society, the Society may make inquiries to ascertain the person to whom those documents belong and may deal with those documents in accordance with the directions of that person:

Provided that, before dealing with such documents, the Society may take copies of, or extracts from, any such documents.

7. The High Court or a judge thereof may, on the application of the Society, order that no payment shall be made without the leave of the High Court or a judge thereof by any banker named in the order out of any banking account in the name of the solicitor or his firm.

8.—(1) The High Court or a judge thereof, on the application of the Society, may from time to time order that for such time not exceeding eighteen months as the Court or judge, as the case may be, thinks fit, postal packets (as defined by section 87(1) of the Post Office Act 1953) addressed to the solicitor or his firm at any place or places mentioned in the order for re-direction shall be re-directed, sent or delivered by the Postmaster General or the officers acting under him to a person appointed under paragraph 1 of this Schedule or otherwise as the Court or judge, as the case may be, directs, and the same shall be done accordingly. 1953 c. 36.

(2) Where such an order is made under sub-paragraph (1) of this paragraph, the Society shall pay to the Postmaster General the like charges (if any) as would have been charged and payable—

(*a*) in respect of an application or instructions by the addressee, in the case of a permanent change of his place of business, for the re-direction or delivery of postal packets to which the order relates to him at the address of the person to whom they are to be re-directed, sent or delivered under the order, during the time specified in the order ; and

(*b*) in respect of the re-direction or re-transmission of any individual postal packet in accordance with the order, if the packet had been re-directed or re-transmitted in accordance with such application or instructions as aforesaid.

9. In any case where the Society has taken possession of documents under paragraph 1 of this Schedule, and has not been required to return them by virtue of paragraph 5 thereof, the following paragraphs shall apply, but without prejudice to the application of paragraph 17 thereof so far as it affects any of the preceding paragraphs thereof.

10. The Society may, on a resolution in that behalf made by the Council, take control of all sums of money due from the solicitor or his firm to, or held by him or his firm on behalf of, his or his firm's clients or subject to any trust of which he is the sole trustee or co-trustee only with one or more of his partners, clerks or servants, and for that purpose the Society shall serve on the solicitor or his firm, and, except where the provisions of section 14 of the Solicitors Act 1965 apply, on any banker and on any other person having possession or control of any such sums of money a notice,

SCH. 1 together with a certified copy of such resolution, prohibiting the payment out of such sums of money otherwise than pursuant to paragraph 12 or 13 of this Schedule.

11. Within fourteen days of the service of a notice under the last foregoing paragraph the solicitor or his firm, or the banker or other person upon whom the notice was served, may apply to a judge of the High Court in chambers for an order directing the Society to withdraw the notice, and on the hearing of any such application the judge may make such order with respect to the matter as he may think fit.

12. Subject to the service of any notice under paragraph 10 of this Schedule, and to any application that may be made under the last foregoing paragraph, the Society or any person in that behalf appointed by the Society may withdraw the moneys, or from time to time any part of the moneys, in any banking account in the name of the solicitor or his firm, and any moneys in the office of the solicitor or his firm due to or held on behalf of his clients, and pay them into a special account or special accounts in the name of the Society or such person appointed as aforesaid and may operate on, and otherwise deal with, such special account or accounts as the solicitor or his firm might have operated on, or otherwise dealt with, the said banking account:

Provided that a banker with whom such special account or accounts is or are kept shall be under no obligation to ascertain whether that account or those accounts is or are being so operated on or otherwise dealt with.

13.—(1) Subject to the two last foregoing paragraphs, the Society may serve a notice on the solicitor, or his firm, or banker or other person upon whom a notice has been served under paragraph 10 of this Schedule, directing that, immediately after the expiration of eight days from the service of the first-mentioned notice, such moneys as are referred to in that notice be transferred in accordance with the directions of the Society:

Provided that—

(*a*) no such directions shall be given by the Society except with the approval of the person to whom the said moneys belong, being in the case of a trust the trustee, and, where the solicitor is the sole trustee of a trust or a co-trustee thereof only with one or more of his partners, clerks or servants, the person beneficially entitled to such moneys; and

(*b*) the person upon whom such first-mentioned notice has been served as aforesaid shall be under no obligation to ascertain whether such approval has been obtained.

(2) In any case where the Society is unable to ascertain the person to whom the said moneys belong or where the Society otherwise thinks it expedient so to do, the Society may apply to the High Court or a judge thereof for directions as to the transfer of such moneys.

14. If any person fails to comply with the requirements of any notice given under paragraph 10 or 13 of this Schedule,

(*a*) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding fifty pounds ; and

(*b*) the High Court or a judge thereof may, on the application of the Society, order that person to comply with the requirements of the notice within such time as may be specified in the order.

15. Subject to any order for the payment of costs that may be made on an application under paragraph 2, 5, 7, 8, 11, 13(2) or 14 of this Schedule, any costs incurred by the Society for the purposes of such Schedule shall be paid by the solicitor and shall be recoverable from him as a debt owing to the Society.

16. If any claim or charge is made or any proceeding is taken against the Society or its servants or agents for any act or omission by the Society or its servants or agents done or made by it or them in good faith and in the execution or purported execution of the powers conferred or duties imposed on it or them under or by virtue of this Schedule, the Society, or its servants or agents, as the case may be, shall be reimbursed out of the Compensation Fund for all or any costs or damages which it or they may have incurred in relation to such claim, charge or proceeding, and the provisions of paragraph 1 of Schedule 2 to this Act shall have effect as if the purposes provided for in section 32 of this Act and that Schedule included the purposes of this paragraph.

17. The Society may make regulations with respect to the procedure to be followed in giving effect to the provisions of paragraphs 1, 3, 4, 6, 10, 12 and 13(1) of this Schedule and with respect to any matters incidental, ancillary or supplemental to those provisions.

## SCHEDULE 2

Section 27.

REVISION OF CERTAIN FEES AND PENALTIES IN PRINCIPAL ACT

| Section of principal Act | Description of fee or penalty | Maximum amount in principal Act | Revised maximum amount |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 7 | Fee for entering name on roll. | £5 | £15 |
| 11 (1) | Fee payable in respect of practising certificate. | £5 | £20 |
| 37 (1) | Penalty for struck-off or suspended solicitor seeking employment without disclosing disqualification. | £10 | £50 |
| 47 (2) | Penalty of disciplinary committee. | £500 | £750 |

Section 29(1)

## SCHEDULE 3

MINOR AND CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

| Section amended | Amendment |
|---|---|
| Section 15 (Duration of suspension of practising certificate). | In subsection (5), for the words "paragraph (*c*)" there shall be substituted the words "paragraph (*f*)". |
| Section 39 (Offences in connection with orders controlling employment of certain clerks). | In subsections (1) and (2), there shall be inserted after the word "under" the words "subsection (2) of"; and in subsection (2), after the word "then" the words "unless that order shall have been revoked under section 38 (2A) of this Act". |
| Section 54 (Restrictions on powers to strike names off roll). | In subsection (1), for the words "section three" there shall be substituted the words "section 2A". |
| Section 84 (Service of documents at solicitor's place of business). | In subsection (1), for the words "declaration delivered" there shall be substituted the words "application made"; and in subsection (2), there shall be inserted after the word "Act" the words "or the Solicitors Act 1965" and for the words "declaration so delivered" there shall be substituted the words "application so made". |

Section 29(2)

## SCHEDULE 4

PROVISIONS OF PRINCIPAL ACT REPEALED

Section 3(2); section 4(4); section 8; in section 11(1), the words from "and the Society" to the end of the subsection; sections 40 to 45; in section 49(2), from the words "as soon as" to the end of the subsection; in section 75(2), the words from "on each" to "to him"; and in section 86(1), the definition of "provincial law society".