Solicitors (Amendment) Act 1974

1974 CHAPTER 26

An Act to prevent non-British subjects being prohibited from becoming or practising as solicitors; to amend the Solicitors Acts 1957 to 1965; to make further provision as to the powers of The Law Society to intervene in a solicitor's practice, the termination of a solicitor's retainer and the administration of oaths and taking of affidavits; and for connected purposes. [17th July 1974]

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:—

Removal of prohibition on non-British subjects as solicitors. 12 & 13 Will. 3 c. 2.

1. Nothing in section 3 of the Act of Settlement (which provides among other things that aliens are incapable of enjoying certain offices or places of trust) shall be taken to disqualify any person from becoming or practising as a solicitor of the Supreme Court or of the Supreme Court of Northern Ireland.

Education and training.

2. For section 2A of the principal Act (power of Society to make regulations as to the education and training of persons seeking admission as solicitors) there shall be substituted the following section:—

"Training regulations.

2A.—(1) The Society, with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls, may make regulations (in this Act referred to as "training regulations") about education and training for persons seeking to be admitted or to practise as solicitors.

(2) It shall be the Society's duty, before submitting training regulations to the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls for their concurrence under subsection (1) above, to consult the Secretary of State, or, if he so directs, any person or body of persons specified in the direction.

(3) Training regulations—

(*a*) may prescribe—

(i) the education and training, whether by service under articles or otherwise, to be undergone by persons seeking admission as solicitors;

(ii) any education or training to be undergone by persons who have been admitted as solicitors;

(iii) the examinations or other tests to be undergone by persons seeking admission as solicitors or who have been admitted;

(iv) the qualifications and reciprocal duties and responsibilities of persons undertaking to give education or training for the purposes of the regulations or undergoing such education or training; and

(v) the circumstances in which articles may be discharged or education or training under the regulations may be terminated;

(*b*) may require persons who have been admitted as solicitors to hold practising certificates while they are undergoing education or training under the regulations;

(*c*) may include provision for the charging of fees by the Society and the application of fees which the Society receives;

(*d*) may make different provision for different classes of persons and different circumstances.".

Admission as solicitor.

3. In section 3(1) of the principal Act (admission as solicitor) for the words "he is morally fit to be a solicitor of the Supreme Court" there shall be substituted the words "the Society is satisfied as to his character and his suitability to be a solicitor".

Computerisation.

4.—(1) For section 6 of the principal Act (keeping and custody of the roll) there shall be substituted the following section:—

"The roll.

6.—(1) The Society shall continue to keep a list of all solicitors of the Supreme Court, called "the roll".

(2) The roll may be kept by means of a computer.

(3) If the roll is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.

(4) If the roll is not kept by means of a computer, any person may inspect it during office hours without payment.".

(2) At the end of section 9 of that Act (application for practising certificate) there shall be added the following subsections:—

"(4) The register may be kept by means of a computer.

(5) If the register is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.

(6) If the register is not kept by means of a computer, any person may inspect it during office hours without payment.".

Removal or restoration of name at solicitor's request.

5.—(1) After section 7 of the principal Act there shall be inserted the following section:—

"Removal or restoration of name at solicitor's request.

7A.—(1) The Society, on the application of a solicitor, may remove his name from the roll.

(2) The Society, on the application of a former solicitor whose name is not on the roll because it has been removed from it, may enter his name on the roll, on payment to the Society of such fee not exceeding £15 as the Council may from time to time determine.".

(2) The power to enter a name on the roll conferred on the Society by this section includes power to enter the name of a person whose name was removed from the roll before the coming into force of this section.

Fee for practising certificate.

6. For section 11(1) of the principal Act (fee payable on issue of practising certificate) there shall be substituted the following subsections:—

"(1) Subject to subsection (1A), there shall be paid to the Society in respect of each practising certificate to be issued by it, before the certificate is issued, such fee as the Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice, may from time to time by order determine.

(1A) An order under subsection (1) may specify reduced fees for practising certificates which are issued to a solicitor subject to a training condition or training conditions during such period after his admission as may be specified in the order."

Lay observers.

7. After section 28 of the principal Act there shall be inserted the following section:—

"Lay observers.

28A.—(1) The Lord Chancellor may, if he thinks fit, appoint one or more persons (in this section referred to as "lay observers") to examine any written allegation made by or on behalf of a member of the public concerning the Society's treatment of a complaint about a solicitor or an employee of a solicitor made to the Society by that member of the public or on his behalf.

(2) No solicitor or barrister shall be appointed a lay observer.

(3) A lay observer shall hold and vacate his office in accordance with the terms of his appointment, and shall, on ceasing to hold office, be eligible for re-appointment.

(4) The Lord Chancellor may give general directions to lay observers about the scope and discharge of their functions, and shall publish any such directions.

(5) The Society shall consider any report or recommendation which it receives from a lay observer and shall notify him of any action which it has taken in consequence.

(6) The Lord Chancellor may appoint staff for lay observers.

(7) Remuneration for lay observers and their staff and any other expenses of lay observers shall be paid out of money provided by Parliament.

(8) In determining the numbers, terms of employment and remuneration of lay observers and their

staff and any amount payable by way of expenses under subsection (7), the Lord Chancellor shall act only with the approval of the Minister for the Civil Service.

(9) The Society shall furnish a lay observer with such information as he may from time to time reasonably require.

(10) The Lord Chancellor shall direct the submission to him of annual reports by lay observers on the discharge of the functions conferred on them by this section.

(11) The Lord Chancellor shall lay a copy of any report under subsection (10) above before each House of Parliament.".

Intervention in solicitor's practice.

8. The powers conferred by Part II of Schedule 1 to this Act shall be exercisable in the circumstances specified in Part I of that Schedule.

Compensation Fund.

9.—(1) The following subsections shall be substituted for subsections (2) to (6) of section 32 of the principal Act:

" (2) Where the Council are satisfied—

(*a*) that a person has suffered or is likely to suffer loss in consequence of dishonesty on the part of a solicitor, or of an employee of a solicitor, in connection with that solicitor's practice or purported practice or in connection with any trust of which that solicitor is or formerly was a trustee; or

(*b*) that a person has suffered or is likely to suffer hardship in consequence of failure on the part of a solicitor to account for money which has come to his hands in connection with his practice or purported practice or in connection with any trust of which he is or formerly was a trustee; or

(*c*) that a solicitor has suffered or is likely to suffer loss or hardship by reason of his liability to any of his or his firm's clients in consequence of some act or default of any of his partners or employees, in circumstances where but for the liability of that solicitor a grant might have been made out of the Compensation Fund to some other person;

the Society may make a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

(3) A grant under paragraph (*c*) of subsection (2) may be made by way of a loan upon such terms and conditions (including terms and conditions as to the time and manner of repayment, the payment of interest and the giving of

security for repayment) as the Council may determine, and the Society may at any time or times, upon such terms and conditions (if any) as the Council think fit, waive or refrain from enforcing the repayment of the whole or any part of the loan, the payment of any interest on the loan or any of its terms or conditions.

(4) Where—

(*a*) a grant is made otherwise than by way of loan, or

(*b*) a grant is made by way of loan and a condition specified in subsection (5) is satisfied in relation to it,

the Society shall be subrogated, to the extent specified in subsection (6), to any rights and remedies of the person to whom the grant is made in relation to the act or default in respect of which it is made, and shall be entitled, upon giving him a sufficient indemnity against costs, to require him, whether before or after payment of the grant, to sue in his own name but on behalf of the Society for the purpose of giving effect to the Society's rights, and to permit the Society to have the conduct of the proceedings.

(5) The conditions mentioned in subsection (4) are—

(*a*) that repayment of the whole or part of the loan has been waived;

(*b*) that the borrower has failed to repay the whole or part of the loan in accordance with the terms and conditions of the loan.

(6) The extent to which the Society is subrogated under subsection (4) is—

(*a*) for a grant made by way of loan, the amount in relation to which a condition specified in subsection (5) is satisfied, and

(*b*) for any other grant, the amount of the grant.

(7) Where the Society refuses a grant, the Council shall state the reasons for the refusal.

(8) The Council may make rules about the Compensation Fund and the procedure for making grants from it.".

(2) In paragraph 2 of Schedule 2 to that Act (which limits annual contributions to the Compensation Fund to ten pounds) the words "not exceeding ten pounds" are repealed.

Professional indemnity for solicitors and former solicitors.

10. After section 32 of the principal Act there shall be inserted the following section:—

"Arrangements for professional indemnity.

32A.—(1) The Council, with the concurrence of the Master of the Rolls, may make rules (in this Act referred to as "indemnity rules") concerning

indemnity against loss arising from claims in respect of any description of civil liability incurred—

(*a*) by a solicitor or former solicitor in connection with his practice or with any trust of which he is or formerly was a trustee;

(*b*) by an employee or former employee of a solicitor or former solicitor in connection with that solicitor's practice or with any trust of which that solicitor or the employee is or formerly was a trustee.

(2) For the purpose of providing such indemnity, indemnity rules—

(*a*) may authorise or require the Society to establish and maintain a fund or funds;

(*b*) may authorise or require the Society to take out and maintain insurance with authorised insurers;

(*c*) may require solicitors or any specified class of solicitors to take out and maintain insurance with authorised insurers.

(3) Without prejudice to the generality of subsections (1) and (2), indemnity rules—

(*a*) may specify the terms and conditions on which indemnity 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 (2)(*a*) and require solicitors or any class of solicitors to make payments to any such fund;

(*c*) may require solicitors or any class of solicitors to make payments by way of premium on any insurance policy maintained by the Society by virtue of subsection (2)(*b*);

(*d*) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (2)(*c*);

(*e*) may authorise the Society 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 solicitor for whom indemnity is provided has failed to comply with the rules, the

Society 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 he has failed to comply;

(*g*) may specify circumstances in which solicitors are exempt from the rules;

(*h*) may empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the rules are being complied with; and

(*i*) may contain incidental, procedural or supplementary provisions.

(4) If any solicitor fails to comply with indemnity rules, any person may make a complaint in respect of that failure to the Tribunal.

(5) The Society shall have power, without prejudice to any of its other powers, to carry into effect any arrangements which it considers necessary or expedient for the purpose of indemnity under this section.".

The Solicitors Disciplinary Tribunal.

11.—(1) For subsections (1) to (5) of section 46 of the principal Act (disciplinary committee) there shall be substituted the following subsections:—

"(1) Applications and complaints made by virtue of any provision of this Act shall be made, except so far as other provision is made by this Act or any regulations under it, to a tribunal to be called the "Solicitors Disciplinary Tribunal".

(2) The Master of the Rolls shall appoint the members of the Tribunal.

(3) The Tribunal shall consist—

(*a*) of practising solicitors of not less than ten years' standing (in this section referred to as "solicitor members"); and

(*b*) of persons who are neither solicitors nor barristers (in this section referred to as "lay members").

(4) A member of the Tribunal shall hold and vacate his office in accordance with the terms of his appointment, and shall, on ceasing to hold office, be eligible for re-appointment.

(5) There shall be paid to the lay members out of money provided by Parliament such fees and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

(6) Subject to subsections (7) and (8), the Tribunal shall be deemed to be properly constituted if—

(*a*) at least three members are present; and

(*b*) at least one lay member is present; and

(*c*) the number of solicitor members present exceeds the number of lay members present.

(7) For the purpose of hearing and determining applications and complaints the Tribunal shall consist of not more than three members.

(8) A decision of the Tribunal on an application or complaint may be announced by a single member.

(9) Subject to subsections (6) to (8), the Tribunal, with the concurrence of the Master of the Rolls, may make rules—

(*a*) empowering the Tribunal to elect a solicitor member to be its president, and

(*b*) about the procedure and practice to be followed in relation to the making, hearing and determination of applications and complaints.

(10) Without prejudice to the generality of subsection (9)(*b*), rules made by virtue of that paragraph may in particular—

(*a*) empower the president of the Tribunal to appoint a chairman for the hearing and determination of any application or complaint;

(*b*) provide that, if the president does not appoint a chairman, a solicitor member shall act as chairman; and

(*c*) provide, in relation to any application or complaint relating to a solicitor that, where in the opinion of the Tribunal no prima facie case in favour of the applicant or complainant is shown in the application or complaint, the Tribunal may make an order refusing the application or dismissing the complaint without requiring the solicitor to whom it relates to answer the allegations and without hearing the applicant or complainant.".

(2) Accordingly—

(*a*) subsections (6) and (7) of section 46 of the principal Act shall be renumbered so as to become subsections (11) and (12) of that section;

(*b*) for the reference to subsection (4) in the said subsection (7) there shall be substituted a reference to subsection (9); and

(*c*) any reference in an enactment or instrument to the disciplinary committee constituted under the said section 46 shall be construed as a reference to the Tribunal.

Orders of and appeals from Tribunal.

12. For sections 48 and 49 of the principal Act there shall be substituted the following sections:—

"Orders of Tribunal.

48.—(1) An order of the Tribunal shall be filed with the Society, and a statement of the Tribunal's findings, signed by the chairman or by some other member of the Tribunal authorised by him in that behalf, shall either be prefaced to the order or added to the file containing the order as soon as may be after the order has been made.

(2) Where an order which has been filed includes provision for any of the matters referred to in paragraphs (*a*) to (*d*) of section 47(2), the Society shall cause a note of the effect of the order to be entered on the roll against the name of the solicitor with respect to whom the application or complaint was made, and except where it only makes provision for matters referred to in paragraphs (*bb*) or (*d*) of that subsection, shall forthwith upon filing the order cause a notice stating its effect to be published in the London Gazette.

(3) Subject to section 38(4), any file kept by the Society under this section may be inspected during office hours without payment.

(4) An order which has been filed shall be treated, for the purpose of enforcement, as if it had been made by the High Court.

Appeals from Tribunal.

49.—(1) An appeal from the Tribunal shall lie—

(*a*) in the case of an order on an application under section 38(2A) or 47(1)(*c*), or against the refusal of an application under either of those provisions, to the Master of the Rolls;

(*b*) in any other case, to the High Court.

(2) Subject to subsection (3), an appeal shall lie at the instance of the applicant or complainant or of the person with respect to whom the application or complaint was made.

(3) An appeal against an order under section 38(2) shall lie only at the instance of the person with respect to whom the application was made.

(4) The High Court and the Master of the Rolls shall have power to make such order on an appeal under this section as they may think fit.

(5) Subject to any rules of court, on an appeal against an order made by virtue of rules under

section 46(10)(*c*) without hearing the applicant or complainant, the court—

(*a*) shall not be obliged to hear the appellant, and

(*b*) may remit the matter to the Tribunal instead of dismissing the appeal.

(6) Any decision of the Master of the Rolls on an appeal under this section and any decision of the High Court on an appeal against an order under section 38(2) shall be final.

(7) The Master of the Rolls may make regulations about appeals to him under this section.".

Disclosure to Director of Public Prosecutions.

13. After section 29(3) of the principal Act (accounts rules) there shall be inserted the following subsection—

" (3A) The Council shall be at liberty to disclose a report on or information about a solicitor's accounts obtained in exercise of powers conferred by rules under subsection (1) or (2) to the Director of Public Prosecutions for use in investigating the possible commission of an offence by the solicitor and, if the Director thinks fit, for use in connection with any prosecution of the solicitor consequent on the investigation.".

Contentious business agreements.

14.—(1) For subsection (3) of section 61 of the principal Act (enforcement of contentious business agreements) there shall be substituted the following subsection:—

" (3) If the business covered by a contentious business agreement (not being an agreement to which subsection (5) applies) is business done, or to be done, in any action, a client who is a party to the agreement may make application to a taxing officer of the court for the agreement to be examined.".

(2) In subsection (4) of that section, after the words " within twelve months after payment " there shall be inserted the words " or within such further time as appears to the court to be reasonable ".

Taxation of solicitors' bills.

15.—(1) In section 69 of the principal Act (application for taxation of solicitor's bill)—

(*a*) for the prohibition in paragraph (ii) of the proviso to subsection (2) on making an order for taxation after the expiration of 12 months from the payment of the bill there shall be substituted a prohibition on making such an order on an application made after the expiration of that period;

(*b*) after that subsection there shall be inserted the following subsections:—

"(2A) An order for the taxation of a bill made on an application under this section by a party chargeable with the bill shall, if that party so requests, be an order for the taxation of the profit costs covered by the bill.

(2B) Subject to subsection (2A), the court may under this section order the taxation of all the costs, or of the profit costs, or of the costs other than profit costs, and, where part of the costs is not to be taxed, may allow an action to be commenced or continued for that part of the costs.";

(*c*) in subsection (5) for the words "one-sixth" there shall be substituted the words "one-fifth", and accordingly paragraph (i) of the proviso to that subsection shall cease to have effect;

(*d*) after that subsection there shall be added the following subsection:—

"(6) In this section "profit costs" means costs other than counsel's fees or costs paid or payable in the discharge of a liability incurred by the solicitor on behalf of the party chargeable, and the reference in subsection (5) to the fraction of the amount of the bill taxed off shall be taken, where the taxation concerns only part of the costs covered by the bill, as a reference to that fraction of the amount of those costs which is being taxed.".

(2) The amendments made by paragraph (*c*) of subsection (1) above, and Schedule 3 to this Act so far as it relates to the repeal of paragraph (i) of the proviso to section 69(5) of the principal Act, shall have effect where the application for an order for taxation is made after the passing of this Act.

Banks for clients' money.

16. The duties to make rules imposed on the Council by subsection (1)(*a*) and subsection (2)(*a*) of section 29 of the principal Act (opening and keeping of client accounts and trust accounts) shall be duties to make rules requiring solicitors to open and keep accounts only with the Bank of England or with companies which are banking or discount companies within the meaning of the Protection of Depositors Act 1963.

1963 c. 16.

Termination of retainer.

17. If a solicitor who has been retained by a client to conduct contentious business requests the client to make a payment of a sum of money being a reasonable sum on account of the costs incurred or to be incurred in the conduct of that business and the client refuses or fails within a reasonable time to make that

payment, the refusal or failure shall be deemed to be a good cause whereby the solicitor may, upon giving reasonable notice to the client, withdraw from the retainer.

Oaths and affidavits.

18.—(1) Subject to the provisions of this section, every solicitor who holds a practising certificate which is in force shall have the powers conferred on a commissioner for oaths by the Commissioners for Oaths Acts 1889 and 1891 and section 24 of the Stamp Duties Management Act 1891 ; and any reference to such a commissioner in an enactment or instrument (including an enactment passed or instrument made after the passing of this Act) shall include a reference to such a solicitor unless the context otherwise requires. 1891 c. 38.

(2) A solicitor shall not exercise the powers conferred by this section in a proceeding in which he is solicitor to any of the parties, or in which he is interested.

(3) A solicitor before whom any oath or affidavit is taken or made shall state in the jurat or attestation at which place and on what date the oath or affidavit is taken or made.

(4) A document containing such a statement and purporting to be sealed or signed by a solicitor shall be admitted in evidence without proof of the seal or signature, and without proof that he is a solicitor or that he holds a practising certificate which is in force.

(5) Section 81 of the principal Act (register of solicitors who are commissioners for oaths) is repealed.

(6) Nothing in this section shall affect the power to appoint commissioners under the Commissioners for Oaths Act 1889. 1889 c. 10.

Citation, etc.

19.—(1) This Act may be cited as the Solicitors (Amendment) Act 1974, and the principal Act, the Act of 1965 and this Act may be cited together as the Solicitors Acts 1957 to 1974.

(2) In this Act " the principal Act " and " the Act of 1965 " mean respectively the Solicitors Act 1957 and the Solicitors Act 1965 ; and expressions used in this Act and in the principal Act have the same meanings in this Act as they have in that Act. 1957 c. 27. 1965 c. 31.

(3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment, including this Act.

(4) The amendments specified in Schedule 2 to this Act shall have effect.

(5) The enactments specified in Schedule 3 to this Act (which include enactments which were obsolete or unnecessary before the passing of this Act) are repealed to the extent mentioned in column 3 of that Schedule.

(6) The following provisions of this Act shall come into force on the day this Act is passed, namely—

sections 1 to 4;

sections 6 and 7;

section 9(2);

section 10;

sections 13 to 15;

sections 17 and 18;

this section, except so far as subsection (5) above relates to Part II of Schedule 3;

in Schedule 2, paragraphs 2 to 14, 16(1) and (2), 17, 20 to 31, 33(2) and 34(1) and (2);

any part of paragraph 33(1) of that Schedule to the extent that it is required for the purposes of a provision mentioned above;

Part I of Schedule 3.

(7) Subject to subsection (6) above, this Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.

(8) An order under subsection (7) above—

(*a*) may appoint different days for different provisions and for different purposes; and

(*b*) may make savings from the effect of any provision which it brings into force.

(9) In so far as any instrument or other document made, issued, served or kept, or treated as having been made, issued, served or kept or other thing done or treated as having been done, under or for the purposes of any enactment superseded by a provision of this Act could have been made, issued, served, kept or done under or for the purposes of that provision, it shall not be invalidated by the enactment of that provision but shall have effect as if made, issued, served, kept or done under or for the purposes of that provision, and as if any procedural requirement of that provision had been satisfied in relation to it.

(10) Any enactment or other document referring to an enactment amended or superseded by a provision of this Act shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to that enactment as amended or the provision of this Act which supersedes it.

(11) The provisions of this Act, with the exception—

(*a*) of section 1, which extends to Northern Ireland, and

1879 c. 11. 1957 c. 20. 1936 c. 35.

(*b*) of the amendments of the Bankers' Books Evidence Act 1879 and the House of Commons Disqualification Act 1957 in Schedule 2 and of the repeal of the Solicitors Act 1936 in Schedule 3, all of which extend to Scotland and Northern Ireland,

extend to England and Wales only.

SCHEDULES

SCHEDULE 1

Section 8.

INTERVENTION IN SOLICITOR'S PRACTICE

PART I

CIRCUMSTANCES IN WHICH SOCIETY MAY INTERVENE

1.—(1) Subject to sub-paragraph (2) below, the powers conferred by Part II of this Schedule shall be exercisable where—

(*a*) the Council have reason to suspect dishonesty on the part of—

(i) a solicitor, or

(ii) an employee of a solicitor, or

(iii) the personal representatives of a deceased solicitor,

in connection with that solicitor's practice or in connection with any trust of which that solicitor is or formerly was a trustee;

(*b*) the Council consider that there has been undue delay on the part of the personal representatives of a deceased solicitor who immediately before his death was practising as a sole solicitor in connection with that solicitor's practice or in connection with any controlled trust;

(*c*) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 29 (accounts) or 32A(2)(*c*) (professional indemnity insurance) of the principal Act;

(*d*) a solicitor has been adjudged bankrupt or has made a composition or arrangement with his creditors;

(*e*) a solicitor has been committed to prison in any civil or criminal proceedings;

(*f*) the powers conferred by section 104 (emergency powers) or 105 (appointment of receiver) of the Mental Health Act 1959 have been exercised in respect of a solicitor; or 1959 c. 72.

(*g*) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.

(2) The powers conferred by Part II of this Schedule shall only be exercisable under sub-paragraph (1)(*c*) above if the Society has given the solicitor notice in writing that the Council are satisfied that he has failed to comply with rules specified in the notice and also (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable in his case.

2. On the death of a sole solicitor paragraphs 6 to 8 below shall apply to the client accounts of his practice.

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3. The powers conferred by Part II of this Schedule shall also be exercisable, subject to paragraphs 5(4) and 10(3) below, 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 the solicitor or his firm was instructed on behalf of a client or with any controlled trust ; and

(*b*) the Society by notice in writing invites the solicitor to give an explanation within a period of not less than 8 days specified in the notice ; and

(*c*) the solicitor fails within that period to give an explanation which the Council regard as satisfactory ; and

(*d*) the Society gives notice of the failure to the solicitor and (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable.

4.—(1) Where the powers conferred by Part II of this Schedule are exercisable in relation to a solicitor, they shall continue to be exercisable after his death or after his name has been removed from or struck off the roll.

(2) The references to the solicitor or his firm in paragraphs 5(1), 6(2) and (3), 8, 9(1) and (5) and 10(1) below include, in any case where the solicitor has died, references to his personal representatives.

PART II

POWERS EXERCISABLE ON INTERVENTION

Money

5.—(1) The High Court, on the application of the Society, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm.

(2) No order under this paragraph shall take effect in relation to any person to whom it applies unless the Society has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank, has indicated at which of its branches the Society believes that the money to which the order relates is held.

(3) A person shall not be treated as having disobeyed an order under this paragraph by making a payment of money if he satisfies the court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.

(4) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3 above.

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6.—(1) Without prejudice to paragraph 5 above, if the Council pass a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Society, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Society on trust to exercise in relation to them the powers conferred by this Part of this Schedule and subject thereto upon trust for the persons beneficially entitled to them.

(2) This paragraph applies—

(*a*) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1 above, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee ;

(*b*) where they are exercisable by virtue of paragraph 2 above, to all sums of money in any client account ; and

(*c*) where they are exercisable by virtue of paragraph 3 above, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 14 days of the service of a notice under sub-paragraph (3) above, the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

(6) If any person on whom a notice has been served under sub-paragraph (3) above pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

7.—(1) If the Society takes possession of any sum of money to which paragraph 6 above applies, the Society shall pay it into a special account in the name of the Society or of a person nominated on behalf of the Society, and any such person shall hold that sum on trust to permit the Society to exercise in relation to it the powers conferred by this Part of this Schedule and subject thereto on trust for the persons beneficially entitled to it.

(2) A bank with which a special account is kept shall be under no obligation to ascertain whether it is being dealt with properly.

8. Without prejudice to paragraphs 5 to 7 above, if the High Court is satisfied, on an application by the Society, that there is

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reason to suspect that any person holds money on behalf of the solicitor or his firm, the court may require that person to give the Society information as to any such money and the accounts in which it is held.

Documents

9.—(1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—

(*a*) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1 above, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and

(*b*) where they are exercisable by virtue of paragraph 3 above, of all documents in the possession of the solicitor or his firm in connection with the trust or other matter to which the complaint relates (whether or not they relate also to other matters).

(2) The person appointed by the Society may take possession of any such documents on behalf of the Society.

(3) Except in a case where an application has been made to the High Court under sub-paragraph (4) below, if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub-paragraph (1) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(4) The High Court, on the application of the Society, may order a person required to produce or deliver documents under sub-paragraph (1) above to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.

(5) If on an application by the Society the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub-paragraph (1) above are exercisable have come into the possession of some person other than the solicitor or his firm, the court may order that person to produce or deliver the documents to any person appointed by the Society at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Society.

(6) On making an order under this paragraph, or at any later time, the court, on the application of the Society, may authorise a person appointed by the Society to enter any premises (using such force as is reasonably necessary) to search for and take possession of any documents to which the order relates.

(7) Upon taking possession of any documents under this paragraph the Society shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

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(8) Subject to sub-paragraph (9) below, a person upon whom a notice under sub-paragraph (7) above is served, on giving not less than 48 hours notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

(9) A notice under sub-paragraph (8) above shall be given within 8 days of the service of the Society's notice under sub-paragraph (7) above.

(10) Without prejudice to the foregoing provisions of this Schedule, the Society may apply to the High Court for an order as to the disposal or destruction of any documents in its possession by virtue of this paragraph or paragraph 10 below.

(11) On an application under sub-paragraph (8) or (10) above, the Court may make such order as it thinks fit.

(12) Except so far as its right to do so may be restricted by an order on an application under sub-paragraph (8) or (10) above, the Society may take copies of or extracts from any documents in its possession by virtue of this paragraph or paragraph 10 below and require any person to whom it is proposed that such documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Society.

Mail

10.—(1) The High Court, on the application of the Society, may from time to time order that for such time not exceeding 18 months as the court 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 shall be directed to the Society or any person appointed by the Society at any other address there mentioned; and the Society, or that person on its behalf, may take possession of any such packets received at that address. 1953 c. 36.

(2) Where such an order is made the Society shall pay to the Post Office the like charges (if any), as would have been payable for the re-direction of the packets by virtue of any scheme made under section 28 of the Post Office Act 1969, if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the Post Office to redirect them to him at the address mentioned in the order. 1969 c. 48.

(3) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3 above.

Trusts

11.—(1) If the solicitor or his personal representative is a trustee of a controlled trust, the Society may apply to the High Court for an order for the appointment of a new trustee in substitution for him.

(2) The Trustee Act 1925 shall have effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act. 1925 c. 19.

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General

12. The powers in relation to sums of money and documents conferred by this Part of this Schedule shall be exercisable notwithstanding any lien on them or right to their possession.

13. Subject to any order for the payment of costs that may be made on an application to the court under this Schedule, any costs incurred by the Society for the purposes of this Schedule, including, without prejudice to the generality of this paragraph, the costs of anly person exercising powers under this Part of this Schedule on behalf of the Society, shall be paid by the solicitor or his personal representatives and shall be recoverable from him or them as a debt owing to the Society.

14. Where an offence under this Schedule 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 who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

15. Any application to the High Court under this Schedule may be disposed of in chambers.

16. The Society may do all things which are reasonably necessary for the purpose of facilitating the exercise of its powers under this Schedule.

Section 19.

SCHEDULE 2

AMENDMENTS

1879 c. 11.

Bankers' Books Evidence Act 1879

1. In section 10 of the Bankers' Books Evidence Act 1879 (interpretation) at the end of the definition of "legal proceeding" insert "and an application to, or an inquiry or other proceeding before, the Solicitors Disciplinary Tribunal or any body exercising functions in relation to solicitors in Scotland or Northern Ireland corresponding to the functions of that Tribunal".

1913 c. 27.

Forgery Act 1913

2. In section 3(3)(*e*) of the Forgery Act 1913 (forgery punishable with 7 years imprisonment) after "the Commissioners for Oaths Act 1889" insert "or the Solicitors (Amendment) Act 1974".

1974 c. 26.

1925 c. 49.

Supreme Court of Judicature (Consolidation) Act 1925

3. In section 216(1)(*a*) of the Supreme Court of Judicature (Consolidation) Act 1925 (fees of commissioners for oaths) after "oaths" insert "and by solicitors exercising the powers of commissioners for oaths by virtue of section 18 of the Solicitors (Amendment) Act 1974".

1974 c. 26.

Justices of the Peace Act 1949 SCH. 2

4. In section 20(3) of the Justices of the Peace Act 1949 (qualification of justices' clerk) substitute " the Solicitors Acts 1957 to 1974 "— 1949 c. 101.

(*a*) for " subsection (1) of section 2 of the Solicitors (Amendment) Act 1956 " ; and

(*b*) for " the Solicitors Acts 1932 to 1956 ".

House of Commons Disqualification Act 1957 1957 c. 20.

5. Insert in Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (offices the holders of which are disqualified for membership of the House of Commons), at the appropriate place in alphabetical order

" Lay observer appointed under section 28A of the Solicitors Act 1957 ".

The principal Act

6. In section 3(1) of the principal Act (admission) for " the requirements prescribed in the regulations referred to in section 2A of this Act substitute " training regulations ".

7. For the words from the beginning of section 7 to " payment substitute—

" 7. Upon production—

(*a*) of an admission of any person as a solicitor signed by the Master of the Rolls or a judge acting for him under section 3(3), or

(*b*) of an order for the restoration to the roll of the name of a person whose name has been removed from or struck off it,

and upon payment ".

8.—(1) In section 9 (application for practising certificate) for subsections (1) and (2) substitute—

" (1) On receipt of an application for a practising certificate 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."

(2) For the words from the beginning of subsection (3) to " application ", in the second place where it occurs, substitute " If in, or in relation to, an application for a practising certificate or a notice under section 84(1), any person makes any false statement material to the application or notice ".

9.—(1) For subsection (1) of section 10 (issue, date and expiry of practising certificate) substitute:—

" (1) Subject to sections 11 and 12, the Society shall issue a practising certificate to a person who applies for one if it is satisfied, within 21 days of receipt of his application,—

(*a*) that his name is on the roll ; and

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(*b*) that he is not suspended from practice ; and

(*c*) that his application complies with any regulations under section 25 ; and

(*d*) that he is complying with such training regulations (if any) as apply to him ; and

(*e*) that he is complying with any indemnity rules or exempt from them."

(2) At the end of that section insert—

"(5) At any time when regulations under section 25 specify a training condition or training conditions, any practising certificate issued to an applicant by the Society shall be issued subject to that condition or one of those conditions if it appears to the Society that training regulations will apply to him at the end of 21 days from the Society's receipt of his application.

(6) At any time when regulations under section 25 specify an indemnity condition or indemnity conditions, any practising certificate issued to an applicant by the Society shall be issued subject to that condition or one of those conditions if it appears to the Society that he will be exempt from indemnity rules at the end of 21 days from the Society's receipt of his application.".

10. In section 12(1) (discretion with respect to issue of practising certificates in special cases) for paragraph (*j*) substitute:—

"(*j*) after having been committed to prison in civil or criminal proceedings ; or ".

11. For section 13(2) (appeals in connection with issue of practising certificates) substitute—

"(2) Where the Society—

(*a*) in the exercise of the powers conferred on it by section 10, issues a practising certificate subject to a training condition or an indemnity condition ; or

(*b*) in the exercise of the powers conferred on it by section 12, refuses to issue a practising certificate or issues a certificate subject to a condition,

the applicant may appeal to the Master of the Rolls against the decision of the Society within one month of being notified of it.

(3) On an appeal to the Master of the Rolls under subsection (2)(*a*), he may—

(*a*) affirm the decision of the Society ; or

(*b*) direct the Society to issue a certificate to the applicant free from conditions ; or

(*c*) if regulations under section 25 specify a number of training conditions or indemnity conditions, direct the Society to issue a certificate to the applicant subject to a training condition or, as the case may be, an indemnity condition, different from that subject to which it was originally issued.

(4) On an appeal to the Master of the Rolls under subsection (2)(*b*), he may—

(*a*) affirm the decision of the Society ; or

(*b*) direct the Society to issue a certificate to the applicant free from conditions or subject to such conditions other than training conditions or indemnity conditions as the Master of the Rolls may think fit ; or

(*c*) direct the Society not to issue a certificate ; or

(*d*) if a certificate has been issued, by order suspend it ; or

(*e*) make such other order as he thinks fit.".

12. In sections 19 (penalty for pretending to be a solicitor) and 21 (unqualified person not to act in preparation of papers for probate etc.) for " penalty " substitute " fine ".

13. For section 25 (general regulations) substitute:

" Part I regulations.

25.—(1) The Master of the Rolls may make regulations, with the concurrence of the Lord Chancellor and the Lord Chief Justice, about the following matters, namely—

(*a*) admission as a solicitor ;

(*b*) the keeping of the roll ;

(*c*) practising certificates and applications for them ;

(*d*) the keeping of the register under section 9.

(2) The power conferred by subsection (1) includes power to specify—

(*a*) one or more conditions (in this Act referred to as " training conditions ") to be imposed on the issue of practising certificates to solicitors to whom training regulations apply ; and

(*b*) one or more conditions (in this Act referred to as " indemnity conditions ") to be imposed on the issue of practising certificates to solicitors who are exempt from indemnity rules.

(3) Regulations about the keeping of the roll and of the register under section 9 may provide for the manner in which entries are to be made, altered and removed.

(4) The regulations may provide for rights of appeal to the Master of the Rolls in connection with the making and alteration of entries on the roll and the removal of entries from it.

(5) The Master of the Rolls may make regulations about the procedure for any appeals to him authorised by this Part of this Act or regulations under this section.".

14. In section 28(1) (Part II rules)

(*a*) after " rules ", in the first place where it occurs, insert " with the concurrence of the Master of the Rolls "; and

(*b*) omit the proviso.

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15.—(1) In subsection (1) of section 29 (accounts rules)—

(*a*) after "rules", in the first place where it occurs, insert "with the concurrence of the Master of the Rolls,";

(*b*) after paragraph (*c*) insert (but not as part of that paragraph) "and the rules may specify the location of the banks' branches at which the accounts are to be kept"; and

(*c*) omit the proviso.

(2) For the words from the beginning of subsection (2) to the end of paragraph (*b*) substitute—

"(2) The Council shall make rules, with the concurrence of the Master of the Rolls—

(*a*) as to the opening and keeping by solicitors of accounts at banks for moneys comprised in controlled trusts; and

(*b*) as to the keeping by solicitors of accounts containing particulars and information as to moneys received or held or paid by them for or on account of any such trust; and".

(3) After paragraph (*c*) insert (but not as part of that paragraph) "and the rules may specify the location of the banks' branches at which the accounts are to be kept".

(4) For subsections (4) and (5) substitute—

"(4) Rules under this section may specify circumstances in which solicitors or any class of solicitors are exempt from the rules by virtue of their office or employment.".

16.—(1) In subsection (1) of section 30 (accountants' reports) for the words from "he satisfies" to "unnecessary" substitute "the Council are satisfied that it is unnecessary for him".

(2) In subsection (2)—

(*a*) omit paragraph (*c*);

(*b*) in paragraph (*d*), substitute "provisions of this section" for "paragraphs".

(3) In subsection (7)—

(*a*) for the words from "is employed" to "applies", in the first place where it occurs, substitute "is exempt from rules under section 29";

(*b*) in paragraph (*b*), for the words from "his" to "applies" substitute "employment by virtue of which he is exempt from those rules".

17. In section 37(1) (failure to disclose fact of having been struck off, etc.) after "suspended from practising as a solicitor" insert "or that his practising certificate is suspended while he is an undischarged bankrupt".

18.—(1) In subsection (1)(*b*) of section 38 (control of employment of certain clerks) after "application", insert "or complaint".

(2) In subsection (2) omit "and may also make an order as to the payment by any party to the application of costs".

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(3) Add at the end of subsection (2A):—

"(2B) On the hearing of any application under this section, the Tribunal may make an order as to the payment of costs by any party to the application.".

(4) For the words from the beginning of subsection (4) to "purpose" substitute "Orders made under this section and filed with the Society."

19. In section 39(3) (offences in connection with orders controlling employment of certain clerks) for "subsection (1) of section forty-nine of this Act" substitute "section 48(1)".

20. In section 54(1) (restrictions on powers to strike names off roll) for "regulations made under section 2A of this Act" substitute "training regulations".

21. In the proviso to section 57(4) (agreements with respect to remuneration for non-contentious business) for the words from "cancelled", in the first place where it occurs, to "reduced", in the second place where it occurs, substitute "set aside, or the amount payable under it reduced, the court may so order".

22. In section 60(1) (effect of contentious business agreement) for "agreement such as is referred to in the last foregoing section" substitute "contentious business agreement".

23.—(1) In subsection (1) of section 61 (enforcement of contentious business agreement) for "such agreement as is referred to in section fifty-nine of this Act" substitute "contentious business agreement".

(2) In subsection (2)(*b*) for the words from "declare" to "thereby" substitute "set it aside and order the costs covered by it".

(3) For subsection (5) substitute—

"(5) Where the client who makes a contentious business agreement makes it as the representative of a person whose property will be chargeable with the whole or part of the amount payable under the agreement, the agreement shall be laid before a taxing officer of the court before payment.

(5A) A taxing officer before whom an agreement is laid under subsection (3) or (5) shall examine it and may either allow it, or, if he is of opinion that it is unfair or unreasonable, require the opinion of the court to be taken on it, and the court may allow the agreement or reduce the amount payable under it, or set it aside and order the costs covered by it to be taxed as if it had never been made.".

(4) For the words from the beginning of subsection (6) to "subsection" substitute "A client who makes a contentious business agreement as mentioned in subsection (5) and".

(5) After that subsection insert—

"(6A) A client makes a contentious business agreement as the representative of another person if he makes it—

(*a*) as his guardian,

(*b*) as a trustee for him under a deed or will,

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(*c*) as his receiver under Part VIII of the Mental Health Act 1959, or

(*d*) as a person other than a receiver authorised under that Part of that Act to act on his behalf.".

24. In section 62 (death, etc. of solicitor), for subsection (1) and the words in subsection (2) to "that if" substitute—

"(1) If, after some business has been done under a contentious business agreement but before the solicitor has wholly performed it—

(*a*) the solicitor dies, or becomes incapable of acting; or

(*b*) the client changes his solicitor (as, notwithstanding the agreement, he shall be entitled to do),

any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the solicitor had not died or become incapable of acting, or the client had not changed his solicitor.

(2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by taxation, and in that case—

(*a*) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and

(*b*) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.

(3) If in such a case as is mentioned in subsection (1)(*b*)".

25. In section 63 (exclusion of taxation), for "an agreement has been made in pursuance of section fifty-nine of this Act" substitute "a contentious business agreement has been made".

26. In section 64 (bills of costs) for "such an agreement as is mentioned in section fifty-nine of this Act" substitute "a contentious business agreement".

27. In section 69(2) (application for taxation of solicitor's bill), for the words from "Provided that" to the end of the subsection substitute—

"Provided that—

(i) where the application is made by the party chargeable with the bill—

(*a*) after the expiration of 12 months from the delivery of the bill, or

(*b*) after a judgment has been obtained for the recovery of costs covered by the bill, or

(*c*) after the bill has been paid, but before the expiration of 12 months from the payment of the bill,

no order shall be made except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the court may think fit; and

(ii) the power to order taxation conferred by this subsection shall not be exercisable on an application made by the party chargeable with the bill after the expiration of 12 months from the payment of the bill.".

28. In section 73(4) (costs in respect of contentious county court business) after "shall not" insert "except in so far as rules of court may otherwise provide".

29. Section 75 (compulsory membership of Society) is repealed.

30. For section 80 (powers to act on behalf of Society) substitute:—

"80.—(1) Anything authorised or required to be done by the Society under or in pursuance of this Act, the Solicitors Act 1965 or the Solicitors (Amendment) Act 1974 or of any instrument made thereunder may be done on behalf of the Society by the Council; and the power to delegate functions to committees conferred on the Council by section 79 shall include power to delegate functions exercisable by the Council by virtue of this 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, or by the person holding such office in the Society, as may from time to time be prescribed either generally or specially by resolution of the Council.

(3) In any proceedings a document purporting to be certified by the Secretary of the Society as a copy of a resolution passed by the Council or a committee of the Council on a specified date shall be evidence that that resolution was duly passed by the Council or the committee on that date.".

31. For section 84(2) (service of documents) substitute:—

"(2) Any notice or other document required or authorised by or by virtue of this Act, the Solicitors Act 1965 or the Solicitors (Amendment) Act 1974 to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.

(3) Any such notice or document may be served on a practising solicitor, without prejudice to any other method of service, by sending it in a registered letter addressed to him at any place specified as his place of business, or one of his places of business, in his latest application for a practising certificate or in any subsequent notice under subsection (1)."

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32. For section 85 (relief to banks) substitute:—

"Bank accounts.

85. Where a solicitor keeps an account with a bank in pursuance of rules under section 29—

(*a*) the bank shall not incur any liability, or be under any obligation to make any inquiry, or be deemed to have any knowledge of any right of any person to any money paid or credited to the account, which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to it; and

(*b*) the bank shall not have any recourse or right against money standing to the credit of the account, in respect of any liability of the solicitor to the bank, other than a liability in connection with the account.".

33.—(1) In subsection (1) of section 86 (interpretation) insert in the appropriate places in alphabetical order—

" authorised insurers " means a person permitted under the Insurance Companies Act 1974 to carry on liability insurance business or pecuniary loss insurance business;

" bank " means—

(*a*) the Bank of England; and

(*b*) a company as to which the Secretary of State is satisfied that it ought to be treated as a banking company or as a discount company for the purposes of the Protection of Depositors Act 1963;

" client account " means an account in the title of which the word " client " is required by rules under section 29;

" contentious business agreement " means an agreement made in pursuance of section 59;

" controlled trust ", in relation to a solicitor, means a trust of which he is sole trustee or co-trustee only with one or more of his partners or employees;

" employee " includes an articled clerk;

" indemnity conditions " has the meaning assigned to it by section 25(2)(*b*);

" indemnity rules " means rules under section 32A;

" liability insurance business " has the meaning given in section 83(3) of the Insurance Companies Act 1974;

" pecuniary loss insurance business " has the meaning given in section 83(6) of the Insurance Companies Act 1974;

" sole solicitor " means a solicitor who is the sole principal in a practice;

" training conditions " has the meaning assigned to it by section 25(2)(*a*);

" training regulations " means regulations under section 2A;

" the Tribunal " means the Solicitors Disciplinary Tribunal;

" trust " includes an implied or constructive trust and a trust where the trustee has a beneficial interest in the trust property, and also includes the duties incident to the office of a personal representative, and " trustee " shall be construed accordingly.

(2) For subsection (2) substitute—

" (2) In this Act—

(*a*) references to the removal of a solicitor's name from the roll are references to its removal at his own request ;

(*b*) references to striking a solicitor's name off the roll are references to striking it off otherwise than at his own request ; and

(*c*) references to removal or striking off include references to deleting an entry made by means of a computer by whatever means are appropriate.

(2A) In this Act, except where otherwise indicated—

(*a*) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered, and

(*b*) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and

(*c*) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered.".

34.—(1) In paragraph 2 of Schedule 2 (Compensation Fund) for the words from " written " to " issued " substitute " solicitor's application for a practising certificate ".

(2) In paragraph 5 of that Schedule for the words from " any " to " United Kingdom " substitute " authorised insurers ".

(3) For paragraph 7(*e*) substitute:—

" (*e*) for payment of all costs, charges and expenses incurred by the Society by virtue of paragraph 1(1)(*a*) of Schedule 1 to the Solicitors (Amendment) Act 1974 and of any costs or damages incurred by the Society or its employees or agents as a result of proceedings against the Society or its employees or agents for any act or omission done or made by it or them in good faith and in the execution or purported execution of the powers conferred by Part II of the said Schedule 1 ; ".

Section 19.

SCHEDULE 3

Enactments Repealed

Part I

Repeals Coming into Force on Passing of Act

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 101.	The Justices of the Peace Act 1949.	In section 20(3)(*b*), the words " by the said regulations ".
4 & 5 Eliz. 2. c. 41.	The Solicitors (Amendment) Act 1956.	The whole Act.
5 & 6 Eliz. 2. c. 27.	The Solicitors Act 1957.	In section 1, " for the time being " and the words from " by an order " to the end of the section. Section 2(1)(*c*). In section 3(3), the words from " whether " to " otherwise ". In section 11(2) the words " and to such extent ". In section 12, in subsection (1)(i), the words " are exercisable and ", in subsection (2)(*b*) the words " terms and " and in subsection (5) the references to paragraphs (*a*), (*b*) and (*c*) of section 12(1). In section 15, in subsection (1), the words from " by ", in the first place where it occurs, to " section ", in the third place where it occurs, in subsection (3), the words " subsection (2) of " and the words " terms and " and in subsection (4) the words " terms or ", the words from " by petition " to " direct " and the words " terms and ". In section 16(*a*), the words " subsection (2) of ". In section 18(2), paragraph (*b*) and in paragraph (*c*) the words " for each such offence ". In section 19, the words " for each such offence ". In section 21, the words " for each such offence ". In section 22, the words " for each such offence ", in both places where they occur. In section 23A, the words " in section 18(2)(*b*) or ". Section 30(2)(*c*).

SCH. 3

Chapter	Short title	Extent of repeal
5 & 6 Eliz. 2. c. 27—*cont.*	The Solicitors Act 1957 —*cont.*	In section 36(2), the words " in lieu of the Society ". In section 37(1), the words " for each offence ". In section 38, in subsection (2), the words from " and may " to the end of the subsection, in the proviso to subsection (2A) the words from " or of the division " to " referred " and the words " or the division, as the case may be ", subsection (3), and in subsection (5), the words in paragraph (*b*) from " in respect " to the end of the subsection. In section 39(1), the words " for each offence ". In section 46(6), the words " or any division thereof ". In section 47(2), the words " or a division thereof " and the words " or division " in both places where they occur. In section 52, the words " remove from or ". In section 53, the words " removed from or " and the words " remove or ". In section 67, the word " deeds " and the words " or papers ", wherever occurring. In section 69(5), paragraph (i) of the proviso. Section 75. Section 81. In section 84(1), the words from " and every " to the end of the subsection. In section 87(2), the words " and section eighty-five ". In Schedule 2, in paragraph 2, the words " not exceeding ten pounds " and the words " in relation to which the said certificate is to be issued ", and in paragraph 3 the words from " and are not " to the end of the paragraph.
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	In Schedule 7, in Part I, the amendment of the Solicitors Act 1957.

SCH. 3

Chapter	Short title	Extent of repeal
1965 c. 31.	The Solicitors Act 1965.	Section 1. Section 5(1). Section 9(2). Section 14. Sections 23 to 25. In Schedule 2, the second entry. In Schedule 3, the third and fourth entries.

PART II

REPEALS COMING INTO FORCE ON APPOINTED DAY

Chapter	Short title	Extent of repeal
26 Geo. 5 & 1 Edw. 8. c. 35.	The Solicitors Act 1936.	The whole Act.
5 & 6 Eliz. 2. c. 27.	The Solicitors Act 1957.	In section 28(1), the proviso. In section 29(1), the proviso. Section 31. In section 47, in subsection (1), the words from the beginning to "Act", in the first place where it occurs, paragraph (*a*) and in paragraph (*c*) the words "removed from or", and in subsection (2), in paragraph (*a*) the words "removing from or" and in paragraph (*bb*) the words "removed from or". In section 86(1), the definition of "disciplinary committee". Schedule 1. In Schedule 2, paragraph 7(*dd*).
7 & 8 Eliz. 2. c. 42.	The Solicitors (Amendment) Act 1959.	The whole Act.
1965 c. 31.	The Solicitors Act 1965.	Sections 10 to 13. Section 15. In section 16(2) the words from "at the end" to the end of the subsection. Section 19(1). Sections 21 and 22. Schedule 1.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 57.
1974 c. 4.	The Legal Aid Act 1974.	In Schedule 4, paragraph 1.