1957 No. 2240

The Solicitors (Disciplinary Proceedings) Rules, 1957

Made - - - - 16*th December*, 1957
Coming into Operation 31*st December*, 1957

ARRANGEMENT OF RULES

Part I	Applications against Solicitors and Solicitors' Clerks	Rules 1 to 12
Part II	Applications at the instance of the Solicitor himself	Rules 14 to 20
Part III	General	Rules 21 to 38
Schedule	Forms.	

The Disciplinary Committee constituted under the Solicitors Act, 1957(a), with the concurrence of the Master of the Rolls, in exercise of the powers conferred on them by section 46 of the said Act, and of all other powers them enabling, hereby make the following Rules :—

PART I.—APPLICATIONS AGAINST SOLICITORS AND SOLICITORS' CLERKS

1. An application to the Committee to strike the name of a solicitor off the Roll of Solicitors, to require a solicitor to answer allegations contained in an affidavit or to make an Order directing that no solicitor shall in connection with his practice as a solicitor take into or retain in his employment or remunerate the solicitor's clerk named in the application without the written permission of the Society, shall be in writing under the hand of the applicant in such one of the forms set out in the Schedule hereto and numbered 1 and 2, as shall be appropriate and shall be sent to the Clerk to the Committee together with an affidavit by the applicant in the form set out in the Schedule hereto and numbered 3 or as near thereto as the circumstances may permit, stating the matters of fact on which he relies in support of his application. Provided that where the application is made by the Society the application may be signed and the affidavit sworn on behalf of the Society by the Secretary or by such other person as may from time to time be prescribed by the Council.

2. Before fixing a day for the hearing the Committee may require the applicant to supply such further information and documents relating to the application as they think fit.

3. In the case of an application against a solicitor where, in the opinion of the Committee no *prima facie* case is shown in favour of the application, the Committee may dismiss the application without requiring the solicitor to answer the allegations, and without hearing the applicant. If required so to do, either by the applicant or the solicitor, the Committee shall make a formal order dismissing such application.

(a) 5 & 6 Eliz. 2. c. 27.

4. In the case of an application in respect of a solicitor's clerk the parties to the proceedings shall be—

(i) the applicant,

(ii) the solicitor's clerk, and

(iii) if the Committee so direct, every solicitor by whom the solicitor's clerk was employed either at the time of the commission of any such offence as is mentioned in Section 38 (1) of the Solicitors Act, 1957, of which it is alleged by the applicant that the solicitor's clerk has been convicted, or at the time of any such act or default as is mentioned in Section 38 (1) (*b*) of the said Act to which it is alleged that the solicitor's clerk has been party.

5. In the case of an application against a solicitor in which, in the opinion of the Committee, a *prima facie* case is shown in favour of the application, and in the case of every application in respect of a solicitor's clerk, the Committee shall fix a day for the hearing, and the Clerk to the Committee shall serve notice thereof on each party to the proceedings and shall serve on each party, other than the applicant, a copy of the application and affidavit. There shall be at least 21 days between the service of any such notice and the day fixed therein for the hearing.

6. The notice shall be in such one of the forms set out in the Schedule hereto and numbered 4, 5, 6 and 7, as shall be appropriate and shall require the party to whom it is addressed to furnish to the Clerk and to every other party at least 14 days before the day fixed for the hearing, unless the Committee direct otherwise, a list of all documents on which he intends to rely.

7. Any party may inspect the documents included in the list furnished by any other party. A copy of any document mentioned in the list furnished by any party shall, on application and on payment of the proper charges therefor, by the party requiring it, be furnished to that party by the other within three days after the receipt of such application.

8. If any party fails to appear at the hearing the Committee may, upon proof of service on such party of the notice of hearing, proceed to hear and determine the application in his absence.

9. Any party who has failed to appear at the hearing may, within one calendar month from the pronouncement of the Findings and Order of the Committee, and upon giving notice to every other party and to the Clerk, apply to the Committee for a re-hearing. The Committee, if satisfied that it is just that the case should be re-heard, may grant the application upon such terms as to costs or otherwise as they think fit. Upon such re-hearing the Committee may amend, vary, add to, or reverse their Findings, or Order, pronounced upon such previous hearing.

10. The Committee may, in their discretion, either as to the whole case or as to any particular fact or facts proceed and act upon evidence given by affidavit. Provided that any party to the proceedings may require the attendance upon subpœna of any deponent to any such affidavit for the purpose of giving oral evidence, unless the Committee are satisfied that the affidavit is purely formal and that the requirement of the attendance of the deponent is made with the sole object of causing delay.

11. The Clerk shall give notice to the parties of the date when the Findings and Order will be pronounced.

12. The Clerk shall on the day of pronouncement, or, if the Committee shall have suspended the filing of the Findings and Order, pursuant to Rule 28,

forthwith upon the termination of the period for which such filing is so suspended, file the Findings and Order, in the case of an application against a solicitor, with the Society, and in the case of an application in respect of a solicitor's clerk, with the Secretary.

13. Within four days of the date when the Findings and Order shall have been pronounced, the Clerk shall send a copy thereof to each party to the application.

PART II.—APPLICATIONS AT THE INSTANCE OF A SOLICITOR HIMSELF

14. An application by a solicitor to procure his name to be removed from the Roll shall be made by way of affidavit in the form set out in the Schedule hereto and numbered 8.

15. The affidavit shall be sent to the Clerk and a copy thereof to the Society and, unless the Committee direct otherwise, shall be supported by letters from two practising solicitors to whom the applicant is known.

16. The Committee may decide upon the application without requiring the attendance of the applicant. In any other case the Committee shall fix a day for the hearing and the Clerk shall serve notice thereof on the applicant and the Society at least 21 days before the day fixed for the hearing. The Committee may, if they think fit, require the applicant to give notice of his application and of the day fixed for the hearing by advertisement or otherwise, as they may direct.

17. If any person desires to object to the application, he shall give notice in writing to the applicant, the Society and the Clerk at least seven days before the day fixed for the hearing, specifying the grounds of his objection.

18. If the objector appears on the day fixed for the hearing, and if the Committee are of opinion, after hearing the parties or either of them (if they think fit so to do), that the notice discloses a *prima facie* case for inquiry of which they do not dispose on that day, they shall adjourn the hearing and shall give directions relating to the adjourned hearing, including directions as to the party on whom the burden of proof shall lie.

19. The Rules contained in Parts I and III of these Rules shall apply *mutatis mutandis* to the hearing of any application under this Part of these Rules.

20. In respect of any application by a solicitor to procure his name to be removed from the Roll the Committee shall order either that the name of the solicitor be removed from the Roll, or that the application be refused, and may make such Order as to the costs as they think fit.

PART III.—GENERAL

21. The Committee shall hear all applications in private, but shall pronounce their Findings and Orders in public.

22. The Committee may at any stage of proceedings against a solicitor refer the case to the Council and may adjourn the application pending the consideration thereof by the Council in case the Council should see fit either to lodge a further application against the solicitor or to undertake on behalf of the original applicant the prosecution of his application.

23. Unless the Committee direct otherwise no application shall be withdrawn after it has been sent to the Clerk.

24. The Committee may of their own motion, or upon the application of any party, adjourn the hearing upon such terms as to costs, or otherwise, as the Committee shall think fit.

25. In the case of an application in respect of a solicitor's clerk the Committee may on the application of any party or on their own motion order that any such application shall be heard prior to, in the course of, concurrently with, or subsequent to the hearing of an application to strike the name of a solicitor, by whom the clerk is or was employed, off the Roll of Solicitors, or to require such solicitor to answer allegations contained in an affidavit.

26. If upon the hearing it shall appear to the Committee that the allegations in the affidavit require to be amended, or added to, the Committee may permit such amendment, or addition, or if in the opinion of the Committee such amendment or addition is not within the scope of the affidavit, may require the same to be embodied in a further affidavit, provided that if such amendment, or addition, shall be such as to take any party by surprise, or prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing, upon such terms as to costs, or otherwise, as the Committee shall think fit.

27. Upon the hearing, or determination, of any application the Committee may, in the case of an application against a solicitor, without finding any misconduct proved against the solicitor, or, in the case of an application in respect of a solicitor's clerk, without making any Order under Section 38 (1) of the Solicitors Act, 1957, nevertheless order any party to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, the Committee shall think fit.

28.—(1) The Committee shall have power, upon the application of a party against or with respect to whom they have made an Order, to suspend the filing thereof with the Society or the Secretary as the case may require.

(2) Where the filing of an Order is suspended under this Rule the Order shall not take effect until it is filed with the Society or the Secretary as the case may be and if the order is an order that a solicitor be suspended from practice the period of suspension shall be deemed to commence on the date of the filing of the Order with the Society.

29. Shorthand notes of proceedings may be taken by a person appointed by the Committee; and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof. The shorthand writer shall, if required, supply to the Committee and to any person entitled to be heard upon an appeal against an Order of the Committee, and to the Society, but to no other person, a copy of the transcript of such notes on payment of his charges. If no shorthand notes be taken the Chairman of the Committee shall take a note of the proceedings, and the provisions of this Rule as to inspection and taking of copies shall apply to such note accordingly.

30. Service of any notice or document may be effected under these Rules by registered "A.R." letter addressed, in the case of a solicitor, to his place of business appearing in the Register (commonly known as the Practising Roll) kept by the Society and to his place of abode (if known) and, in every other case, to the last known place of business or abode of the person to be served, and such service shall be deemed to be effected at the time when the letter would be delivered in the ordinary course of post.

31. The Committee may dispense with any requirements of these Rules respecting notices, affidavits, documents, service, or time, in any case where it appears to the Committee to be just so to do.

32. The Committee may extend the time for doing anything under these Rules.

33. All affidavits shall be filed and kept by the Clerk. The Committee may order that any books, papers, or other exhibits, produced or used at a hearing, shall be retained by the Clerk until the time within which an appeal may be entered has expired, and, if notice of appeal is given, until the appeal is heard or otherwise disposed of.

34. The Evidence Act, 1938(**a**), and the Evidence and Powers of Attorney Act, 1940(**b**), shall apply in relation to proceedings before the Committee in the same manner as they apply in relation to civil and criminal proceedings.

35.—(1) Any party may by notice in writing at any time not later than nine days before the day fixed for the hearing call upon any other to admit any document saving all just exceptions and if such other party desires to challenge the authenticity of the document he shall within six days after service of such notice give notice that he does not admit the document and requires it to be proved at the hearing.

(2) If such other party refuses or neglects to give notice of non-admission within the time prescribed in the last preceding paragraph he shall be deemed to have admitted the document unless otherwise ordered by the Committee.

(3) Where a party gives notice of non-admission within the time prescribed by the first paragraph of this Rule and the document is proved at the hearing the costs of proving the document shall be paid by the party who has challenged the document whatever the Order of the Committee may be unless in their Findings the Committee shall find that there were reasonable grounds for not admitting the authenticity of the document.

(4) Where a party proves a document without having given notice to admit under the first paragraph of this Rule no costs of proving the document shall be allowed on taxation, unless otherwise directed by the Committee, except where the omission to give notice to admit is in the opinion of the Taxing Master a saving of expense.

36. A subpœna issued under Section 46 (6) of the Solicitors Act, 1957, shall be in such one of the forms set out in the Schedule hereto and numbered 9 and 10 as shall be appropriate.

37.—(1) In these Rules "solicitor's clerk" means a person who is or was a clerk to a solicitor, and "the Clerk" means the Clerk to the Committee or any deputy or person appointed by the Committee temporarily to perform the duties of that office.

(2) Other expressions in these Rules have the meanings assigned to them in the Solicitors Act, 1957.

(3) The Interpretation Act, 1889, applies to these Rules in the same manner as it applies to an Act of Parliament.

38. These Rules may be cited as the Solicitors (Disciplinary Proceedings) Rules, 1957, and shall come into force on the 31st day of December, 1957, whereupon the Solicitors (Disciplinary Proceedings) Rules, 1942(**c**), and the Solicitors (Disciplinary Proceedings) Rules, 1944(**d**), shall cease to have effect.

(**a**) 1 & 2 Geo. 6. c. 28. (**b**) 3 & 4 Geo. 6. c. 28.
(**c**) S.R. & O. 1942/1831 (Rev. XXI, p. 180: 1942 I, p. 780).
(**d**) S.R. & O. 1944/562 (Rev. XXI, p. 180: 1944 I, p. 914).

SCHEDULE

FORM 1

FORM OF APPLICATION AGAINST A SOLICITOR

To the Clerk to the Disciplinary Committee constituted under the Solicitors Act, 1957

In the Matter of C.D.,(1) a Solicitor,

and

In the Matter of the Solicitors Act, 1957.

I the undersigned A.B. hereby make application that C.D.(1) of (2) , Solicitor, may be required to answer the allegations contained in the affidavit which accompanies this application and

(3) (*a*) that the name of C.D.(1) of (2) Solicitor, may be struck off the Roll of Solicitors of the Supreme Court, or

that such order may be made as the Committee shall think right.

In witness whereof I have hereunto set my hand this day of 19 .

.....*Signature.*

.....*Address.*

.....*Profession, business, or occupation.*

FORM 2

FORM OF APPLICATION IN RESPECT OF A SOLICITOR'S CLERK

To the Clerk to the Disciplinary Committee constituted under the Solicitors Act, 1957

In the Matter of E.F., a Solicitor's clerk,

and

In the Matter of the Solicitors Act, 1957.

I, the undersigned A.B., of hereby make application on behalf of The Law Society that an order be made by the Committee directing that as from a date to be specified in such order no solicitor shall in connection with his practice as a solicitor take or retain E.F. of a person who is or was a clerk to a solicitor into or in his employment or remunerate the said E.F. without the written permission of The Law Society or that such other order may be made as the Committee shall think right.

In witness whereof I have hereunto set my hand this day of 19 .

Signature.

(1) The full name must be stated. Initials are not sufficient. The names may be obtained by an inspection of the Roll of Solicitors at The Law Society, Chancery Lane, London, W.C.2, during usual office hours.
(2) Last known place or places of business of the solicitor.
(3) The applicant may, but need not, strike out (*a*).

FORM 3

FORM OF AFFIDAVIT BY APPLICANT

In the Matter of C.D., a Solicitor,

and

In the Matter of the Solicitors Act, 1957.

I, *A.B., of
make oath and say as follows:—

*Insert full name, address and description.

1. †C.D., of
, solicitor of the Supreme Court of Judicature in England, *has been employed by me in a professional capacity for the last ten years* (or as the case may be).

†Insert full name and last known place of business.

2. [*Here state the facts concisely in numbered paragraphs, and show deponent's means of knowledge.*]

Sworn, etc.

FORM 4

FORM OF NOTICE TO APPLICANT BY THE CLERK TO THE DISCIPLINARY COMMITTEE

In the Matter of C.D., a Solicitor, [or] a Solicitor's clerk,

and

In the Matter of the Solicitors Act, 1957.

To A.B., of

The day of , is the day fixed by the Disciplinary Committee constituted under the Solicitors Act, 1957, for the hearing of your application in the matter of C.D., solicitor [or] a person who is or was a clerk to a solicitor.

The Committee will sit at the Court Room, No. 60 Carey Street, Chancery Lane, London, W.C.2, at o'clock in the noon.

*[The parties to the application are as follows:—

.]

You are required by the Solicitors (Disciplinary Proceedings) Rules, 1957, to furnish to every other party to the application and to the Clerk to the Disciplinary Committee at The Law Society's Hall, Chancery Lane, London, W.C.2, at least fourteen days before the said day of , a list of all the documents on which you propose to rely.

Any party may inspect the documents included in the list furnished by any other, and a copy of any document mentioned in the list of any party must, on application and on payment by the party requiring it of the proper charges, be furnished to that party by the other within three days after receipt of such application.

If any party shall fail to appear and the Committee decide to proceed in his absence, any party appearing must be prepared to prove service, in accordance with the Solicitors (Disciplinary Proceedings) Rules, 1957, of the list of documents and any other notice or correspondence since the lodging of the application.

You are requested to acknowledge the receipt of this notice without delay.

Dated this day of , 19 .

.....
Clerk to the Committee.

[N.B.—A print of the Solicitors (Disciplinary Proceedings) Rules, 1957, is sent herewith for your information and guidance.]

* To be deleted when the application is against a solicitor.

FORM 5

FORM OF NOTICE TO SOLICITOR BY THE CLERK TO THE DISCIPLINARY COMMITTEE

In the Matter of C.D., a Solicitor,

and

In the Matter of the Solicitors Act, 1957.

To C.D., of , Solicitor.

Application has been made by A.B., of to the Disciplinary Committee constituted under the Solicitors Act, 1957, that you may be required to answer the allegations contained in the affidavit, whereof a copy accompanies this notice, and that your name may be struck off the Roll of Solicitors, or that such order may be made as the Committee shall think right.

The day of , is the day fixed by the Committee for the hearing of the application. The Committee will sit at the Court Room, No. 60 Carey Street, Chancery Lane, London, W.C.2, at o'clock in the noon. If you fail to appear, the Committee may, in accordance with the Solicitors (Disciplinary Proceedings) Rules, 1957, proceed in your absence.

You are required by the said Rules to furnish to every other party to the application and to the Clerk to the Disciplinary Committee at The Law Society's Hall, Chancery Lane, London, W.C.2, at least fourteen days before the said day of , a list of all the documents on which you propose to rely.

Any party may inspect the documents included in the list furnished by any other, and a copy of any document mentioned in the list of any party must, on application and on payment by the party requiring it of the proper charges, be furnished to that party by the other within three days after receipt of such application.

In order to reduce the costs of the hearing you are invited to inform the applicant and the Clerk to the Disciplinary Committee not less than seven days before the said day of of any facts set out in the affidavit which are not in dispute.

You are requested to acknowledge the receipt of this notice without delay.

Dated this day of , 19 .

.....

Clerk to the Committee.

[N.B.—A print of the Solicitors (Disciplinary Proceedings) Rules, 1957, is sent herewith for your information and guidance.]

FORM 6

FORM OF NOTICE TO SOLICITOR'S CLERK BY THE CLERK TO THE DISCIPLINARY COMMITTEE

In the Matter of E.F., a Solicitor's clerk

and

In the Matter of the Solicitors Act, 1957.

To E.F., of

Application has been made by A.B., of on behalf of The Law Society to the Disciplinary Committee constituted under the Solicitors Act, 1957, supported by an affidavit, a copy of which accompanies this notice, that an order may be made directing that as from a date to be specified in such order no solicitor shall in connection with his practice as a solicitor take or retain you into or in his employment or remunerate you without the written permission of The Law Society or that such order may be made as the Committee shall think right.

The parties to the application are as follows:—

The day of , 19 , is the day fixed by the Committee for the hearing of the application. The Committee will sit at the Court Room, No. 60 Carey Street, Chancery Lane, London, W.C.2, at o'clock in the noon. If you fail to appear, the Committee may, in accordance with the Solicitors (Disciplinary Proceedings) Rules, 1957, proceed in your absence.

You are required by the said Rules to furnish to every other party to the application and to the Clerk to the Disciplinary Committee at The Law Society's Hall, Chancery Lane, London, W.C.2, at least fourteen days before the said day of a list of all the documents on which you propose to rely.

Any party may inspect the documents included in the list furnished by any other party, and a copy of any document mentioned in the list of any party must, on application and on payment by the party requiring it of the proper charges, be furnished to that party by the other within three days after receipt of such application.

In order to reduce the costs of the hearing you are invited to inform the applicant and the Clerk to the Disciplinary Committee not less than seven days before the said day of of any facts set out in the affidavit which are not in dispute.

You are requested to acknowledge the receipt of this notice without delay.

Dated this day of , 19 .

.....

Clerk to the Committee.

[N.B.—A print of the Solicitors (Disciplinary Proceedings) Rules, 1957, is sent herewith for your information and guidance.]

Form 7

Form of Notice by the Clerk to the Disciplinary Committee to a Solicitor made Party to an Application in respect of a Solicitor's Clerk

In the Matter of E.F., a Solicitor's clerk,

and

In the Matter of the Solicitors Act, 1957.

To G.H., solicitor of

Application has been made by A.B., of
on behalf of The Law Society to the Disciplinary Committee constituted under the Solicitors Act, 1957, that an order be made by the Committee directing that as from a date to be specified in such order no solicitor shall in connection with his practice as a solicitor take or retain E.F., of
a person who is or was a clerk to a solicitor into or in his employment or remunerate the said E.F. without the written permission of The Law Society or that such other order may be made as the Committee shall think right.

It is alleged in the affidavit accompanying the application, a copy of which is sent herewith, that you

By virtue of Rule 4 of the Solicitors (Disciplinary Proceedings) Rules, 1957, the Committee have directed that you be constituted a party to the application. The parties to the application are as follows:—

The day of , 19 , is the day fixed by the Committee for the hearing of the application. The Committee will sit at the Court Room, No. 60, Carey Street, Chancery Lane, London, W.C.2, at o'clock in the noon. If you fail to appear, the Committee may, in accordance with the Solicitors (Disciplinary Proceedings) Rules, 1957, proceed in your absence.

You are required by the said Rules to furnish to every other party to the application, and to the Clerk to the Disciplinary Committee at The Law Society's Hall, Chancery Lane, London, W.C.2, at least fourteen days before the said day of a list of all the documents on which you propose to rely.

Any party may inspect the documents included in the list furnished by any other, and a copy of any document mentioned in the list of any party must, on application and on payment by the party requiring it of the proper charges, be furnished to that party by the other within three days after receipt of such application.

You are requested to acknowledge the receipt of this notice without delay.

Dated this day of , 19 .

.....
Clerk to the Committee.

[N.B.—A print of the Solicitors (Disciplinary Proceedings) Rules, 1957, is sent herewith for your information and guidance.]

FORM 8

FORM OF AFFIDAVIT BY APPLICANT, BEING A SOLICITOR

In the Matter of C.D., a Solicitor,
and
In the Matter of the Solicitors Act, 1957.

I, C.D., of , make oath and say as follows:—

1. I was admitted a solicitor on the day of

2. I desire that my name may be removed from the Roll of Solicitors for the following reasons:—

[*Here state the reasons*]

3. I am not aware of, and do not know of any cause for, any application to the Court or to the Disciplinary Committee constituted under the Solicitors Act, 1957, that my name may be struck off the Roll of Solicitors, or that I should answer the allegations contained in an affidavit. I do not make this application for the purpose of evading any adverse application, or of defeating or delaying any claim upon me as a solicitor.

Sworn, etc.

FORM 9

FORM OF SUBPOENA AD TESTIFICANDUM

In the Matter of C.D., a Solicitor, [or] a Solicitor's clerk,
and
In the Matter of the Solicitors Act, 1957.

ELIZABETH THE SECOND, by the Grace of God, etc.

To

greeting.

We command you to attend before the Disciplinary Committee constituted under the Solicitors Act, 1957, at on day, the day of at the hour of in the noon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of

WITNESS
Lord High Chancellor of Great Britain, the day of , in the year of Our Lord

FORM 10

FORM OF SUBPOENA DUCES TECUM

In the Matter of C.D., a Solicitor, [or] a Solicitor's clerk,
and
In the Matter of the Solicitors Act, 1957.

ELIZABETH THE SECOND, by the Grace of God, etc.

To

greeting.

We command you to attend before the Disciplinary Committee constituted under the Solicitors Act, 1957, at on day, the day of , at the hour of in the noon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of and also to bring with you and produce at the time and place aforesaid [*specify documents to be produced*].

WITNESS
Lord High Chancellor of Great Britain, the day of , in the year of Our Lord

---

Dated this 16th day of December, 1957.

J. F. Warren,
Clerk to the Committee.

Approved,

Evershed, M.R.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These rules revoke and re-enact with minor amendments the Solicitors (Disciplinary Proceedings) Rules, 1942, as amended.

The rules regulate procedure for the making, hearing and determination of applications or complaints under the Solicitors Act, 1957, to the Disciplinary Committee constituted under that Act.

References in the rules and in the annexed forms to statutory provisions have been altered to accord with the consolidation of the Solicitors Acts, 1932 to 1956, made in the Solicitors Act, 1957.