



# THE SOLICITORS ACTS AN eCOMPENDIUM



## INTRODUCTION

*“Once begin the dance of legislation, and you must struggle through its mazes as best you can to its breathless end – if any end there be.” – Woodrow Wilson*

In 1994, with three Solicitors Acts in operation, the Law Society published its first Compendium of the Solicitors Acts. A second edition was published in 2010 which was accompanied by a new and innovative eCompendium. This third edition brings together, for the first time, all of the Solicitors Acts and the Legal Services Regulation Act 2015.

Those who have used previous editions of the Compendium will be familiar with its style and format. It aims to assist practising solicitors by locating in one single document all legislation governing the profession. More importantly, legislation which has been amended or substituted is identified in a red cross-reference in the left margin. Each red cross-reference contains a link which will instantly re-direct to the page where the subsequent amending provision can be found. Another feature of the Compendium has been the ability to view legislation which would have been applicable at a different point in time which can be especially helpful. The small number of provisions of the Legal Services Regulation Act 2015 which were not commenced at the time of publication of this eCompendium have been identified by way of yellow background. Users are recommended to go to the [electronic Irish Statute Book \(eISB\)](#) to check current status. As these outstanding provisions are commenced, information will be published on the Society's [eCompendium webpage](#).

A short instructional video has also been produced which demonstrates how to use this eCompendium and key features. For environmental reasons and given the increased functionality of the eCompendium, the Society will not produce a print edition of this work.

On behalf of the Society, I would like to thank the Office of the Clerk of the Dáil and Secretary General on behalf of the Houses of the Oireachtas Commission for the permission to reprint the texts of the Acts. While every effort has been made to ensure the accuracy of this reproduction and consolidation of statutory material, it remains a practical summary and description of the current statute law; it does not purport to be an official version or restatement of the legislation. The official version of each Act referred to and excerpted herein is solely that published by or under statutory authority.

While every care has been taken in the preparation of this eCompendium, the Law Society can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to [ecompendium@lawsociety.ie](mailto:ecompendium@lawsociety.ie).

My thanks also to all those in the Law Society of Ireland for their skill, expertise, time and patience in putting together the eCompendium to the Solicitors Acts 1954 to 2015.

This is a unique innovative resource, which will assist practising solicitors navigate through the legislative environment in which they operate. This eCompendium enhances and contributes to the Society's suite of member services.

**Michele O'Boyle**

President

February 2020

# eCOMPENDIUM | QUICK REFERENCE GUIDE

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## HOW TO USE

- View the '[how to use](#)' video for the eCompendium



## FOR OPTIMUM FUNCTIONALITY

- Download the eCompendium to your device and open using [Adobe Reader](#)



## NAVIGATE DIRECTLY TO ANY OF THE ACTS OR PART OF AN ACT:

- in the *Index* > click on the blue hyperlinked text to any of the Acts or parts of an Act

or



- using *Bookmarks* > click on the Bookmark Icon to open the Bookmark navigation pane, click on the arrow beside each Act to open bookmarks to parts of that Act and click on the name of the Act (or part of an Act) you wish to view



## NAVIGATE TO AMENDING PROVISIONS

- using the relevant red cross-references in the left margin, click on a blue hyperlinked page number to be redirected to amending legislation



## NAVIGATE BACK TO ORIGINAL LEGISLATION WHICH HAS JUST BEEN LINKED AWAY

- right click anywhere on the screen and select 'previous view'



## KEYWORD SEARCH

- click on the Magnifying Lens Icon in the navigation pane at the top of the screen, input your keyword(s) and click 'Next'

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*Number 36 of 1954.*

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**SOLICITORS ACT, 1954.**

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*Number 36 of 1954.*

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## SOLICITORS ACT, 1954.

AN ACT TO PROVIDE FOR THE ADMISSION, ENROLMENT AND CONTROL OF SOLICITORS OF THE COURTS OF JUSTICE AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID.

[22nd December, 1954.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

### PART I

#### PRELIMINARY AND GENERAL

- 1.—This Act may be cited as the Solicitors Act, 1954. Short title.
- 2.—This Act shall come into operation as follows: Commencement.
- (a) the portions of the Act relating to the making of regulations and rules and to the issue of notices and other proceedings preliminary to holding examinations shall come into operation on the passing of the Act,
- (b) section 44 of this Act shall come into operation as provided for in that section,
- (c) the remainder of the Act shall come into operation on the 6th day of January, 1955.
- 3.—(1) In this Act— Interpretation.
- "the Council" means the Council of the Society;
- ~~"the Disciplinary Committee" has the meaning assigned to it in section 13;~~
- "functions" includes powers and duties;
- "practice year" means any year ending on the 5th day of January;
- "practising certificate" has the meaning assigned to it in section 46;
- "prescribed" means prescribed by regulations made by the Society;

Section 3  
amended by the  
insertion of the  
definition of  
"the Authority"  
by section 177,  
LSRA 2015. See  
[page 383.](#)

Definition of  
"the Disciplinary  
Committee"  
repealed by First  
Schedule, 1960  
Act, page 76. For  
replacement, see  
section 3, 1960  
Act, at [page 56.](#)

Definition of  
"practice year"  
substituted by  
section 3(1)(b),  
1994 Act. See  
[page 89.](#)

"the register of practising solicitors" has the meaning assigned to it in section 47;

"registrar" has the meaning assigned to it in section 8;

"the roll" has the meaning assigned to it in section 9;

"the Society" means the Incorporated Law Society of Ireland;

"solicitor" means a solicitor of the Courts of Justice;

"solicitor in the full-time service of the State" has the meaning assigned to it in subsection (3) of section 54;

"solicitor qualified to practise" has the meaning assigned to it in subsection (1) of section 54;

"trust" and "trustee" extend to implied or constructive trusts and to cases where the trustee has a beneficial interest in the trust property, and to the duties incident to the office of a personal representative, and "trustee", where the context admits, includes a personal representative;

"unqualified person" means—

- (a) a solicitor who is not a solicitor qualified to practise, or
- (b) a person who is not a solicitor.

(2) A reference in this Act to performance of functions includes, as respects powers, a reference to exercise of those powers.

(3) A reference in this Act to contravention of a provision includes, where appropriate, a reference to refusal or failure to comply with that provision

(4) A reference in this Act to the Chief Justice shall, where the function in question stands delegated under section 6 of this Act to a judge of the ~~Supreme Court or High Court~~, be construed as a reference to that judge.

**4.**—The functions vested in the Society by or under this Act shall be performed by the Council. Performance of functions of Society.

**5.**—(1) The Society ~~may make~~ regulations in relation to any matter or thing referred to in this Act as prescribed or to be prescribed or as being the subject of regulations. Regulations generally.

(2) The Society may make regulations for the purpose of the execution of the provisions of this Act.

(3) Every regulation made under this Act shall be laid by the Society before each House of the Oireachtas as soon as may be after it is made.

Definition of "solicitor" substituted by section 3(1)(a), 1994 Act. See [page 89](#).

"Supreme Court or" repealed by Part I, First Schedule, 1960 Act. See [page 76](#). Section 25, 1960 Act, substituted President of the High Court for Chief Justice. See [page 71](#).

Section 178, LSRA 2015 not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

Section 5(1) amended by the substitution of "may make" with "may, with the approval of the Authority, make" by section 178, LSRA 2015. See [page 383](#).

“Supreme Court or” repealed by Part I, First Schedule, 1960 Act. See [page 76](#). Section 25, 1960 Act, substituted President of the High Court for Chief Justice. See [page 71](#).

**6.**—(1) The Chief Justice may delegate any of his functions under this Act to any judge of the ~~Supreme Court or~~ High Court.

Delegation by Chief Justice.

(2) The Chief Justice may revoke any delegation which he has made under subsection (1) of this section.

**7.**—(1) The enactments mentioned in the First Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Repeals.

(2) A reference in a document to an Act or portion of an Act repealed by this Act shall be construed as a reference to this Act or the corresponding portion of this Act and a register, roll or list under an Act repealed by this Act shall be deemed part of the corresponding register, roll or list under this Act.

(3) Nothing in this Act shall affect the general application of the Interpretation Act, 1937 (No. 38 of 1937), with regard to the effect of repeals.

## PART II

### THE REGISTRAR OF SOLICITORS AND THE ROLL OF SOLICITORS

**8.**—(1) There shall be a registrar of solicitors (in this Act referred to as the registrar).

Registrar of solicitors.

(2) The Society shall appoint their secretary or some other suitable person to be the registrar.

(3) The registrar shall be appointed on such terms and conditions, and with such emoluments (if any) payable out of the funds of the Society, as the Society determines.

(4) The Society may remove the registrar from office.

(5) The Society may appoint a deputy to act as the registrar for a period and the functions of the registrar shall be performed by the deputy during that period.

Section 9 substituted by section 65, 1994 Act. See [page 164](#).

~~**9.**—(1) The registrar shall maintain an alphabetical list of solicitors (in this Act referred to as the roll).~~

Roll of solicitors.

~~(2) The registrar shall keep the roll available for public inspection during office hours without payment.~~

Section 25, 1960 Act, substituted President of the High Court for Chief Justice. See [page 71](#).

**10.**—(1) A person who has fulfilled such of the requirements of Part IV of this Act as apply in relation to him may apply to the Chief Justice to be admitted as a solicitor.

Admission and enrolment.

(2) On receiving an application in accordance with subsection (1) of this section, the Chief Justice, unless cause to the contrary is shown to his satisfaction, shall, by instrument in writing, admit the applicant as a solicitor.

(3) A person admitted as a solicitor may apply to the registrar to have his name entered on the roll and the registrar, on production of the instrument by which he was admitted, shall enter the name of such person on the roll.

**11.**—(1) A solicitor shall not be liable to have his name struck off the roll on account of a defect in his indentures of apprenticeship, or in the registration thereof or his service thereunder, or in his admission and enrolment, unless the application to strike his name off the roll is made within twelve months after the date of his enrolment.

Limitation of time for certain applications to strike off roll.

(2) Subsection (1) of this section shall not apply where fraud is proved to have been committed in connection with the indentures, registration, service, admission or enrolment.

**12.**—A registrar of deaths shall, where an entry is made in the register of deaths concerning a person whose name is on the roll, forthwith send by post to the registrar a certified copy of the entry, and may charge the cost of the certificate and of the sending thereof to the registrar as an expense of his office of registrar of deaths.

Notification of death.

The whole of Part III, with the exception of section 14(3), was repealed by the First Schedule to the 1960 Act. For replacement provisions, see Part II of the 1960 Act at [page 57](#) and sections 16 to 25 of the 1994 Act at [page 101](#).

## PART III

### THE DISCIPLINARY COMMITTEE

Section 13 repealed by Part I, First Schedule, 1960 Act. See [page 76](#).

~~**13.**—(1) The Society shall appoint annually, from among members of the Council and such former members of the Council as are practising as solicitors, a disciplinary committee (in this Act referred to as the Disciplinary Committee) consisting of not less than seven and not more than ten persons.~~

Disciplinary Committee.

~~(2) The Society may remove a member of the Disciplinary Committee, may fill a vacancy therein and, subject to the limits stated in subsection (1) of this section, may increase or reduce the number of persons thereon.~~

~~(3) The members of the Disciplinary Committee shall go out of office on their successors being appointed under subsection (1) of this section, but any such member shall be eligible for re-appointment.~~

~~(4) The Disciplinary Committee may act notwithstanding one or more than one vacancy in their membership.~~

~~(5) The quorum of the Disciplinary Committee shall be five.~~

~~(6) An appointment or removal under subsection (1) or (2) of this section shall not be made save with the approval of the Chief Justice.~~

Subsections (1) and (2) repealed by Part I, First Schedule, 1960 Act. See [page 76](#).

**14.** ~~(1) The following applications shall be made to the Disciplinary Committee:~~

Applications to Disciplinary Committee.

~~(a) an application by a solicitor to procure the removal of his name from the roll,~~

~~(b) an application by another person or the Society to strike the name of a solicitor off the roll on any of the following grounds:~~

~~(i) that the solicitor has been guilty of misconduct, including conduct tending to bring the solicitors' profession into disrepute,~~

~~(ii) that the solicitor has contravened a provision of this Act or of an order or regulation made under this Act,~~

~~(iii) that the solicitor has been convicted of treason or of a felony or misdemeanour or has been convicted outside the State of a crime or offence which would be a felony or misdemeanour if committed in the State,~~

~~(c) an application to require a solicitor to answer allegations contained in an affidavit,~~

~~(d) an application for replacement on the roll of a name which has been removed from or struck off the roll.~~

~~(2) An application under this section shall be in writing, shall be signed by the applicant and shall be sent to the Disciplinary Committee together with—~~

~~(a) an affidavit by the applicant setting forth the matters relied on in support of the application, and~~

~~(b) the documents relied on in support of the application or copies of those documents.~~

Extant provision.

(3) The Chief Justice or any judge of the High Court may, notwithstanding anything contained in this Act, exercise any jurisdiction over solicitors which he might have exercised if this Act had not been

passed.

Section 15  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

~~15.—Where an application under paragraph (a) of subsection (1) of section 14 of this Act is duly made, the Disciplinary Committee shall consider the application and supporting affidavit and documents and—~~

~~Procedure where  
solicitor applies for  
removal of his  
name from roll.~~

~~(a) if they decide that the applicant is entitled to have his name removed from the roll without further inquiry, they shall order accordingly,~~

~~(b) if they decide that there is cause for inquiry, they shall hold an inquiry.~~

Section 16  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

~~16.—(1) Where an application under paragraph (b) or (c) of subsection (1) of section 14 of this Act is duly made, the Disciplinary Committee shall consider the application and supporting affidavit and documents and—~~

~~Procedure where  
charge is made  
against solicitor.~~

~~(a) if they decide that a *prima facie* case has not been shown, they shall so notify the applicant and the solicitor and shall take no further action,~~

~~(b) if they decide that a *prima facie* case has been shown, they shall serve on the solicitor—~~

~~(i) a copy of the application,~~

~~(ii) a copy of the affidavit,~~

~~(iii) copies of the documents or, at the discretion of the registrar, a list of the documents, and~~

~~(iv) a notice requiring the solicitor to send to the Disciplinary Committee, within a specified period, an affidavit by him in answer to the application, together with any documents, or copies thereof, which he relies on in support of his answer.~~

~~(2) Where a notice under subsection (1) of this section is served, either party may inspect the documents furnished by the other.~~

~~(3) After the expiration of the period specified in a notice under subsection (1) of this section, the Disciplinary Committee shall consider the application and the supporting affidavit and documents and such (if any) affidavit and documents as have been furnished by the solicitor and—~~

~~(a) if they decide that there is no cause for further inquiry, they shall so notify the applicant and the solicitor and shall take no~~

further action;

~~(b) if they decide that there is cause for inquiry, they shall hold an inquiry.~~

~~(4) Where an applicant has been notified under paragraph (a) of subsection (1) or paragraph (a) of subsection (3) of this section, the Disciplinary Committee shall, if so required by the applicant, make a formal order embodying their decision.~~

Section 17  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

~~17.—Where an application under paragraph (d) of subsection (1) of section 14 of this Act is duly made, the Disciplinary Committee shall consider the application and supporting affidavit and documents and shall by order either refuse the application or direct that the name in question be replaced on the roll.~~

Procedure where  
application is made  
for replacement on  
roll.

Section 18  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

~~18.—(1) Where the Disciplinary Committee hold an inquiry, they may make an order providing for one or more of the following:~~

Orders by  
Disciplinary  
Committee on  
inquiry.

~~(a) the dismissal of the application,~~

~~(b) the admonishment of the solicitor,~~

~~(c) the suspension of the solicitor from practice,~~

~~(d) the removal from or striking off the roll of the name of the solicitor,~~

~~(e) the payment by any party to the inquiry of costs, or of a stated sum as a contribution towards costs,~~

~~(f) the making by the solicitor of such restitution or satisfaction to any aggrieved party as the Disciplinary Committee think fit.~~

~~(2) The Disciplinary Committee may postpone the making of an order under this section.~~

~~(3) Where the making of an order under this section is postponed, the Disciplinary Committee may, on request made to them in that behalf when the matter is considered after the postponement, allow the application to be withdrawn without any order being made under this section.~~

~~(4) The Disciplinary Committee may, on the application of the solicitor to whom an order under this section relates, suspend the operation of the order pending an appeal under subsection (1) of section 23 of this Act.~~

~~(5) An order under this section shall not, while suspended, be filed or enforceable under subsection (1) of section 21 of this Act.~~

Section 19  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

**19.**—(1) The Disciplinary Committee shall, on an inquiry held by them, have the powers, rights and privileges, vested in the High Court or a judge thereof on the occasion of an action, in respect of—

Powers of  
Disciplinary  
Committee as to  
taking evidence,  
etc.

(a) ~~the enforcement of the attendance of witnesses and their examination on oath or otherwise, and~~

(b) ~~the compelling of the production of documents,~~

and a summons signed by a member of the Disciplinary Committee may be substituted for and shall be equivalent to any formal process capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(2) Where the Disciplinary Committee hold an inquiry and a person—

(a) ~~on being duly summoned as a witness at the inquiry makes default in attending,~~

(b) ~~being in attendance as a witness at the inquiry refuses to take an oath legally required by the Disciplinary Committee to be taken, or to produce any document in his power or control legally required by the Disciplinary Committee to be produced by him or to answer any question to which the Disciplinary Committee may legally require an answer, or~~

(c) ~~does any other thing which, if the Disciplinary Committee were a court of law having power to commit for contempt, would be contempt of the court,~~

the offence of that person may, by certificate signed by two members of the Disciplinary Committee, be certified to the High Court and the High Court may thereupon inquire into the alleged offence and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence and any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the High Court.

(3) A witness at an inquiry held by the Disciplinary Committee shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

Section 20  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

**20.**—(1) The Disciplinary Committee, with the concurrence of the Chief Justice, may make rules regulating applications to the Disciplinary Committee and the hearing, conduct and determination of such applications and of inquiries held by the Disciplinary Committee.

Rules regulating  
applications to  
Disciplinary  
Committee and  
inquiries.

(2) Rules under this section may provide, in particular, for extending the period for the furnishing of any affidavit or document, or for receiving an application or affidavit notwithstanding any irregularity in its form, where it appears to the Disciplinary Committee to be just to do so.

~~(3) Rules under this section may provide for award of costs and for taxation thereof by a Taxing Master of the High Court (subject to appeal to the High Court) under the scale of costs applicable to High Court proceedings, and any costs so taxed shall be recoverable as if they had been taxed under an order of the High Court.~~

Section 21  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

**21.**—(1) An order made by the Disciplinary Committee shall contain a statement of their findings and shall be signed by two of their members and filed with the registrar, and as soon as it has been so filed shall be acted upon by the registrar and be enforceable as if it were a judgement or order of the High Court.

Filing, effect and  
notice of order  
made by  
Disciplinary  
Committee.

(2) Where, by an order made by the Disciplinary Committee, the name of a solicitor is ordered to be removed from or struck off the roll or a solicitor is suspended from practice, the registrar shall, unless the Disciplinary Committee otherwise direct, forthwith cause a notice stating the effect of the operative part of the order to be published in *Iris Oifigiúil* and shall also cause the notice to be published in such other manner as the Disciplinary Committee may direct.

(3) The registrar shall maintain separate files on which all orders made by the Disciplinary Committee shall be entered in the following manner:

(a) on a file to be termed File A, there shall be entered, in alphabetical order of the names of the solicitors concerned, each order directing that the name of a solicitor is to be removed from or struck off the roll or that a solicitor be suspended from practice;

(b) on a file to be termed File B, there shall be entered, in order of date, all other orders.

(4) On receipt of a copy of an order made on an appeal under section 23 of this Act, the registrar shall enter the order on File A or File B (as may be appropriate).

(5) The registrar shall furnish a copy of an entry on File A or File B to a person who applies in writing for such copy.

(6) Notwithstanding subsection (5) of this section, where—

(a) application is made for a copy of an entry on File B, being an entry under a date which is earlier than two years before the date of the application, or

(b) application is made for a copy of an entry on File A or File B, being an entry as respects which the Disciplinary Committee have directed the insertion of a note that the furnishing of a copy thereof might cause injustice,

a copy of the entry shall (save where the copy is furnished under an order

of a court) be furnished only by permission in writing of the Society.

Section 22  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

~~22.—An application to or an inquiry or other proceeding before the Disciplinary Committee shall be a legal proceeding within the meaning of that expression as used in the Bankers' Books Evidence Act, 1879.~~

Application of  
Bankers' Books  
Evidence Act,  
1879.

Section 23  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

~~23.—(1) An appeal against an order made by the Disciplinary Committee shall lie to the Chief Justice at the instance either of the applicant to the Disciplinary Committee or of the solicitor to whom the order relates.~~

Appeal against  
order of  
Disciplinary  
Committee.

~~(2) An appeal shall also lie to the Chief Justice against the refusal of the Disciplinary Committee to suspend the operation of an order under section 18.~~

~~(3) The Society shall be entitled to appear and to be heard upon the hearing of an appeal under this section.~~

~~(4) A copy of an order made on an appeal under this section shall be sent to the registrar.~~

## PART IV

### QUALIFYING FOR ADMISSION AS SOLICITOR

Section 24  
substituted by  
section 40,  
1994 Act. See  
[page 138.](#)

~~24.—Subject to this Part of this Act, a person shall not be admitted as a solicitor unless—~~

Requirements for  
admission as  
solicitor.

~~(a) he has attained the age of 21 years,~~

~~(b) he has been bound by indentures of apprenticeship to serve as an apprentice to a practising solicitor for the appropriate term and has satisfied the Society that he has duly served under such indentures,~~

~~(c) he has obtained from the Society a certificate or certificates certifying that he has passed the appropriate prescribed examinations, and~~

~~(d) he has complied with any prescribed requirements as to service under indentures of apprenticeship and admission of persons to be solicitors or compliance therewith has been waived by the Society.~~

Section 25  
substituted by  
section 41,  
1994 Act. See  
page 139.

**25.**—Subject to this Part of this Act, a person shall not be capable of being bound by indentures of apprenticeship to serve as an apprentice to a solicitor unless—

Requirements for  
admission to  
apprenticeship.

- (a) ~~he has attained the age of 17 years,~~
- (b) ~~he has obtained from the Society a certificate or certificates certifying that he has passed the appropriate prescribed examinations,~~
- (c) ~~he has obtained the consent of the Society provided for by section 27 of this Act, and~~
- (d) ~~he has fulfilled any prescribed requirements as to admission to apprenticeship or compliance therewith has been waived by the Society.~~

Section 26  
substituted by  
section 42,  
1994 Act. See  
page 140.

**26.**—The term of indentures of apprenticeship to a practising solicitor shall be determined in accordance with the provisions contained in the Second Schedule to this Act.

Term of indentures.

Section 27  
substituted by  
section 43,  
1994 Act. See  
page 140.

**27.**—(1) ~~Not less than six weeks before a person becomes bound by indentures of apprenticeship, he shall give notice to the Society of his intention so to do and shall furnish the Society with the prescribed evidence of his character.~~

Evidence of good  
character.

(2) ~~Where the Society are satisfied with the evidence furnished pursuant to this section by a person and with the information obtained from any inquiries that they think proper to make, they shall issue their written consent to the entry of such person into indentures of apprenticeship.~~

(3) ~~The registrar shall refuse to register indentures of apprenticeship produced to him under section 28 of this Act unless the indentures are accompanied by a consent issued under this section and dated not earlier than six months before the date of the indentures.~~

(4) ~~Service of an apprentice under indentures of apprenticeship of which registration has been refused under this section shall be deemed not to be good service by the apprentice under his indentures.~~

**28.**—(1) Indentures of apprenticeship shall be produced to the registrar for registration and the registrar, on being satisfied by statutory declaration or such other evidence as he considers sufficient of the due execution of the indentures, shall enter in a register the names and addresses of the parties to the indentures, the date thereof and the date of the making of the entry.

Registration of  
indentures.

(2) The register under this section shall be kept available for public inspection during office hours without payment.

(3) Where the indentures of apprenticeship of an apprentice are not produced to the registrar for registration within six months from the date thereof, the service of the apprentice shall, unless the Society otherwise direct, be reckoned as commencing only upon the date of the production of the indentures.

(4) The provisions of this section with respect to the production and entry of indentures shall apply in the case of fresh indentures, and in the case of an assignment or transfer of indentures under section 32 or under an order under section 34 or 35 of this Act, in the same manner as they apply in the case of original indentures.

Section 29 substituted by section 44, 1994 Act, as amended by section 33, 2008 Act. See [page 142](#) and [page 230](#).

~~29.—(1) A solicitor shall not take any apprentice after such solicitor has ceased to practise or to be a solicitor qualified to practise, or while such solicitor is employed as an assistant or clerk by another solicitor.~~

~~Restriction on solicitor taking or retaining apprentice.~~

~~(2) A solicitor who has not at some time been in continuous practice as a solicitor for a period of seven years shall not, without special leave of the Society, take any apprentice.~~

~~(3) Regulations may restrict the taking of apprentices by solicitors who are in the whole-time employment of bodies corporate.~~

~~(4) Where a solicitor who is retaining an apprentice ceases to practise or to be a solicitor qualified to practise or becomes employed as an assistant or clerk to another solicitor, he shall not retain the apprentice for longer than six months thereafter.~~

~~(5) Service by an apprentice to a solicitor who has taken him in contravention of subsection (1), subsection (2) or regulations made for the purposes of subsection (3) of this section or service by an apprentice to a solicitor during any period when such solicitor retained him in contravention of subsection (4) of this section shall, unless the Society direct otherwise, be deemed not to be good service by the apprentice under his indentures of apprenticeship.~~

**30.**—A person shall not be disqualified for admission as a solicitor or be liable to be struck off the roll—

Saver for service of apprentice where solicitor disqualified.

(a) by reason of a solicitor, whom he served under indentures of apprenticeship for the whole or part of the term required by this Act, having neglected or omitted to take out a practising certificate, or

(b) by reason of a solicitor to whom he was bound by indentures of apprenticeship ceasing, after the termination of the period for which he was bound, to be a solicitor qualified to practise.

**31.**—(1) In a case in which the Society have directed, or have power to direct, the registrar to refuse the application of a solicitor for a practising

Prohibition on taking of apprentice.

certificate, they may, by notice in writing served on the solicitor, prohibit him from taking any apprentice, and thereupon the solicitor shall not take any apprentice unless and until the Society withdraw the prohibition.

(2) Service by an apprentice to a solicitor who has taken him in contravention of a prohibition in force under this section shall, unless the Society direct otherwise, be deemed not to be good service by the apprentice under his indentures.

(3) Where under this section the Society prohibit a solicitor from taking any apprentice, they may, of their own motion, by order, discharge the indentures of any apprentice then already apprenticed to that solicitor upon such terms, including terms as to return of premium, as they think fit, and determine what period (if any) of service by the apprentice under the indentures shall be deemed good service.

Section 32 substituted by section 45, 1994 Act. See [page 143](#).

~~32.—Where, before the expiration of the term for which an apprentice is bound—~~

~~Assignment of indentures or fresh indentures on death of solicitor, etc.~~

~~(a) the solicitor dies or ceases to practise as a solicitor,~~

~~(b) the indentures of apprenticeship are cancelled by mutual consent, or~~

~~(c) the indentures of apprenticeship are discharged by virtue of an order of the Society or of any court or otherwise,~~

~~the apprentice may be bound by an assignment of the indentures, or by fresh indentures, to another solicitor for the residue of the said term.~~

Section 33 substituted by section 46, 1994 Act. See [page 143](#).

~~33.—Where the Society are satisfied, on the application either of the solicitor or the apprentice, that indentures of apprenticeship ought to be discharged, they may by order discharge the indentures on such terms, including terms as to return of premium, as they think fit, and determine what period (if any) of service by the apprentice under the indentures shall be deemed good service.~~

~~General power to discharge indentures.~~

34.—(1) Where, before the expiration of the term for which an apprentice is bound, the solicitor—

Discharge or assignment of indentures on removal from roll, etc.

(a) is removed from or struck off the roll,

(b) becomes bankrupt,

(c) is imprisoned and remains in prison for a period of or exceeding twenty-one days,

(d) becomes of unsound mind, or

- (e) has been absent from the State for a period exceeding six months, or for two or more periods which were within twelve consecutive months and exceeded in the aggregate six months, without the consent of the Society or without complying with such terms and conditions as the Society may have fixed in relation to such absence,

the Society, on the application of the apprentice, may by order discharge the indentures of apprenticeship or, with the consent of another solicitor, by order direct that they shall be assigned to that solicitor on such terms and in such manner as the Society think fit.

(2) Nothing in this section shall affect any power of a court in relation to indentures of apprenticeship.

**35.—Where—**

Order transferring indentures.

- (a) an apprentice to a solicitor requires an assignment of his indentures of apprenticeship to be made under section 32 or under an order under section 34 of this Act, and
- (b) the Society, on the application of the apprentice, are satisfied that a difficulty exists in procuring the execution of the assignment,

the Society may, with the consent of another solicitor, by order transfer the indentures of apprenticeship to that solicitor.

Section 36 substituted by section 47, 1994 Act. See page 144.

**36.—**~~(1) A solicitor shall not have more than one apprentice at the same time.~~

Number of apprentices.

~~(2) Notwithstanding subsection (1) of this section, a solicitor may have two apprentices at the same time under a written consent of the Society, but the Society shall not grant any such consent except in special circumstances. Such consent shall not be withheld where the two apprentices are the children of the solicitor or where the second apprentice is the child of the solicitor and the first apprentice has been apprenticed with the solicitor for not less than two years.~~

Section 37 substituted by section 48, 1994 Act. See page 145.

**37.—**~~An apprentice shall, during the whole term of his indentures, serve a *bona fide* apprenticeship to the solicitor to whom he is bound.~~

Obligation to serve *bona fide* apprenticeship.

**38.—**(1) An apprentice shall not hold any office or engage in any employment other than employment under his apprenticeship unless, before doing so, he obtains the consent in writing of the solicitor to whom he is bound and the consent of the Society.

Holding of office or engaging in employment during apprenticeship.

(2) The following provisions shall have effect with respect to a consent by the Society for the purposes of this section:

- (a) the consent shall be by order of the Society,
- (b) before making the order, the Society shall be satisfied that the holding of the office or the engagement in the employment will not prejudice the applicant's work as an apprentice,
- (c) the order may impose on the applicant such terms and conditions regarding the office or employment and the applicant's service as an apprentice as the Society think fit,
- (d) where terms or conditions are so imposed, the applicant shall, before being admitted as a solicitor, satisfy the Society that he has fulfilled those terms or conditions.

**39.**—(1) The Society may grant relief to an apprentice against an irregularity with respect to his service under indentures of apprenticeship to such extent and on such terms as the Society think fit.

Relief against irregularity with respect to service of apprentice.

(2) In this section, the word "irregularity" includes a contravention of a provision made by or under this or any other Act.

Subsection (1) substituted by section 49(a), 1994 Act. See [page 145](#).

**40.**—(1) ~~The Society may—~~

Education and examinations.

- ~~(a) provide educational facilities, including lectures, classes and other teaching,~~
- ~~(b) hold examinations,~~
- ~~(c) appoint professors, lecturers and examiners.~~

(2) Provision may be made by regulations for ascertaining—

New subsection (2A) inserted by section 2(a), Irish Language Act 2008. See [page 223](#).

- (a) the fitness and capacity of solicitors proposing to take apprentices to teach such apprentices,
- (b) the progress made by apprentices in acquiring knowledge of the theory and practice of the law.

Subsection (3) repealed by section 2(b), Irish Language Act 2008. See [page 225](#).

~~(3) Regulations for the purposes of this section shall provide—~~

- ~~(a) for the holding by the Society at least once in every year of—~~
  - ~~(i) a first examination in the Irish language, that is to say, an examination in that language of persons seeking to be bound under indentures of apprenticeship, and~~
  - ~~(ii) a second examination in the Irish language, that is to~~

~~say, an examination in that language of persons seeking to be admitted as solicitors;~~

- ~~(b) for both of such examinations being obligatory except for persons who were over the age of fifteen years on the 1st day of October, 1929;~~
- ~~(c) for such second examination being so conducted and of such nature as to secure that persons who pass it have a competent knowledge of the Irish language, that is to say, such a degree of oral and written proficiency in the use of the language as is sufficient to enable a solicitor efficiently to receive instructions, to advise clients, to examine witnesses and to follow proceedings in the Irish language;~~
- ~~(d) for requiring that such second examination shall be passed within two years before the expiration of the term of apprenticeship or within two years before admission as a solicitor.~~

Subsection (4) substituted by section 49(b), 1994 Act. See [page 146](#).

(4) Regulations for the purposes of this section shall provide for the holding by the Society at least once in every year of—

- ~~(a) a preliminary examination, that is to say, an examination of persons seeking to be bound under indentures of apprenticeship, and~~
- ~~(b) a final examination, that is to say, an examination of persons seeking to be admitted as solicitors, which may be divided, if the Society so think fit, into two or more parts.~~

(5) Without prejudice to the generality of the foregoing subsections, regulations for the purposes of this section may provide for—

Subsection 5(a), (b) and (c) substituted by section 49(c), 1994 Act. See [page 146](#).

- ~~(a) the holding by the Society, in addition to the examinations mentioned in the foregoing subsections, of other examinations to ascertain the progress of apprentices and of persons seeking to be admitted as solicitors;~~
- ~~(b) restricting the taking of apprentices to solicitors whose fitness and capacity to teach apprentices is satisfactory;~~
- ~~(c) attendance of apprentices or intending apprentices at lectures, classes, debates and other teaching or training, whether provided by the Society or otherwise, and the course of study and training to be followed by those persons;~~
- ~~(d) times when candidates will be eligible to take examinations,~~
- ~~(e) subjects for and the mode of conducting examinations,~~

Subsection (5)(i) and (j) substituted and (k), (l) and (m) added by section 49(d), 1994 Act. See [page 146](#).

New subsections (7) and (8) inserted by section 49(e), 1994 Act. See [page 147](#).

Subsection (6) repealed by section 4(b), Irish Language Act 2008. See [page 226](#).

Section 41 substituted by section 50, 1994 Act. See [page 147](#).

Section 43 substituted by section 51, 1994 Act and further amended by section 3, Irish Language Act 2008. See [page 148](#) and [page 225](#).

(f) standards of efficiency to be obtained at examinations,

(g) times, places and notices of examinations,

(h) certificates of having passed examinations,

~~(i) the control and discipline of apprentices,~~

~~(j) the exemption, subject to this Act, from examinations in whole or in part of persons who produce satisfactory evidence that they have acquired special qualifications.~~

~~(6) A person shall not be appointed under this section as examiner in the Irish language save with the approval of the Minister for Education.~~

~~41.—A certificate of his having passed the preliminary examination of the Society shall not be required—~~

~~(a) from a person to whom paragraph 1 or 4 of the Second Schedule to this Act applies, or~~

~~(b) from a person who has passed an examination declared by regulations to be equivalent to the preliminary examination of the Society.~~

42.—The Society may, in special circumstances, exempt a person from the preliminary examination of the Society, or any part thereof, either unconditionally or subject to such conditions as they think fit.

General exemption from preliminary examination.

Special exemption from preliminary examination.

43.—(1) This section applies to a person—

~~(a) who proposes to become a solicitor,~~

~~(b) who has been called to the bar and practised continuously as a barrister for five years or longer during the ten years ending on the date of the final examination of the Society for which he proposes to sit,~~

~~(c) who has procured himself to be disbarred with a view to becoming a solicitor, and~~

~~(d) who has obtained from two of the Benchers of the Honourable Society of the King's Inns Dublin a certificate, dated not earlier than six months before the date of the said final examination, of his being a fit and proper person to practise as a solicitor.~~

Exemptions for practising barrister of five years' standing.

(2) The following provisions shall have effect in relation to a person to whom this section applies:

- (a) ~~he shall not be required to obtain a certificate of his having passed any examination of the Society other than the final examination and (if obligatory on him) the second examination in the Irish language;~~
- (b) ~~he shall be entitled, without being bound or serving as an apprentice to a solicitor, to apply to present himself for the final examination;~~
- (c) ~~on passing the final examination (except so much of that examination as relates to indentures of apprenticeship and service thereunder) and (if obligatory on him) the second examination in the Irish language, he shall be entitled to apply to be admitted and enrolled as a solicitor.~~

Section 44 substituted by section 52, 1994 Act. See [page 150](#).

**44.**—(1) In this section "corresponding certificate" means a certificate issued by the Incorporated Law Society of Northern Ireland and corresponding to a practising certificate.

Exemptions (reciprocal provisions:)

(2) This section applies to a person —

- (a) who proposes to become a solicitor, and
- (b) who, during a continuous period of three years or longer, has held corresponding certificates.

(3) The following provisions shall have effect in relation to a person to whom this section applies:—

- (a) ~~he shall not be required to obtain a certificate of his having passed any examination of the Society other than an examination to ascertain whether he has an adequate knowledge of the legislation in force in the State and (if obligatory on him) the second examination in the Irish language;~~
- (b) ~~in order to present himself for the examination to ascertain whether he has an adequate knowledge of the legislation in force in the State, it shall be necessary for him to be the holder of a corresponding certificate, but he shall be entitled to present himself for that examination without being bound or serving as an apprentice;~~
- (c) ~~on passing that examination and (if obligatory on him) the second examination in the Irish language, he shall be entitled to apply to be admitted and enrolled as a solicitor.~~

~~(4) The Government may by order appoint a day for the coming into operation of the provisions of this section, being a day on which the Government are satisfied that reciprocal provisions will be in operation in relation to solicitors holding practising certificates.~~

Section 25, 1960 Act, substituted President of the High Court for Chief Justice. See [page 71](#).

**45.**—An appeal shall lie to the Chief Justice in the case of the exercise or refusal of exercise of a power conferred on the Society by subsection (3) of section 28, subsection (5) of section 29, subsection (2) or (3) of section 31, section 33, subsection (1) of section 34, section 35, section 38, section 39 or section 42 of this Act.

Appeals under Part IV.

## PART V

### PRACTISING CERTIFICATES

**46.**—The registrar shall issue in accordance with this Part of this Act certificates (in this Act referred to as practising certificates) certifying that the solicitors named therein are entitled to practise as solicitors.

Issue of practising certificates.

**47.**—(1) ~~A solicitor applying for a practising certificate shall, in person or by his agent, deliver to the registrar a declaration which—~~

Application for practising certificate.

~~(a) shall be in the form set out in the Third Schedule to this Act or in a form to the like effect approved of by the Society, and~~

~~(b) shall be completed and signed by the applicant personally.~~

~~(2) Notwithstanding subsection (1) of this section, the registrar, on the ground of illness or absence abroad of the applicant or on any other ground considered by the registrar sufficient, may, either unconditionally or subject to conditions, dispense with signature of a declaration under this section by the applicant personally and may accept a declaration in a form to the like effect which has been completed and signed by a partner of the applicant or by some other person approved of by the registrar.~~

~~(3) The registrar shall enter in a register (in this Act referred to as the register of practising solicitors) the following particulars contained in a declaration under this section, that is to say:—~~

~~(a) the full name of the solicitor,~~

~~(b) his place or places of business, and~~

~~(c) the date of his admission.~~

~~(4) The register of practising solicitors shall be kept available for public inspection during office hours without payment.~~

Section 47 substituted by section 54,

1994 Act, as amended by section 179, LSRA 2015.

See [pages 152 and 383](#).

Section 179, LSRA 2015 not commenced at publication (Feb 2020). Go to [eLSB](#) to confirm current status.

(5) Subject to the provisions of this Act, the registrar, if satisfied that the name of an applicant under this section is on the roll, shall, within fourteen days after the delivery to him of the declaration, deliver to the applicant or his authorised agent on demand a practising certificate in the form set out in the Fourth Schedule to this Act or in a form to the like effect.

(6) Where the registrar wrongly refuses or neglects to issue a practising certificate, the applicant may apply to the Chief Justice for relief and the Chief Justice may make such order in the matter as he considers just.

Subsection (1) substituted by section 55(2)(a), 1994 Act. See [page 154](#).

**48.**—(1) A practising certificate issued during the period beginning on the 6th day of January in any year and ending on the next following 5th day of February shall bear the date of the said 6th day of January and a practising certificate not so issued shall bear the date of the day on which it is issued.

Date and period of validity of practising certificate.

(2) A practising certificate shall, subject to subsection (3) of this section, be in force as on and from the day of which it bears the date.

In subsection (3) “5th” substituted with “1st” by section 55(2)(b), 1994 Act and “Chief Justice” substituted with “Authority” in both places where it occurs, by section 180, LSRA 2015. See [pages 155 and 383](#).

(3) The ~~Chief Justice~~ may, on application made to him in that behalf, direct that, on payment by the applicant to the Society of such amount as may be fixed by the ~~Chief Justice~~, a practising certificate which bears a date later than the 5th day of February in any practice year shall, either unconditionally or subject to specified conditions, be in force as on and from a specified date which is earlier than the date borne by the certificate and not earlier than the first day of that practice year.

(4) The Society shall be entitled to appear and to be heard upon the hearing of an application under subsection (3) of this section and the registrar shall be notified of the result of the application.

(5) The registrar shall enter in the register of practising solicitors a note of the date borne by a practising certificate and, where the Chief Justice directs that the certificate shall be in force as on and from a date earlier than the date borne by the certificate, a note of the earlier date.

(6) A practising certificate which is in force shall continue in force until the end of the practice year during which it was issued and shall then expire.

Section 25, 1960 Act, substituted President of the High Court for Chief Justice. See [page 71](#).

Section 49 substituted by section 26, 1960 Act and section 61, 1994 Act, as amended by section 2, 2002 Act and as further amended by section 181, LSRA 2015. See [pages 71, 158, 199 and 383](#).

**49.**—(1) This section applies to the following cases where a solicitor applies for a practising certificate:

Direction to refuse practising certificate.

(a) ~~having, for twelve months or more, ceased to hold a practising certificate in force (exclusive of cases in which the applicant has practised as a solicitor in the full-time service of the State within twelve months before his application),~~

(b) ~~having been suspended from practice, the period of the suspension has expired,~~

- ~~(e) having been struck off the roll, his name has been restored thereto,~~
  - ~~(d) not having held a practising certificate in force within twelve months following the date of his admission to the roll,~~
  - ~~(e) being a person in respect of whose person or property any of the powers and provisions of the Lunacy Regulation (Ireland) Act, 1871, or any Act amending or extending that Act, relating to management and administration of property apply,~~
  - ~~(f) having an office or place of business in more than one place at any one time (disregarding, where he has a Dublin agent, the office or place of business of such agent) and having been invited by the Society to satisfy them that he exercises adequate personal supervision over each office or place of business, he has failed to satisfy the Society as aforesaid and has been notified in writing by the Society that he has so failed,~~
  - ~~(g) having been invited by the Society to give an explanation in respect of any matter affecting his conduct, he has failed to give to the Society an explanation in respect of that matter which the Society regard as sufficient and satisfactory, and has been notified in writing by the Society that he has so failed,~~
  - ~~(h) an order of attachment having been made against him,~~
  - ~~(i) a judgment or decree having been given against him which —
    - ~~(i) involves the payment of moneys other than costs, and~~
    - ~~(ii) is not a judgment or decree in relation to which he is entitled, as respects the whole effect of the judgment or decree upon him, to indemnity or relief from any other person, he has not produced to the registrar evidence of the satisfaction of such judgment or decree,~~~~
  - ~~(j) having been adjudicated a bankrupt,~~
  - ~~(k) having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors,~~
  - ~~(l) having contravened an order of the Disciplinary Committee directing any payment to be made by him.~~
- ~~(2) Where a solicitor applies for a practising certificate in a case to~~

which this section applies —

- ~~(a) he shall, unless the Society otherwise order, give to the registrar, at least three weeks before the application is made, notice of his intention to make the application,~~
- ~~(b) the Society may direct the registrar —
  - ~~(i) to refuse to issue a certificate,~~
  - ~~(ii) to issue a certificate unconditionally, or~~
  - ~~(iii) to issue a certificate subject to such terms and conditions as the Society think fit,~~~~
- ~~(c) if the Society direct the registrar to refuse to issue a certificate or to issue a certificate subject to terms and conditions, the solicitor shall be notified in writing of the direction and the grounds on which it was given.~~

~~(3) Where —~~

- ~~(a) the Society have directed the registrar under subsection (2) of this section to refuse to issue a practising certificate, and~~
- ~~(b) the applicant satisfies the Society that he has appealed to the Chief Justice under subsection (5) of this section against the direction,~~

the following provisions shall have effect:

- ~~(i) the Society, notwithstanding that they have already given the direction, shall cause the registrar to issue a practising certificate to the applicant and~~
- ~~(ii) if at any time the Society satisfy the Chief Justice that the applicant has delayed unduly in proceeding with his appeal, the Chief Justice may dismiss the appeal and suspend the practising certificate.~~

~~(4) Where, in a case referred to in paragraph (h) or paragraph (i) of subsection (1) of this section, an appeal has been made to the appropriate court against the order of attachment, judgment or decree (as the case may be), the application for a practising certificate shall not be refused pending the determination of the appeal unless, in the opinion of the Society, the proceedings on the appeal have been unduly protracted by the appellant.~~

~~(5) Within one month after being notified of a direction of the Society under subsection (2) of this section, the applicant may appeal against the direction to refuse or against the terms and conditions (as the case may be)~~

to the Chief Justice, and the Chief Justice may—

~~(a) in case the appeal is against a direction to refuse—~~

~~(i) refuse the appeal and suspend any practising certificate already issued, or~~

~~(ii) discharge the direction without giving any direction as to any practising certificate already issued or to be issued, or~~

~~(iii) discharge the direction and direct that any practising certificate already issued, or any practising certificate to be issued, shall be subject to such terms and conditions as the Chief Justice considers proper, or~~

~~(b) in case the appeal is against terms and conditions, refuse the appeal or vary or discharge the terms and conditions.~~

~~(6) A suspension under subsection (5) of this section of a practising certificate shall continue until the certificate expires.~~

~~(7) The registrar shall cause a note of a suspension under subsection (5) of this section of a practising certificate to be entered against the name of the solicitor in the register of practising solicitors.~~

~~(8) Where, having regard to the facts of a case to which this section applies—~~

~~(a) the Society have directed the registrar under subsection (2) of this section to issue a practising certificate unconditionally, or~~

~~(b) the Chief Justice, on an appeal under subsection (5) of this section, discharges a direction to refuse a practising certificate without giving any direction as to any practising certificate already issued or to be issued or discharges terms or conditions,~~

~~this section shall cease to apply to the case by reason of those facts.~~

**50.**—(1) Adjudication in bankruptcy of a solicitor shall operate immediately to suspend his practising certificate (if any) until—

(a) the certificate expires, or

(b) the adjudication in bankruptcy is annulled and an office copy of the order annulling the adjudication is served on the registrar, or

Suspension of practising certificate on adjudication in bankruptcy.

New subsections (8) and (9) inserted by section 181, LSRA 2015. See [page 384](#).

- (c) the suspension is terminated by order under section 51 of this Act,

whichever first occurs.

(2) The registrar shall cause a note of the suspension under this section of a practising certificate to be entered against the name of the solicitor in the register of practising solicitors.

**51.**—(1) Where a practising certificate is suspended by virtue of section 50 of this Act, the solicitor may, at any time before the certificate expires and the adjudication in bankruptcy is annulled, apply to the Society to terminate the suspension and the Society may by order terminate the suspension unconditionally or subject to such terms and conditions as they think fit or refuse the application.

Termination of suspension of practising certificate.

(2) Where the Society, on an application under subsection (1) of this section, refuse the application or terminate the suspension subject to any terms or conditions, the solicitor may appeal to the Chief Justice, and the Chief Justice may terminate the suspension unconditionally or subject to such terms and conditions as he thinks fit, vary any terms or conditions to which the termination of the suspension has been made subject or refuse the appeal.

(3) Where the suspension of the practising certificate of a solicitor is terminated by annulment of the adjudication in bankruptcy of the solicitor and service on the registrar of an office copy of the order annulling the adjudication, or by order of the Society or the Chief Justice under this section, the registrar shall forthwith cause a note of the termination of the suspension to be entered against the name of the solicitor in the register of practising solicitors and, if so requested in writing by the solicitor, cause a notice thereof to be published, at the expense of the solicitor, in *Iris Oifigiúil*.

**52.**—So long as the suspension of a practising certificate continues, the certificate shall, notwithstanding any other provision of this Act, be regarded for the purposes of section 54 of this Act as being not in force.

Effect of suspension of practising certificate.

Subsection (1) substituted by section 81, 1994 Act. See [page 184](#).

~~**53.**—(1) A list purporting to be published by the authority of the Society and to contain the names of the solicitors who have obtained practising certificates for the current practice year before the 6th day of February in that year shall, until the contrary is proved, be evidence that the persons named on the list are solicitors holding those certificates.~~

Evidence of holding or not holding practising certificate.

(2) The absence from a list referred to in subsection (1) of this section of the name of a person shall, until the contrary is proved, be evidence that that person is not the holder of a practising certificate for the current practice year, but in the case of any such person, a document, purporting to be an extract from the register of practising solicitors and to be certified as correct by the registrar shall be evidence of the facts appearing in the extract.

## PART VI

## PRACTICE

Section 54 substituted by section 62, 1994 Act. See [page 163](#).

**54.**—(1) ~~A solicitor who has the qualifications specified in subsection (2) of this section may act as a solicitor and is referred to in this Act as a solicitor qualified to practise.~~ Qualifications for acting as solicitor.

(2) ~~The qualifications referred to in subsection (1) of this section are:—~~

- ~~(a) that the name of the solicitor is on the roll;~~
- ~~(b) that he does not stand suspended from practice; and~~
- ~~(c) that either he is a solicitor in the full time service of the State or a practising certificate in respect of him is in force.~~

(3) ~~A solicitor shall be regarded as a solicitor in the full time service of the State if and while he is required to devote the whole of his time to the service of the State as solicitor and is remunerated in respect of such service wholly out of moneys provided by the Oireachtas.~~

**55.**—(1) An unqualified person shall not act as a solicitor.

Prohibition on unqualified person acting as solicitor.

(2) A person who contravenes subsection (1) of this section shall, without prejudice to any other liability or disability to which he may be subject, be guilty of an offence under this section and shall be liable—

- (a) on conviction thereof on indictment, to imprisonment for a term not exceeding two years or, at the discretion of the Court, to a fine not exceeding ~~two hundred pounds~~ or to both such fine and such imprisonment, or
- (b) on summary conviction thereof, to imprisonment for a term not exceeding six months or, at the discretion of the Court, to a fine not exceeding ~~fifty pounds~~ or to both such fine and such imprisonment.

(3) A person who contravenes subsection (1) of this section in relation to a court of justice shall also be guilty of contempt of that court and shall be punishable accordingly.

In subsection 55 (2)(a), amount increased by section 63, 1994 Act and subsequently increased by section 22(2) (a), 2002 Act. In subsection (2)(b), amount increased by section 63, 1994 Act and subsequently increased by section 22(1)(a), 2002 Act. See [page 164](#) and [pages 219-220](#).

See section 126(1), Patents Act, 1992, re European patent attorney.

In subsection 56 (2), amount increased by section 64, 1994 Act and subsequently increased by section 22(1)(b), 2002 Act. See [page 164](#) and [page 219](#).

**56.**—(1) A person who is not a solicitor shall not pretend to be a solicitor or take or use any name, title, addition or description or make any representation or demand implying that he is a solicitor. Prohibition on pretending to be solicitor.

(2) A person who contravenes subsection (1) of this section shall be guilty of an offence under this section and shall be liable on summary

conviction thereof to a fine not exceeding ~~fifty pounds~~.

**57.**—(1) Where a solicitor acts as a solicitor while he is not a solicitor qualified to practise, costs in respect of anything done by such solicitor so acting shall not be recoverable in any action, suit or matter by such solicitor or any person claiming through or under him.

Costs not recoverable where solicitor acts while not qualified to practise.

(2) Nothing in subsection (1) of this section shall affect any indemnity which a client of a solicitor has under an order of any court in respect of costs awarded under the order, to the extent (if any) to which the client may have paid such costs to the solicitor at the date of the order.

The effect of Section 58 may be limited consequent on the making of regulations under section 78, 1994 Act. See [page 179](#).

**58.**—(1) This section applies to the following acts:

Restriction on drawing documents, etc.

- (a) the drawing or preparing of a document relating to real or personal estate or any legal proceeding,
- (b) the procuring or attempting to procure the execution by an Irish citizen of a document relating to—
  - (i) real or personal estate, or movable or immovable property, situate or being outside the State and the United Kingdom, or
  - (ii) any legal proceeding, actual or in contemplation, of which the subject-matter is any such estate or property,
- (c) the making of an application, or the lodging of a document for registration, under the Registration of Title Act, 1891, or any Act amending that Act, at the Land Registry or to or with a local registering authority,
- (d) the taking of instructions for, or drawing or preparing of, documents on which to found or oppose a grant of probate or letters of administration.

Also see s. 88(9), Industrial Design Act 2001, s. 69(10)(a), Trade Marks Act 1963, s. 86(7), Patents Act 1964, s. 31(7), Building Societies Act 1989, s. 106(8), Patents Act 1992, s. 85(8)(a),(b), Trade Marks Act, 1996 and s. 1434(1), Companies Act 2014.

~~(2) An unqualified person who does an act to which this section applies shall, subject to subsection (3) of this section and without prejudice to any other liability or disability to which he may be subject, be guilty of an offence under this section and be liable on summary conviction thereof to a fine not exceeding one hundred pounds.~~

Subsection (2) substituted by section 77(a), 1994 Act, as amended by section 22(1)(c) and 22(2)(b), 2002 Act. See [page 178](#) and [pages 219-220](#).

(3) The following acts shall be excepted from the foregoing provisions of this section—

- (a) an act not done either directly or indirectly for or in expectation of any fee, gain or reward,

Subsection (3)(b) substituted by section 77(c), 1994 Act. See [page 179](#).

- ~~(b) an act done by a practising barrister,~~
- (c) an act done by any public officer in the course of his duty,
- (d) an act done by a duly accredited diplomatic or consular officer of another State in the course of his duty,
- (e) an act done by a notary public as such,
- (f) an act consisting merely of engrossing a document,
- (g) an act done by a person in the employment of a practising barrister or a solicitor qualified to practise and while acting in the course of such employment by the direction and under the supervision of his employer.

New paragraph (h) inserted by section 77(b), 1994 Act. See [page 178](#).

(4) In this section, the word "document" includes a document under seal and a document not under seal, but does not include—

- (a) a letter or power of attorney exclusively for the sale or transfer of stocks, shares, bonds, debentures or other stock exchange securities,
- (b) a transfer of stocks, shares, bonds, debentures or other stock exchange securities containing no trust or limitation thereof,
- (c) a purely banking document, or
- (d) a purely commercial or mercantile document.

The effect of Section 59 may be limited consequent on the making of regulations under sections 71 or 78, 1994 Act. See [page 170](#) and [page 179](#).

**59.**—(1) A solicitor shall not wilfully—

- (a) act, in business carried on by him as a solicitor, as agent for an unqualified person so as to enable that person to act as a solicitor,
- (b) permit his name to be made use of, in business carried on by him as a solicitor, upon the account, or for the profit of, an unqualified person, or
- (c) do an act enabling an unqualified person to act as a solicitor.

Prohibition on solicitor acting as agent for unqualified person.

Also see s. 31(8) Building Societies Act, 1989 and s. 40(8), Irish Human Rights and Equality Commission Act 2014.

(2) This section shall have effect subject to the provisions of this Act and to any exceptions that may be made by regulations under section 71 of this Act.

Section 60 substituted by section 20, 1994 Act. See [page 112.](#)

~~60.—(1) A solicitor shall not, save under and in accordance with a written permission under this section, employ or remunerate, in connection with his practice as a solicitor, a person who to his knowledge is an unqualified person by reason of the striking off the roll of such person's name, the suspension of such person from practice or the suspension of his practising certificate.~~

~~Restriction on employment of person struck off roll or suspended.~~

~~(2) The Society may grant a permission for the purposes of subsection (1) of this section for such period and subject to such conditions as they think fit.~~

~~(3) A solicitor aggrieved by the refusal of the Society to grant a permission under this section, or by any conditions attached by the Society to the grant thereof, may appeal to the Chief Justice, and the Chief Justice may confirm the refusal or conditions, as the case may be, or may grant the permission for such period and subject to such conditions as he thinks fit.~~

Section 61 substituted by section 31, 1994 Act. See [page 131.](#)

~~61.—(1) Where a solicitor dies, his personal representatives may appoint a solicitor to carry on the practice of the deceased solicitor for such period and on such terms as the Society may approve of.~~

~~Carrying on of practice in case of death or disability.~~

~~(2) Where a solicitor becomes of unsound mind or incapable of managing his own affairs, the President of the High Court may, on the application of the Society or the committee of his estate, appoint a solicitor to carry on the practice of the solicitor for such period and on such terms as the President of the High Court may approve of.~~

~~(3) Where a solicitor is adjudicated a bankrupt, the court by whom he is adjudicated a bankrupt may appoint a solicitor to carry on the practice of the solicitor for such period and on such terms as that court may approve of.~~

The effect of section 62 may be limited consequent on the making of regulations under section 71, 1994 Act. See [page 170.](#)

~~62.—(1) A solicitor shall not reward, or agree to reward, an unqualified person for legal business introduced by such person to the solicitor.~~

~~Prohibition with respect to introduction of business.~~

~~(2) An agreement in contravention of this section shall be void.~~

~~(3) This section shall have effect subject to the provisions of this Act and to any exceptions that may be made by regulations under section 71 of this Act.~~

Section 63 substituted by section 21, 1994 Act, as amended by section 22(1) (d), 2002 Act. See [page 113](#) and [page 219.](#)

~~63.—(1) A person who is an unqualified person, by reason of the striking off the roll of his name, his suspension from practice or the suspension of his practising certificate, shall not seek or accept employment by a solicitor in connection with the solicitor's practice without previously informing the solicitor that he is such an unqualified person.~~

~~Disclosure of having been struck off roll, etc.~~

~~(2) A person who contravenes subsection (1) of this section shall be guilty of an offence under this section and shall be liable on summary~~

The effect of Section 64 may be limited consequent on the making of regulations under section 70, 1994 Act. See [page 168](#).

Also see section 40(8), Irish Human Rights and Equality Commission Act 2014

In subsection (2) amounts increased by section 22(3) (e), 2002 Act. See [page 220](#).

Section 65 repealed by section 24, Courts Act, 1971. Note: section 17 of the 1971 Act as substituted by section 211, LSRA 2015, provides for rights of audience. See [page 393](#).

Section 66 substituted by section 76, 1994 Act, as amended by section 3 and 22(1)(e) and 22(2)(c), 2002 Act and as further amended by section 182, LSRA 2015. See [pages 173, 200, 219 and 384](#).

~~conviction thereof to a fine not exceeding fifty pounds.~~

**64.**—(1) A body corporate or director, officer or servant thereof shall not do any act of such nature or in such manner as to imply that the body corporate is qualified, or recognised by law as qualified, to act as a solicitor.

Bodies corporate.

(2) Where there is a contravention of subsection (1) of this section, the body corporate shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ~~one hundred pounds~~ and, where the act was done by a director, officer or servant of the body corporate, he also shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ~~twenty five pounds~~.

(3) In sections 55, 58 and 59 of this Act, references to unqualified persons, and references to persons, include references to bodies corporate.

~~**65.**—Where a solicitor enters an appearance or is acting generally for a party in an action, suit, matter or criminal proceedings, a solicitor qualified to practise who is acting as his assistant shall have a right of audience therein in any court or tribunal in which the first mentioned solicitor has a right of audience.~~

Right of audience in certain cases.

## PART VII

### ACCOUNTS OF SOLICITORS

~~**66.**—(1) Regulations made with the concurrence of the Chief Justice shall make provision with respect to the following matters:~~

Regulations for accounts:

~~(a) the opening and keeping by solicitors of accounts at banks for clients' moneys and for moneys of any trust of which the sole trustee is a solicitor or the trustees are a solicitor with a partner, clerk or servant of his or with more than one of such persons;~~

~~(b) the keeping by solicitors of accounts containing particulars of and information as to moneys received, held or paid by them for or on account of clients;~~

~~(c) the keeping by solicitors of accounts containing particulars of and information as to moneys received, held or paid by them for or on account of any trust of which the sole trustee is a solicitor or the trustees are a solicitor with a partner, clerk or servant of his or with more than one of such persons;~~

- ~~(d) enforcing compliance with the regulations;~~
- ~~(e) ascertaining whether the regulations have been complied with;~~
- ~~(f) the delegation by the Society to the Disciplinary Committee of any such power of enforcement or ascertainment.~~

~~(2) The provisions contained in regulations for the purposes of this section for ascertaining whether the regulations have been complied with may include, in particular, provisions requiring solicitors to furnish certificates by duly qualified accountants that the regulations have been complied with.~~

~~(3) Regulations for the purposes of this section shall not apply in relation to—~~

- ~~(a) a solicitor in the full-time service of the State, or~~
- ~~(b) any solicitor who is in the part-time service of the State, so far as regards moneys received, held or paid by him in the course of such service.~~

**67.**—(1) A banking company shall not, in connection with any transaction on an account of a solicitor kept with them or with another banking company (other than an account kept by a solicitor as trustee for a specified beneficiary), incur a liability or be under an obligation to make inquiry or be deemed to have knowledge of a right to money paid or credited to the account which they would not incur, be under or be deemed to have in the case of an account kept by a person entitled absolutely to the money paid or credited thereto.

Provisions with respect to banking companies.

Nothing in this subsection shall relieve a banking company from any liability or obligation which they would be under apart from this Act.

(2) Notwithstanding subsection (1) of this section, a banking company which keeps an account of a solicitor for moneys of clients, or of any trust of which the sole trustee is a solicitor or the trustees are a solicitor with a partner, clerk or servant of his or with one or more of such persons, shall not, in respect of a liability of the solicitor to the banking company, not being a liability in connection with that account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise, against moneys standing to the credit of that account.

Nothing in this subsection shall deprive a banking company of a right, existing at the time when the first regulations made for the purposes of section 66 of this Act come into operation, in respect of moneys previously deposited with such banking company.

**68.**—Where a solicitor keeps in a bank an account for moneys of clients or of any trust of which the sole trustee is a solicitor or the trustees are a

Priority of claims to clients' moneys.

solicitor with a partner, clerk or servant of his or with more than one of such persons, neither the State nor any person shall have or obtain any recourse or right against moneys standing to the credit of that account in respect of a claim or right against the solicitor until all proper claims of the clients, or of the persons interested in the trust, against those moneys have been fully satisfied.

## PART VIII

### THE COMPENSATION FUND

Section 69  
repealed by Part  
II, First Schedule,  
1960 Act. See  
[page 76.](#)

~~69.—(1) The Society shall establish and maintain a fund to be known as the Compensation Fund.~~

Compensation  
Fund.

~~(2) The Society may make grants out of the Compensation Fund to relieve or mitigate losses sustained in consequence of dishonesty of solicitors.~~

~~(3) The provisions contained in the Fifth Schedule to this Act shall have effect in relation to the Compensation Fund.~~

~~(4) A reference in this section or in the Fifth Schedule to this Act to dishonesty of a solicitor shall be construed as a reference to dishonesty of a solicitor, or a clerk or servant of a solicitor, in connection with such solicitor's practice or with a trust of which such solicitor is a trustee.~~

Section 70  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76.](#)

~~70.—(1) Before a practising certificate is issued to a solicitor, he shall pay to the registrar the annual contribution to the Compensation Fund and any additional contribution that may be appropriate and—~~

Contributions to  
Compensation  
Fund.

~~(a) the registrar may withhold issue of the certificate until the payment is made, and~~

~~(b) on the payment being made, the registrar shall pay it into the Compensation Fund.~~

~~(2) The annual contribution payable by a solicitor to the Compensation Fund shall be—~~

~~(a) in case the practising certificate with respect to which it is paid is the fourth certificate issued to the solicitor since his admission or is any subsequent certificate five pounds or such less amount as may be specified by regulations made with the concurrence of the Minister for Justice,~~

~~(b) in case such practising certificate is the first, second or third certificate issued to the solicitor since his admission one-half of the amount that would be payable in the case of a~~

certificate referred to in the foregoing paragraph.

~~(3) At any time not later than the 30th day of November in any year (being the year 1960 or any later year) the Society may resolve that it is expedient in order to secure the financial stability of the Compensation Fund that every solicitor taking out a practising certificate in respect of the next following practice year (being the fourth certificate issued to him since his admission or any subsequent certificate) shall pay an additional contribution of a specified amount not exceeding five pounds to the Compensation Fund.~~

Section 71 amended by the addition of subsections (2) to (7) by section 69, 1994 Act, as substituted by section 4, 2002

Act and as further amended, and repealed in part by section 183 and the Second Schedule to the LSRA 2015. See pages [167-168](#), [200](#), [384](#) and [406](#).

Section 72 repealed by Part 1, Schedule 3, Stamp Duties Consolidation Act, 1999.

Subsections (3) and (4) substituted by section 7(1), 1994 Act, and further substituted and extended by the addition of a new subsection (4A)

## PART IX

### PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE

**71.**—Regulations may be made with respect to the professional practice, conduct and discipline of solicitors.

Regulations for professional practice, conduct and discipline.

## PART X

### MISCELLANEOUS

~~**72.**—(1) Stamp duty shall not be charged on the admission of a person as a solicitor or on a practising certificate.~~

Stamp duties.

~~(2) For the reference to £80 contained in the First Schedule to the Stamp Act, 1891, under the first of the headings "ARTICLES OF CLERKSHIP" there shall be substituted a reference to £14.~~

**73.**—(1) The Council may appoint a committee for any purpose which the Council consider would be better effected by means of a committee and may delegate to the committee, with or without restrictions, the exercise of any functions of the Council.

Committees of the Council.

(2) The number of members of a committee under this section and their term of office shall be fixed by the Council.

~~(3) A committee under this section may include persons who are not members of the Council, but—~~

~~(a) at least two-thirds of the members of the committee shall be members of the Council, and~~

~~(b) where functions of the Society which are performable by the Council are delegated to the committee, the committee shall~~

by section 34,  
2008 Act. See  
[page 91](#) and  
[page 230](#).

consist wholly of members of the Council.

~~(4) Where functions of the Society which are performable by the Council are delegated to a committee under this section, the quorum of the committee shall be three.~~

New subsections  
(6), (7), (8) and  
(9) inserted by  
section 27, 1960  
Act. See [page 71](#).  
Subsection (9)  
substituted and  
subsection (10)  
added by section  
7(2), 1994 Act.  
See [page 91](#).

(5) The Council shall ensure that no member of the Disciplinary Committee shall act as a member of any committee under this section concerned with complaints against solicitors.

74.—The Society shall be entitled, without payment of any fee, to inspect the file of proceedings in bankruptcy relating to a solicitor against whom proceedings in bankruptcy have been taken and to be supplied with office copies of the proceedings on payment of the usual charge for such copies.

Inspection of file of  
proceedings in  
bankruptcy of  
solicitor.

75.—For the purposes of a statutory provision or custom whereby the qualification of a solicitor for holding an office depends on his having been admitted and enrolled for a particular period, that period shall, in the case of a solicitor who before admission was a barrister, be reckoned as if he had been admitted and enrolled on the date on which he was called to the bar.

Qualification for  
holding office of  
former barrister.

76.—The limitation in the Charters of the Society on the value of land to be held by the Society shall cease to have effect.

Cesser of limitation  
on value of land.

77.—(1) An offence under this Act may be prosecuted by the Society.

Prosecution of  
offences.

(2) Notwithstanding any provision in any Act specifying the period within which summary proceedings may be commenced, proceedings in respect of an offence under this Act may be commenced at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Society to justify a prosecution, comes to their knowledge, or within the period of twelve months after the commission of the offence, whichever period last expires.

(3) For the purposes of subsection (2) of this section, a certificate issued by the Society as to the date on which such evidence as aforesaid came to their knowledge shall be conclusive evidence thereof.

Section 78  
substituted by  
section 5, 1994  
Act. See [page 90](#).

~~78.—Notwithstanding the provisions of their Charters, the Society shall make any amendments in the bye-laws of the Society that are necessary to bring them into conformity with this Act and the regulations made thereunder.~~

~~Amendment of bye-  
laws so as to  
conform with this  
Act and regulations  
thereunder.~~

79.—(1) A regulation, certificate, notice or other document made or issued by the Society may be signed on behalf of the Society by the

Authentication and  
evidence of  
regulations and

president of the Society, the secretary of the Society, or the registrar, or by other documents.  
any officer of the Society nominated for that purpose by the Council.

(2) *Prima facie* evidence of a regulation, certificate, notice or other document made or issued by the Society may be given by production of a document purporting to be a copy thereof and to be signed as specified in subsection (1) of this section.

Section 80  
repealed by Part  
I, First  
Schedule, 1960  
Act. See [page  
76](#). For  
replacement  
provision, see  
section 30, 1960  
Act, at [page 72](#).

~~80.—A notice or other document which is required or authorised by or under this Act to be served on any person may, without prejudice to any other method of service, be served by sending it by registered post in an envelope addressed to the person at his last known place of business or residence.~~

~~Service of  
documents.~~

The register of  
practising  
solicitors is  
provided for in  
section 47, 1954  
Act (as  
substituted by  
section 54, 1994  
Act). See [page  
152](#).

81.—A practising solicitor shall give notice to the registrar of any change in his place of business or places of business within fourteen days after the change is made, and the registrar shall record the change by amending the latest entry relating to the solicitor in the register of practising solicitors.

Notification by  
practising solicitor  
of change in place  
of business.

82.—(1) There shall be paid to the Society, in respect of the applications mentioned in the Sixth Schedule to this Act, such fees as may be prescribed for those applications respectively.

Fees payable to the  
Society.

Sixth Schedule  
may be amended  
by inclusion of  
such additional  
applications as  
may be prescribed  
by the Society with  
the concurrence  
of President of the  
High Court. See  
section 66, 1994  
Act, at [page 165](#).

(2) Regulations prescribing fees for the applications referred to in paragraphs 1 to 6 of the Sixth Schedule to this Act shall require the concurrence of the Chief Justice.

(3) Different fees may be prescribed pursuant to this section for a first application to attend an examination and any subsequent application by the same applicant to attend that examination.

(4) Where a fee is prescribed pursuant to this section in respect of an application, payment thereof shall be a condition precedent to the entertainment of the application.

Section 83 repealed  
by Part I, First  
Schedule, 1960  
Act. See [page 76](#).  
For replacement  
provision, see  
section 25(2),  
1960 Act, at [page  
71](#).

~~83.—(1) The Superior Courts Rules Committee may make rules of court for the purposes of—~~

~~Rules of Court and  
costs.~~

~~(a) applications and appeals under this Act to the Chief Justice, and~~

~~(b) applications under this Act to the President of the High Court.~~

~~(2) An order made on any such application or appeal may contain such provisions with respect to costs as the Chief Justice or the President of the High Court (as the case may be) considers proper.~~

**84.**—(1) A reference in any enactment to a solicitor, attorney or proctor shall be construed as a reference to a solicitor within the meaning of this Act. Construction of certain references.

(2) A reference in any enactment to the registrar of attorneys and solicitors shall be construed as a reference to the registrar within the meaning of this Act.

**85.**—To remove doubt, it is hereby declared that the Attorneys' and Solicitors' Act, 1870, applies, and always applied, in the State. Application of Attorneys' and Solicitors' Act, 1870.

**86.**—Nothing in this Act shall affect any rights or privileges of persons who are solicitors or assistant solicitors to the Revenue Commissioners or require any such person, or any clerk or officer acting for him, to be admitted or enrolled or to hold a practising certificate. Saver for solicitors to the Revenue Commissioners and other persons.

**87.**—Nothing in this Act shall affect any provision made by or under statute or by common law by which an unqualified person is authorised to conduct, defend or otherwise act in relation to any action, suit or matter. Saver for authorisation to conduct action, etc.

**88.**—(1) A person who is not a solicitor and who has passed any examination under the Solicitors (Ireland) Act, 1898, or under section 4 of the Legal Practitioners (Qualification) Act, 1929 (No. 16 of 1929), shall be deemed to have passed the corresponding examination under this Act. Transitional provisions.

(2) Where at the commencement of this section a solicitor has two apprentices, he may retain them until the expiration of their indentures as if he had obtained the consent of the Society under subsection (2) of section 36 of this Act.

(3) Any admission, appointment, approval, fee, notice, certificate, instrument, order, rule, regulation, direction, appeal or proceeding under or for the purposes of an enactment repealed by this Act shall be treated as being under or for the purposes of the corresponding enactment of this Act, and—

(a) any such order, rule or regulation shall remain in force until corresponding provision is made under this Act, and

(b) any such proceeding which was brought before the committee established under section 34 of the Solicitors (Ireland) Act, 1898, and which stood not completed immediately before the commencement of this section shall be completed by the Disciplinary Committee in like manner as if this Act had not been passed.

(4) From the commencement of this section until the first appointment under subsection (1) of section 13 of this Act, the Disciplinary Committee shall consist of the persons who immediately before the commencement of

[1954.]

*Solicitors Act, 1954.*

[No. 36.]

this section were the members of the committee established under section 34 of the Solicitors (Ireland) Act, 1898.

**FIRST SCHEDULE.**

Section 7.

**ENACTMENTS REPEALED.**

Session and Chapter or Number and Year	Short Title	Extent of Repeal
14 & 15 Vict., c. 88.	Solicitors Act, 1851.	The whole Act.
27 & 28 Vict., c. 8.	Conveyancers (Ireland) Act, 1864.	The whole Act.
54 & 55 Vict., c. 39	Stamp Act, 1891.	The words "part of" in section 28; the words "solicitor or" in sub-section (1) of section 43; section 44.
61 & 62 Vict., c. 17.	Solicitors (Ireland) Act, 1898.	The whole Act.
62 & 63 Vict., c. 4.	Solicitors Act, 1899.	The whole Act.
63 & 64 Vict., c. 14.	Colonial Solicitors Act, 1900.	The whole Act.
8 Edw. 7, c. 38.	Irish Universities Act, 1908.	Section 12.
11 & 12 Geo. 5, c. 32.	Finance Act, 1921.	Section 60.
No. 10 of 1923.	Solicitors (Ireland) Act, 1898, Amendment Act, 1923.	The whole Act.
No. 16 of 1929.	Legal Practitioners (Qualification) Act, 1929.	Section 4.
No. 12 of 1943.	Solicitors Act, 1943.	The whole Act.
No. 36 of 1947.	Solicitors (Amendment) Act, 1947.	The whole Act.

Second  
Schedule ceased  
to have effect  
after 4<sup>th</sup> May  
1995. See  
section 42, 1994  
Act, at [page  
140](#).

**SECOND SCHEDULE.**

Section 26.

**TERM OF INDENTURES OF APPRENTICESHIP.**

1. The term shall be three years for a person who, before being bound, has taken the degree of bachelor of arts or bachelor of laws, or other degree which in the opinion of the Society is equivalent thereto, in any of the universities of Ireland, England, Scotland or Wales.

2. The term shall be four years for a person who, after the commencement of his apprenticeship and before his admission as a solicitor, takes the degree of bachelor of arts, or other degree which in the opinion of the Society is equivalent thereto, in the University of Dublin, or in the National University of Ireland.

3. The term shall be four years for a person who, as a matriculated or non-matriculated student of a prescribed university, or a constituent college thereof, attends the prescribed lectures and passes the prescribed examinations of the professors of the faculty of law in that university for a period of two collegiate years.

4. The term shall be three years for a person who, having been called to the bar, has, before being bound, procured himself to be disbarred.

5. The term shall be three years for a person—

(a) who, before being bound, has for the period of seven years been a *bona fide* clerk to a solicitor,

(b) who, during that period, has been *bona fide* engaged in the transaction and performance under the direction and superintendence of the solicitor of such legal business as the Society are satisfied was of a sufficiently responsible nature, and

(c) who produces to the Society satisfactory evidence that he has faithfully, honestly and diligently served as such clerk.

6. The term shall be five years for any other person.

Third Schedule  
ceased to have  
effect on the  
coming into  
effect of  
regulations  
made under  
section 47 of the  
1954 Act (as  
substituted by  
section 54 of the  
1994 Act). See  
[page 152](#).

**THIRD SCHEDULE.**

Section 47.

**FORM OF ANNUAL DECLARATION FOR OBTAINING  
PRACTISING CERTIFICATE.**

No. \_\_\_\_\_

I, \_\_\_\_\_, hereby make the following declaration:—

(1) I was admitted a Solicitor of the Courts of Justice in the  
\_\_\_\_\_ sittings in the year \_\_\_\_\_ and my place(s) (a) of  
business is/are as follows (a):—  
.....  
.....

(2) (b) the provisions of section 49 of the Solicitors Act, 1954, do not  
apply to me.

(or)

(b) the provisions of section 49 of the Solicitors Act, 1954, apply to  
me and I have duly given the notice required by that section.

(3) (c) I have, to the best of my knowledge and belief, complied with the  
Solicitors' Accounts Regulations (d).

(or)

(c) I have not complied with the Solicitors' Accounts Regulations (d)  
in the following respects:—(e)

.....  
.....  
.....

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

-(Signature).....

To the Registrar.

~~(a) All places of business if more than one must be stated with an indication as to which of them is the principal place of business. If any changes have taken place since last practising certificate, particulars should be given.~~

~~(b) Strike out whichever of the alternative paragraphs does not apply.~~

~~(c) Strike out whichever of the alternative paragraphs does not apply.~~

~~(d) A copy of the Solicitors' Accounts Regulations now in force is printed in full on the back of this form.~~

~~(e) State the respects in which the Solicitors' Accounts Regulations have not been complied with.~~

Fourth Schedule  
ceased to have  
effect on the  
coming into  
effect of  
regulations  
made under  
section 47 of the  
1954 Act (as  
substituted by  
section 54 of the  
1994 Act). See  
[page 152](#).

**FOURTH SCHEDULE.**

Section 47

**FORM OF PRACTISING CERTIFICATE.**

No. \_\_\_\_\_ For the practice year ending the 5th day of January,  
19\_\_\_\_

~~Pursuant to the Solicitors Act, 1954, the Registrar of Solicitors hereby certifies that~~

~~solicitor, whose sole or principal place of business is at~~

.....

~~has delivered to the Registrar of Solicitors a declaration in writing pursuant to the said Act, and hereby further certifies that the said solicitor is duly enrolled as a solicitor of the Courts of Justice, and is entitled to practise as such solicitor.~~

Given under the hand of the Registrar of Solicitors \_\_\_\_\_  
this..... day of .....  
19.....

*Registrar.*

**NOTE.**

A practising certificate is in force only *as on and from the day of which it bears the date* unless an order directing otherwise has been obtained under the Solicitors Act, 1954.

The whole of  
the Fifth  
Schedule was  
repealed by Part  
II, First  
Schedule, 1960  
Act. See [page  
76](#).

### FIFTH SCHEDULE.

Section 69.

#### PROVISIONS RELATING TO THE COMPENSATION FUND.

1. In this Schedule "the Fund" means the Compensation Fund.
2. ~~(a) As respects losses which, in the opinion of the Society, arose during the period beginning on the 6th day of January, 1955, and ending on the 5th day of January, 1960, the making of grants out of the Fund and the amounts of such grants shall be at the absolute discretion of the Society.~~
  - ~~(b) As respects losses which, in the opinion of the Society, arose on or after the 6th day of January, 1960,—~~
    - ~~(i) the making of grants out of the Fund and the amounts of such grants shall be at the absolute discretion of the Society in cases in which the Society are of opinion that there has been negligence on the part of the loser, or of any person for whom he is responsible, which has contributed to the loss in question;~~
    - ~~(ii) in all other cases a grant shall be made out of the Fund if the Society are of opinion that the loss in question is established and the amount of the grant shall be such as represents in the opinion of the Society full indemnity for the loss.~~
  - ~~(c) This paragraph is without prejudice to any other provisions of or made under the subsequent provisions of this Schedule.~~
3. ~~A grant may be made out of the Fund notwithstanding that the solicitor has, after the act of dishonesty, died, had his name removed from or struck off the roll, ceased to practise, been suspended from practice, or had his practising certificate suspended.~~
4. ~~A grant may be made out of the Fund whether or not the solicitor had a practising certificate in force when the act of dishonesty occurred.~~
5. ~~A grant shall not be made out of the Fund unless notice of the loss is received by the Society—~~
  - ~~(a) in the prescribed manner, and~~
  - ~~(b) within the prescribed period after the loss came to the knowledge of the loser.~~
6. ~~A grant shall not be made out of the Fund in respect of a loss which, in the opinion of the Society, arose before the 6th day of January, 1955.~~
7. ~~(a) A grant out of the Fund may, at the discretion of the Society, be paid either in one sum or by instalments.~~
  - ~~(b) The Society may, if they are of the opinion that the financial stability of the Fund so requires, postpone payment of any~~

~~grant out of the Fund payable in one sum or payment of any instalment of a grant out of the Fund.~~

~~8. (1) The Society may borrow for the Fund and, for the purpose of giving security with respect to such borrowing, may charge investments of the Fund.~~

~~(2) The total amount which shall at any time stand borrowed under this paragraph shall not exceed ten thousand pounds.~~

~~9. The Society may invest moneys of the Fund in securities in which trustees are authorised by law to invest trust funds.~~

~~10. The Society may insure against a risk relating to the Fund.~~

~~11. The following shall be paid into the Fund:~~

~~(a) interest, dividends and other income and accretions of capital arising from investments of the Fund,~~

~~(b) the proceeds of the realisation of investments of the Fund,~~

~~(c) moneys borrowed for the Fund,~~

~~(d) sums received by the Society under any insurance effected by the Society in relation to the Fund,~~

~~(e) other moneys belonging to or accruing to the Fund or received by the Society in respect thereof.~~

~~12. The following shall be paid out of the Fund:~~

~~(a) expenses incurred in establishing, maintaining or administering the Fund,~~

~~(b) premiums on insurance effected by the Society in relation to the Fund,~~

~~(c) repayments of moneys borrowed by the Society for the Fund and payments of interest on such moneys,~~

~~(d) expenses incurred by the Society under or in exercise of powers conferred by or under this Schedule,~~

~~(e) other sums properly payable out of the Fund.~~

~~13.—The Society, for the purposes of inquiry into any matters which may affect the making or refusal of a grant from the Fund, may take evidence on oath, and administration of such oath is hereby authorised.~~

~~14.—Where a grant is made out of the Fund—~~

~~(a) the Society shall, to the amount of the grant, be subrogated—~~

~~(i) to any rights or remedies to which the grantee was entitled on~~

account of the loss against the solicitor or any other person or against the estate of such solicitor or other person;

(ii) to any rights or remedies to which the solicitor, or his clerk or servant, was entitled on account of the loss against any other person or against the estate of such other person;

(iii) to all other rights and remedies (if any) of the grantee or such solicitor, clerk or servant in respect of the loss;

(b) the grantee or his representatives shall not have a right under bankruptcy or other legal proceedings to receive any sum out of the assets of such solicitor or other person in respect of the loss until the Society has been reimbursed for the full amount of the grant.

~~15. (1) Where the Society have reasonable cause to believe that dishonesty of a solicitor has occurred, they may by notice require the production or delivery to any person appointed by the Society, and may take possession of, all or any documents in the possession or control of such solicitor or his firm, or relating to any trust of which such solicitor is the sole trustee or of which the trustees are such solicitor with a partner, clerk or servant of his or with more than one of such persons.~~

~~(2) Where a person, having possession or control of documents which he has been required under this paragraph to produce or deliver, refuses or fails to produce or deliver them in accordance with the requirement—~~

~~(a) he shall be guilty of an offence under this paragraph and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds, and~~

~~(b) the Society may apply to the High Court and that Court may by order require such person to produce or deliver the documents.~~

~~(3) Where the Society take possession of documents produced or delivered under a requirement under this paragraph, they shall serve, on the solicitor and on every other person from whom the documents were received, a notice giving particulars of the documents and the date of taking possession thereof.~~

~~(4) Within fourteen days after service of a notice under subparagraph (3) of this paragraph on a solicitor or other person, he may apply to the High Court for an order directing the Society to return the documents received by the Society to the person or persons from whom they were received or to such other person or persons as the applicant may require and the High Court may make the order applied for or such other order as the Court thinks fit.~~

~~(5) Where an application is not made in accordance with subparagraph (4) of this paragraph or the High Court on such application directs that the documents shall remain in the custody or control of the Society, the Society may make inquiries to ascertain the person or persons to whom the documents belong and may deal with the documents in accordance with the directions of such person or persons.~~

~~(6) In this paragraph, the word "documents" includes deeds, wills, papers, books of account, records, vouchers and documents constituting or evidencing the title to any property.~~

~~16. The following provisions shall have effect for the purposes of subparagraph (5) of paragraph 15 of this Schedule:~~

- ~~(a) the Society, on receipt of an application for the delivery of documents from a person claiming to be entitled to the possession or custody thereof, may either—~~
  - ~~(i) investigate the claim of such person to the possession or custody of the documents, or~~
  - ~~(ii) require such person to nominate a solicitor to take delivery of the documents on his behalf,~~
- ~~(b) the Society shall not be bound to investigate the claim of any person who applies for delivery of documents in the possession of the Society or to schedule or list such documents save at the expense of such person, and payment of such sum as the Society may require as a deposit in respect of the costs and expenses of the investigation, scheduling or listing shall be a condition precedent to the undertaking of the investigation or to the delivery of such documents to such person by the Society,~~
- ~~(c) the Society or the person making a deposit as aforesaid may, after the claim has been investigated, require the costs and expenses to which the deposit relates to be taxed by a Taxing Master of the High Court (subject to appeal to the High Court), and the amount found due on such taxation after allowing all just credits shall be a simple contract debt due by such person to the Society or by the Society to such person (as the case may be) and recoverable in any court of competent jurisdiction,~~
- ~~(d) if the Society, in lieu of investigating the claim of the person applying for delivery of documents, requires such person to nominate a solicitor to take delivery thereof on his behalf, the Society may retain the documents until the nomination is duly made,~~
- ~~(e) on the nomination of a solicitor to take delivery of documents, the Society may deliver the documents to the solicitor in exchange for—~~
  - ~~(i) a receipt for the documents,~~
  - ~~(ii) a statutory declaration by the solicitor that, to the best of his knowledge and belief, the person on whose nomination he is acting is lawfully entitled to possession of the documents and that no other person has any prior title thereto or claim thereon by way of mortgage, charge, lien or otherwise,~~
  - ~~(iii) a statutory declaration by the person applying for delivery of~~

the documents to the same effect, and

- (iv) ~~an undertaking by the solicitor to return the documents to the Society if it should be ascertained, while the documents are in his possession, that his client was not so entitled at the date of the declaration;~~

~~and such receipt, declarations and undertaking shall constitute a full discharge to the Society for the documents;~~

- ~~(f) no action or claim shall lie against the Society by any person claiming to be entitled to documents or to any property to which they relate, or to any mortgage, charge or lien in respect of such documents or property, for any loss or injury occasioned by the taking of possession of the documents by the Society, or by the delivery of the documents by the Society in accordance with this paragraph;~~

- ~~(g) the Society shall have a lien over documents for all costs and expenses, if any, incurred by the Society in connection therewith (including, where appropriate, the costs and expenses of investigating the claim of any person claiming to be entitled thereto).~~

~~17. Where the Society are satisfied that dishonesty of a solicitor has occurred, they may apply to the High Court for, and the High Court may make, an order directing either—~~

- ~~(a) that no banking company shall, without leave of the High Court, make any payment out of a banking account in the name of the solicitor or his firm, or~~

- ~~(b) that a specified banking company shall not, without leave of the High Court, make any payment out of a banking account kept by such company in the name of the solicitor or his firm.~~

~~18. (1) In this paragraph—~~

~~"the corresponding society" means the Incorporated Law Society of Northern Ireland;~~

~~"corresponding certificate" means a certificate issued by the corresponding society and corresponding to a practising certificate;~~

~~"corresponding practitioners" means persons holding corresponding certificates.~~

~~(2) Where a scheme operated by the corresponding society requires corresponding practitioners controlled by that society to contribute to any fund or insurance policy, or to take out any insurance policy, for the compensation or indemnification of clients for or against losses due to defalcations of such practitioners or their clerks or servants, the Society may make arrangements and agreements with the corresponding society in regard to persons who are entitled both to take out practising certificates and to take out corresponding certificates, and any such arrangement or~~

agreement may provide—

- (a) ~~for the payment by each such person of one combined annual contribution and the manner in which the combined contribution is to be applied for the purposes of the Fund and any fund or insurance policy maintained for the purposes of the said scheme,~~
- (b) ~~for the manner in which claims in respect of defalcations by any such person, or his clerk or servant, shall be treated and the extent, if any, to which those claims shall be paid by the Society and the corresponding society respectively,~~
- (c) ~~for any consequential or incidental matters.~~

19. ~~Regulations made with the concurrence of the Chief Justice may—~~

- (a) ~~provide for procedure (other than court procedure) to be followed in giving effect to the provisions of section 69 of this Act and of this Schedule,~~
- (b) ~~make provisions ancillary or supplemental to the provisions of this Schedule,~~
- (c) ~~make provisions giving effect to any arrangement or agreement pursuant to paragraph 18 of this Schedule or ancillary or supplemental thereto.~~

## SIXTH SCHEDULE.

Section 82.

### APPLICATIONS FOR WHICH FEES MAY BE PRESCRIBED.

1. Application for consent of the Society to entry into indentures.
2. Application for entry by the registrar of indentures of apprenticeship.
3. Application to attend any examination.
4. Application to attend any course of lectures.
5. Application for permission to give late notice of intention to attend any examination or course of lectures.
6. Application for entry of a name on the roll of solicitors.
7. Application for a practising certificate.
8. Application under ~~section 21 of this Act~~ for a copy of an entry in File A or File B.

Sixth Schedule may be amended by inclusion of such additional applications as may be prescribed by the Society with the concurrence of President of the High Court. See section 66, 1994 Act, at [page 165](#).

In paragraph 8, “section 21 of this Act” substituted with “section 17 of the 1960 Act” by section 28, 1960 Act. See [page 72](#).

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*Number 37 of 1960.*

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## SOLICITORS (AMENDMENT) ACT, 1960.

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### ARRANGEMENT OF SECTIONS

#### PART I

##### PRELIMINARY AND GENERAL

###### Section

1. Short title and collective citation.
2. Commencement.
3. Interpretation.
4. ~~Meaning of “solicitor” in the Principal Act and this Act.~~
5. Repeals.

#### PART II

##### DISCIPLINARY PROVISIONS IN RELATION TO SOLICITORS

6. ~~Disciplinary Committee.~~
7. ~~Inquiry by the Disciplinary Committee into the conduct of a solicitor alleged to have committed misconduct.~~
8. ~~Proceedings before the High Court in relation to a report brought before the Court under section 7.~~
9. Removal at his own request of name of solicitor from the roll.
10. Restoration of name of solicitor to the roll.
11. Jurisdiction of the High Court in relation to a solicitor in respect of whom order striking his name off the roll was purported to have been made under section 18 of the Principal Act.

Section title to Section 6 changed to “Disciplinary Tribunal” by Section 16 of Solicitors (Amendment) Act, 1994. See [page 101](#).

Section title to Section 7 changed to “Inquiry by the Disciplinary Tribunal into the conduct of a solicitor on the ground of alleged misconduct.” by Section 17 of Solicitors (Amendment) Act, 1994. See [page 103](#).

Section title to Section 8 changed to “Proceedings before the High Court.” by Section 18 of Solicitors (Amendment) Act, 1994. See [page 107](#).

## Section

Section title to Section 12 changed to "Appeals to the Supreme Court" by Section 39 of Solicitors (Amendment) Act, 1994. See [page 137](#).

12. ~~Finality of orders of the High Court.~~
13. Exercise of jurisdiction of the High Court under sections 8, 9, 10 and 11.
14. Privilege in respect of certain proceedings under the Principal Act and this Act.
15. Powers of the Disciplinary Committee as to taking evidence, etc.
16. Rules as to procedure in relation to applications to the Disciplinary Committee.
17. Filing of orders made by the High Court or the Disciplinary Committee and notice of certain orders made by the High Court.
18. Application of Bankers' Books Evidence Acts, 1879 and 1959.

**PART III****CONTROL OF SOLICITOR'S PROPERTY AND  
COMPENSATION TO CLIENTS IN CERTAIN CASES**

Section title to Section 20 changed to "Control of banking accounts or assets of solicitors" by Section 28 of Solicitors (Amendment) Act, 1994. See [page 123](#).

19. Power of Society to deal with documents of certain solicitors.
20. ~~Control of banking accounts of solicitors.~~
21. Compensation for loss due to dishonesty of solicitor or clerk or servant of solicitor.
22. Contributions to the Compensation Fund by solicitors.
23. Arrangements with the Incorporated Law Society of Northern Ireland.
24. Regulations for purposes of Part III.

**PART IV****MISCELLANEOUS**

25. Transfer to the President of the High Court of certain functions of the Chief Justice under the Principal Act, and rules of court in relation to the exercise of those functions.

## Section

26. Amendment of section 49 of the Principal Act.
27. Amendment of section 73 of the Principal Act.
28. Amendment of the Sixth Schedule to the Principal Act.
29. Penalty for false evidence, etc.
30. Service of documents.
31. Provisions as to accountants' certificates.
32. Provisions in relation to certain accounts kept by a solicitor at a bank.
33. Additional extraordinary members of the Council.

**FIRST SCHEDULE****PROVISIONS OF THE PRINCIPAL ACT REPEALED****SECOND SCHEDULE****PROVISIONS HAVING EFFECT FOR THE PURPOSES OF  
SECTIONS 8 (2) (a) AND 19 (5) (a) OF THIS ACT****THIRD SCHEDULE****PROVISIONS IN RELATION TO THE COMPENSATION FUND**

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*Number 37 of 1960.*

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## SOLICITORS (AMENDMENT) ACT, 1960.

AN ACT TO AMEND AND EXTEND THE SOLICITORS ACT,  
1954. [22nd November, 1960.]

[22nd November, 1960.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

### PART I

#### PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Solicitors (Amendment) Act, 1960. Short title and  
collective citation.

(2) The Principal Act and this Act may be cited together as the Solicitors  
Acts, 1954 and 1960.

2.—This Act shall come into operation as follows: Commencement.

(a) section 31 shall come into operation on such day as the Minister  
for Justice, by order made on the request of the Society,  
appoints,

(b) the remainder of this Act shall come into operation on the  
passing of this Act.

3.—(1) In this Act— Interpretation.

Definition of  
"Authority" inserted  
by section 184,  
LSRA 2015. See  
[page 384](#).

"the Compensation Fund" means the Compensation Fund established  
under section 69 (repealed by this Act) of the Principal Act;

"the Disciplinary Committee" has the meaning assigned to it by section 6  
of this Act;

Definition of  
"documents"  
substituted by  
section 3(3),  
1994 Act. See  
[page 89](#).

~~"documents" includes deeds, wills, papers, books of account, records,  
vouchers and correspondence;~~

"the former Disciplinary Committee" means the committee constituted by  
section 13 (repealed by this Act) of the Principal Act;

Definition of  
"misconduct" to  
be construed in  
accordance with  
section 50 of the  
LSRA 2015, by  
virtue of section  
184, LSRA 2015.  
See [page 384](#).

"misconduct" includes—

(a) the commission of treason or a felony or a misdemeanour,

Paragraph (c) substituted by section 24, 1994 Act as substituted by section 7, 2002 Act. See [page 116](#) and [pages 203-204](#).

- (b) the commission, outside the State, of a crime or an offence which would be a felony or a misdemeanour if committed in the State,
- ~~(c) the contravention of a provision of the Principal Act or this Act or any order or regulation made thereunder;~~
- ~~(d) conduct tending to bring the solicitors' profession into disrepute;~~

Paragraph (d) amended by substitution of new paragraphs (d) and (e) by section 7, 2002 Act. See [pages 203-204](#).

"the Principal Act" means the Solicitors Act, 1954; 1954, No.36.

"the Solicitors' Accounts Regulations" means the regulations relating to accounts made by the Society for the purposes of section 66 of the Principal Act.

(2) In this Act, references to the Principal Act shall, where the context so requires or permits, be construed as references to the Principal Act as amended by this Act.

New section 3A inserted by section 185, LSRA 2015. See [page 384-385](#).

(3) This Act shall be construed as one with the Principal Act.

Section 4 repealed and replaced by section 3, 1994 Act. See [page 89](#)

~~4.—In the Principal Act and this Act, "solicitor", where the context so permits or requires, includes a former solicitor or a deceased solicitor.~~

Meaning of "solicitor" in the Principal Act and this Act.

5.—(1) The provisions of the Principal Act set out in column (1) of Part I of the First Schedule to this Act are hereby repealed to the extent specified in column (2) of the said Part I.

Repeals.

(2) The provisions of the Principal Act set out in column (1) of Part II of the First Schedule to this Act are hereby repealed to the extent specified in column (2) of the said Part II, but shall continue to apply to any case where, in the opinion of the Society, the loss arose before the passing of this Act.

## PART II

### DISCIPLINARY PROVISIONS IN RELATION TO SOLICITORS

Section 6 substituted by section 16, 1994 Act, as amended by section 8, 2002 Act, and further amended by the insertion of a new subsection (1B) by section 35, 2008 Act. See [page 101, 204](#) and [230-231](#).

~~6.—(1) The President of the High Court shall, from time to time as occasion requires, appoint, from amongst the members of the Council and such former members of the Council as are practising as solicitors, a disciplinary committee (in this Act referred to as the Disciplinary Committee) consisting of not less than seven and not more than ten persons.~~

Disciplinary Committee.

(2) A member of the Disciplinary Committee may resign his office by letter sent by registered post to the President of the High Court and his resignation shall take effect on the date on which the letter is delivered.

~~(3) The President of the High Court may remove a member of the Disciplinary Committee, may fill a vacancy therein and, subject to the limits stated in subsection (1) of this section, may increase or reduce the number of persons thereon.~~

~~(4) The Disciplinary Committee may act notwithstanding one or more than one vacancy in their membership.~~

~~(5) The Society shall defray any costs or expenses incurred by the Disciplinary Committee.~~

~~(6) The quorum of the Disciplinary Committee shall be three.~~

~~(7) A member of the Disciplinary Committee, who was a member of the Council at the date of his appointment, may act on the Disciplinary Committee notwithstanding the fact that he has ceased to be a member of the Council.~~

New section 6A inserted by section 36, 2008 Act. See [page 231](#).

Section 7 substituted by section 17, 1994 Act, as amended by section 9, 2002 Act, and as further amended by section 186, LSRA 2015. See [pages 103, 205-209 and 385](#).

~~7.—(1) An application by another person or by the Society for an inquiry into the conduct of a solicitor on the ground of alleged misconduct shall, subject to the provisions of this Act, be made to and heard by the Disciplinary Committee in accordance with rules made under section 16 of this Act.~~

Inquiry by the Disciplinary Committee into the conduct of a solicitor alleged to have committed misconduct.

~~(2) Where an application in relation to a solicitor is duly made under this section and the Disciplinary Committee, after consideration of the application, are of opinion that there is no *prima facie* case for inquiry, they shall so inform the applicant in writing and shall take no further action in relation to the application.~~

~~(3) Where an application in relation to a solicitor is duly made under this section and the Disciplinary Committee, after consideration of the application, are of opinion that there is a *prima facie* case for inquiry, the following provisions shall have effect—~~

~~(a) they shall proceed to hold an inquiry;~~

~~(b) on completion of the inquiry, the Disciplinary Committee shall embody their findings in a report to the High Court, specifying therein the nature of the application and the evidence laid before them and any other matters in relation to the solicitor which they may think fit to report, including their opinion as to the fitness or otherwise of the solicitor to be a member of the solicitors' profession having regard to the contents of the report;~~

~~(c) the Disciplinary Committee find that there has been misconduct on the part of the solicitor in respect of any matter complained of in the application or that the solicitor has not answered satisfactorily the allegations against him, the Society shall bring the report before the High Court.~~

~~(4) Where an application is made under this section, the Disciplinary Committee may, at any stage of the proceedings in relation to the application and before making a report to the High Court, postpone the taking of any steps or further steps in the matter for a specified period and, if they do so, then, if before the expiration of that period the applicant applies to the Disciplinary Committee for leave to withdraw the application, the Disciplinary Committee may, if they think fit, allow the application to be withdrawn and, if they do so, no further action shall be taken by them in relation to the application.~~

~~(5) The Society—~~

~~(a) shall be entitled to make an application to the Disciplinary Committee in accordance with the provisions of this section, notwithstanding that any other person may be entitled to make such an application, and~~

~~(b) may authorise any person on their behalf to do all such things and acts as may be necessary for the purposes of such application.~~

Section 8 substituted by section 18, 1994 Act, as amended by sections 10 and 22(1)(f), 2002 Act and as further amended by section 37(a), 2008 Act. See [page 107](#), [209](#), [219](#) and [231](#).

~~8.—(1) Where the Disciplinary Committee, after holding an inquiry into the conduct of a solicitor, make, under section 7 of this Act, to the High Court a report which is brought before the High Court by the Society under the said section 7, the following provisions shall have effect—~~

Proceedings before the High Court in relation to a report brought before the Court under section 7.

~~(a) the High Court, after consideration of the report—~~

~~—(i) may by order~~

~~(I) strike the name of the solicitor off the roll,~~

~~(II) suspend the solicitor from practice for such period as the High Court may fix, or~~

~~(III) censure the solicitor or censure him and require him to pay a money penalty,~~

~~(ii) may make such order as to the costs incurred in the proceedings before it and the Disciplinary Committee as it thinks fit,~~

~~(iii) may make any ancillary order in relation to the case which the High Court may think fit,~~

~~(b) the High Court may, if it thinks fit, on special grounds, remit the case to the Disciplinary Committee to take further evidence for~~

~~submission to it and make to it a supplementary report, and the Court may adjourn the hearing of the case pending the submission to it of such further evidence and the making of such supplementary report,~~

~~(c) in addition to doing any of the things specified in the foregoing paragraphs of this subsection, the High Court may also by order do any one or more of the following things—~~

~~(i) direct the solicitor to make such restitution to any aggrieved party as the High Court thinks fit,~~

~~(ii) on the application of the Society, direct the delivery to any person appointed by the Society of all or any documents in the possession or control of the solicitor or his firm or relating to any trust of which the solicitor is or was the sole trustee or of which the trustees are or were the solicitor with a partner, clerk or servant of his or with more than one of such persons,~~

~~(iii) direct either—~~

~~(I) that no banking company shall, without leave of the High Court, make any payment out of a banking account in the name of the solicitor or his firm, or~~

~~(II) that a specified banking company shall not, without leave of the High Court, make any payment out of a banking account in the name of the solicitor or his firm.~~

~~(2)(a) Where an order with respect to documents is made by the High Court under subparagraph (ii) of paragraph (c) of subsection (1) of this section, the Society may make inquiries to ascertain the person or persons to whom the documents belong and may deal with the documents in accordance with the direction of such person or persons.~~

~~(b) For the purposes of paragraph (a) of this subsection, the provisions set out in the Second Schedule to this Act shall have effect.~~

~~(3) Where the High Court by an order under subsection (1) of this section requires a solicitor to pay a money penalty, the order shall operate as a judgment against the solicitor in favour of the Society, and the money penalty, when recovered, shall be paid into the Compensation Fund.~~

~~(4) If any person acts as agent or nominee of a solicitor or his firm so as to render nugatory an order made by the High Court under~~

~~subparagraph (iii) of paragraph (c) of subsection (1) of this section, such person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds.~~

**9.**—(1) An application by a solicitor to have his name removed from the roll shall be made to and heard by the ~~Disciplinary Committee~~ in accordance with rules made under section 16 of this Act.

Removal at his own request of name of solicitor from the roll.

(2) Where an application is made by a solicitor under this section, the ~~Disciplinary Committee~~ shall consider the application, and thereupon the following provisions shall have effect—

- (a) if they are of opinion that the application should be granted without making a report to the High Court, they shall order accordingly,
- (b) if not of that opinion—
  - (i) they shall make a report on the application to the High Court,
  - (ii) the Society shall bring the report before the High Court,
  - (iii) the High Court, after consideration of the application and the report, may make an order either refusing the application or granting it and as to the payment of costs.

**10.**—(1) The High Court shall have power to order that the name of a solicitor, whose name has been struck off the roll by an order made by the High Court under section 8 of this Act or under the said section 8 as applied by section 11 of this Act or whose name has been removed from the roll under section 9 of this Act, shall be restored to the roll.

Restoration of name of solicitor to the roll.

(2) A person seeking to have his name restored to the roll under this section may apply to the High Court and shall give notice of his intended application to the Society, who shall be entitled to appear and be heard on any such application.

(3) On the hearing of an application under this section the High Court may refuse the application or may order that the name of the applicant be restored to the roll and may order the payment by the applicant of the costs and expenses of the Society in relation to the application.

**11.**—Where, before the passing of this Act, the former Disciplinary Committee made, in purported exercise of powers purported to have been conferred on them by section 18 (repealed by this Act) of the Principal Act, an order providing for the striking off the roll of the name of a solicitor, the Society may, on notice to the solicitor, apply by notice of motion (of not less than ten days' duration) to the High Court for an order

Jurisdiction of High Court in relation to a solicitor in respect of whom order striking his name off the roll was

Section 9 amended by the substitution of "Disciplinary Committee" with "Law Society" in each place that it occurs by section 187, LSRA 2015. See [page 385](#).

New subsection (4) inserted by section 19, 1994 Act and new subsection (5) inserted by section 188, LSRA 2015. See [pages 111-112](#) and [385](#).

striking off the roll the name of the solicitor, and, if the Society so apply, then the following provisions shall have effect—

- (a) all available affidavits and other available documentary evidence which were before the former Disciplinary Committee and all available transcripts of evidence given before them shall be admissible as evidence on the consideration of the application by the High Court,
- (b) the High Court, after reading those affidavits, other documentary evidence and transcripts, receiving any additional evidence tendered by the Society or the solicitor and taking into consideration any other matters in relation to the solicitor brought to its notice by the Society, shall deal with the application as if it were a report in relation to the solicitor made to the High Court by the Disciplinary Committee and brought before the High Court by the Society under section 7 of this Act, and section 8 of this Act shall apply accordingly.

purported to have been made under section 18 of the Principal Act.

Section 12 substituted by section 39, 1994 Act. See [page 137](#).

~~12.—(1) Subject to subsection (2) of this section, an order of the High Court under section 8 of this Act, under that section as applied by section 11 of this Act or under section 9 or section 10 of this Act shall be final and not appealable.~~

~~Finality of orders of the High Court.~~

~~(2) By leave of the High Court, an appeal, by the Society or the solicitor concerned, from an order of the High Court under section 8 of this Act, under that section as applied by section 11 of this Act or under section 9 or section 10 of this Act shall lie to the Supreme Court on a specified question of law.~~

13.— The jurisdiction vested in the High Court by section 8, 9, 10 or 11 of this Act shall be exercised by the President of the High Court or, if and wherever the President of the High Court so directs, by an ordinary judge of the High Court for the time being assigned in that behalf by the President of the High Court.

Exercise of jurisdiction of the High Court under sections 8, 9, 10 and 11.

14.— The following—

- (a) the doing, before the passing of this Act, by the former Disciplinary Committee or the registrar, in purported exercise of the powers purported to have been conferred on them or him by section 18 or 21 of the Principal Act, of any act, being an act purported to have been authorised to be done by such section,
- (b) the making to the High Court by the Disciplinary Committee of a report under section 7 or 9 of this Act or a supplemental report under paragraph (b) of subsection (1) of section 8 of this Act,

Privilege in respect of certain proceedings under the Principal Act and this Act.

- (c) the bringing by the Society of a report before the High Court under section 7 or 9 of this Act,
- (d) the publishing, in accordance with section 17 of this Act, of any notice authorised by the said section 17,
- (e) the making, before the passing of this Act, of an application to the former Disciplinary Committee under section 14 of the Principal Act or the giving of any information in connection with such an application, and
- (f) the making of an application under section 7 of this Act or the giving of any information in connection with such application,

Section 14(e) amended by the substitution of 'application,' for 'application, and' by section 189, LSRA 2015. See [page 385](#).

New paragraphs (g), (h) and (i) inserted by section 189, LSRA 2015. See [page 385](#).

shall be absolutely privileged and shall, in respect of the doing of any act specified in paragraph (a) or (e) of this section, be deemed always to have been absolutely privileged.

Section 15 substituted by section 25, 1994 Act, as amended by sections 11 and 22(1)(g) and 22(2)(d), 2002 Act. See [pages 116-118, 210 and 219-220](#).

~~15.—(1) The Disciplinary Committee shall, for the purposes of any inquiry held by them under section 7 of this Act or the consideration of an application under section 9 of this Act, or the taking of further evidence under paragraph (b) of subsection (1) of section 8 of this Act, have the powers, rights and privileges, vested in the High Court or a judge thereof on the hearing of an action, in respect of—~~

Powers of the Disciplinary Committee as to taking evidence, etc.

- ~~(a) the enforcement of the attendance of witnesses and their examination on oath or otherwise, and~~
- ~~(b) the compelling of the production of documents,~~

~~and a summons signed by a member of the Disciplinary Committee may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.~~

~~(2) Where—~~

- ~~(a) a person on being duly summoned to attend before the Disciplinary Committee makes default in attending, or~~
- ~~(b) a person, being in attendance as a witness before the Disciplinary Committee, refuses to take an oath lawfully required by the Disciplinary Committee to be taken, or to produce any document in his power or control lawfully required by the Disciplinary Committee to be produced by him or to answer any question to which the Disciplinary Committee may lawfully require an answer, or~~
- ~~(c) a person, being in attendance before the Disciplinary Committee, does anything which, if the Disciplinary~~

~~Committee were a court of law having power to commit for contempt, would be contempt of court,~~

~~the offence of that person may, by certificate, signed by two members of the Disciplinary Committee, be certified to the High Court and the High Court may thereupon inquire into the alleged offence and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence and any statements that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the High Court.~~

~~(3) A witness before the Disciplinary Committee shall be entitled to the same immunities and privileges as if he were a witness before the High Court.~~

16.—(1) The Disciplinary Committee, with the concurrence of the President of the High Court, may make rules (not inconsistent with this Act) regulating—

- (a) the making of applications to the Disciplinary Committee under this Act,
- (b) the proceedings of the Disciplinary Committee under this Act,

and generally as to procedure in relation to those matters.

(2) Rules under this section may provide in particular for extending the period for furnishing any affidavit or document or for receiving an application or document notwithstanding any irregularity in its form where it appears to the Disciplinary Committee to be just to do so.

17.—(1) The following—

- (a) a copy of every order made by the High Court under this Act, ~~and~~
- (b) any order made by the Disciplinary Committee under section 9 of this Act,

shall be filed by the Disciplinary Committee with the registrar.

(2) Where an order striking the name of a solicitor off the roll or suspending a solicitor from practice is made by the High Court under section 8 of this Act or under the said section 8 as applied by section 11 of this Act, the registrar shall forthwith cause a notice stating the effect of the operative part of the order to be published in *Iris Oifigiúil* and shall also cause the notice to be published in such other manner as the Disciplinary Committee may direct.

(3) The registrar shall maintain separate files on which all orders made under this Act by the High Court or the Disciplinary Committee shall be entered in the following manner—

Rules as to procedure in relation to applications to the Disciplinary Committee.

Filing of orders made by the High Court or the Disciplinary Committee and notice of certain orders made by the High Court.

Section 17 (1), paragraphs (a) and (b) amended by section 190, LSRA 2015. See [page 386](#).

New paragraph 17 (1) (c) inserted by section 190, LSRA 2015. See [page 386](#).

(a) on a file to be termed File A, there shall be entered each order striking the name of a solicitor off the roll or suspending a solicitor from practice made by the High Court under section 8 of this Act or under the said section 8 as applied by section 11 of this Act,

(b) on a file to be termed File B, there shall be entered any other order made under this Act by the High Court and any order made under section 9 of this Act by the ~~Disciplinary Committee.~~

(4) The registrar shall furnish a copy of an entry on ~~File A or File B~~ to a person who applies in writing for such copy.

(5) Notwithstanding subsection (4) of this section, where—

(a) application is made for a copy of an entry on ~~File A or File B~~, being an entry which is earlier than two years before the date of the application, or

(b) application is made for a copy of an entry on File A or File B, being an entry in respect of which the Disciplinary Committee have directed the insertion of a note that the furnishing thereof might cause injustice, a copy of the entry shall (save where the copy is furnished by order of a court) be furnished only by permission in writing of the Society.

**18.**—An application to or an inquiry or other proceeding before the Disciplinary Committee under this Act shall be a legal proceeding within the meaning of that expression as used in the Bankers' Books Evidence Acts, 1879 and 1959.

Application of Bankers' Books Evidence Acts, 1879 and 1959.

### PART III

#### CONTROL OF SOLICITOR'S PROPERTY AND COMPENSATION TO CLIENTS IN CERTAIN CASES

**19.**—(1) ~~Where the Society are of opinion that a solicitor or a clerk or servant of a solicitor has been guilty of dishonesty in connection with that solicitor's practice as a solicitor or in connection with any trust of which that solicitor is a trustee, they may by notice require the production or delivery to any person appointed by the Society and may take possession of all or any documents in the possession or control of such solicitor or his firm or relating to any trust of which such solicitor is the sole trustee or of which the trustees are such solicitor with a partner, clerk or servant of his or with more than one of such persons.~~

Power of Society to deal with documents of certain solicitors.

Subsection (3) paragraph (b) amended by section 190, LSRA 2015. New paragraph (c) inserted by section 190, LSRA 2015. See [page 386.](#)

Subsections (4) and (5)(a) amended by section 190, LSRA 2015. See [page 386.](#)

Section 19 substituted by section 27, 1994 Act, as amended by section 22(1)(h), 2002 Act. See pages [121](#) and [219.](#)

~~(2) Where a person, having possession or control of documents which he has been required under this section to produce or deliver, refuses or fails to produce or deliver them in accordance with the requirement—~~

~~(a) he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds, and~~

~~(b) the Society may apply to the High Court and that Court may by order require such person to produce or deliver the documents.~~

~~(3) Where the Society take possession of documents produced or delivered under a requirement under this section—~~

~~(a) they shall serve, on the solicitor and on every other person from whom the documents were received, a notice giving particulars of the documents and the date of taking possession thereof, and~~

~~(b) if any of the documents are grouped together as relating to a particular matter, the notice may give particulars of those documents by referring to the group and the matter to which it relates.~~

~~(4) Within fourteen days after service of a notice under subsection (3) of this section on a solicitor or other person, he may apply to the High Court for an order directing the Society to return the documents received by the Society to the person or persons from whom they were received or to such other person or persons as the applicant may require and the High Court may make the order applied for or such other order as the Court thinks fit.~~

~~(5) (a) Where an application is not made in accordance with subsection (4) of this section or the High Court on such application directs that the documents shall remain in the custody or control of the Society, the Society may make inquiries to ascertain the person or persons to whom the documents belong and may deal with the documents in accordance with the directions of such person or persons.~~

~~(b) For the purposes of paragraph (a) of this subsection, the provisions set out in the Second Schedule to this Act shall have effect.~~

Section 20 substituted by section 28, 1994 Act, as amended by section 22(1) (i), 2002 Act. See pages 123 and 219.

**20.**—(1) Where the Society are of opinion that a solicitor or a clerk or servant of a solicitor has been guilty of dishonesty in connection with that solicitor's practice as a solicitor or in connection with any trust of which that solicitor is a trustee, they may apply to the High Court, and the High Court may make an order directing either—

~~(a) that no banking company shall, without leave of the High Court, make any payment out of a banking account in the name of the solicitor or his firm, or~~

Control of banking accounts of solicitors.

~~(b) that a specified banking company shall not, without leave of the High Court, make any payment out of a banking account kept by such company in the name of the solicitor or his firm.~~

~~(2) The High Court shall have power to hear *in camera* an application for an order under subsection (1) of this section.~~

~~(3) Where the High Court make in relation to a solicitor an order under subsection (1) of this section, the High Court may at the same time order that his practising certificate be suspended until the certificate expires.~~

~~(4) If any person acts as agent or nominee of a solicitor or his firm so as to render nugatory an order made by the High Court under subsection (1) of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds.~~

Section 21 substituted by section 29, 1994 Act, as amended by section 16, 2002 Act. See [page 125](#) and [page 214](#).

**21.**—(1) In this section—

"the Fund" means the Compensation Fund;  
"grant" means a grant under subsection (4) of this section.

Compensation for loss due to dishonesty of solicitor or clerk or servant of solicitor.

~~(2) The Society shall continue to maintain the Fund.~~

~~(3) The Fund shall be maintained and administered in accordance with the provisions of the Third Schedule to this Act.~~

~~(4) Where it is proved to the satisfaction of the Society that any person has sustained loss in consequence of dishonesty on the part of any solicitor or any clerk or servant of a solicitor in connection with that solicitor's practice as a solicitor or in connection with any trust of which that solicitor is a trustee, then, subject to the provisions of this section, the Society shall make a grant to that person out of the Fund and the amount of the grant shall be such as represents in the opinion of the Society full indemnity for that loss.~~

~~(5) The Society shall have a discretion to make or refuse to make a grant—~~

~~(a) in a case in which the solicitor did not have a practising certificate in force at the time when, in the opinion of the Society, the loss arose,~~

~~(b) in a case in which the Society are of opinion that there has been negligence on the part of the claimant or of any person for whom he is responsible which has contributed to the loss in question, and~~

~~(c) in a case in which the Society are of opinion that the claimant has by his conduct actively assisted in the commission of misconduct by the solicitor,~~

and, where the Society decide to make a grant in any such case, they shall have a discretion to make it only to a limited extent.

~~(6) A grant may be made notwithstanding that the solicitor has, after the act of dishonesty, died, had his name removed from or struck off the roll, ceased to practise, been suspended from practice, or had his practising certificate suspended.~~

~~(7) No grant may be made in respect of a loss made good otherwise.~~

~~(8) (a) On the making of any grant to any person (in this subsection referred to as the grantee) in respect of any loss—~~

~~(i) the Society shall, to the amount of the grant, be subrogated—~~

~~(I) to any rights or remedies to which the grantee was entitled on account of the loss against the solicitor or any other person or against the estate of such solicitor or other person;~~

~~(II) to any rights or remedies to which the solicitor or his clerk or servant was entitled on account of the loss against any other person or against the estate of such other person;~~

~~(III) to all other rights and remedies (if any) of the grantee or such solicitor, clerk or servant in respect of the loss;~~

~~(ii) the grantee or his representative shall have no right under bankruptcy or other legal proceedings or otherwise to receive any sum out of the assets of the solicitor, clerk or servant in respect of the loss until the Society has been reimbursed the full amount of the grant.~~

~~(b) In paragraph (a) of this subsection, references to the grantee or the solicitor, clerk or servant include, in the event of his death, insolvency or other disability, references to his personal representative or any other person having authority to administer his estate.~~

~~(9) No grant shall be made unless notice of the loss is received by the Society—~~

~~(a) in the prescribed manner, and~~

~~(b) within the prescribed period after the loss comes to the knowledge of the loser.~~

~~(10) The Society, for the purposes of inquiry into any matters which may affect the making or refusal of a grant, may take evidence on oath, and the administration of such oath is hereby authorised.~~

~~(11) (a) A grant may, at the discretion of the Society, be paid either in one sum or in such instalments as the Society may determine.~~

~~(b) The Society, if they are of opinion that the financial stability of the Fund so requires, may postpone payment of any grant payable in one sum or payment of any instalment of a grant.~~

Section 22 substituted by section 30, 1994 Act, as amended by section 16, 2002 Act. See [page 130](#) and [page 214](#).

**22.**—(1) In this section "the Fund" means the Compensation Fund.

Contributions to the Compensation Fund by solicitors.

~~(2) Before a practising certificate is issued to a solicitor in respect of the practice year ending on the 5th day of January, 1962, or any subsequent practice year, he shall pay to the Society such annual contribution to the Fund as may be appropriate in accordance with the subsequent subsections of this section and the registrar may withhold the issue of the certificate until the payment is made.~~

~~(3) Subject to subsection (4) of this section, the annual contribution to the Fund payable by a solicitor under subsection (2) of this section shall be—~~

~~(a) in case the practising certificate in respect of which it is paid is issued to him within the period of three years beginning on the day of his admission— five pounds, and~~

~~(b) in any other case— twenty pounds.~~

~~(4) (a) At any time in any practice year, being—~~

~~(i) the practice year next following that at the end of which, for the first time, the total amount standing to the credit of the Fund (including the value of all investments forming part of the Fund but after deducting all outstanding liabilities) is more than £25,000 or~~

~~(ii) any subsequent practice year,~~

~~the Society may, if they think fit, determine that every solicitor taking out a practising certificate in respect of the next following practice year (not being a certificate issued to him within the period of three years beginning on the day of his admission) shall pay to the Society, as the annual contribution payable under subsection (2) of this section in the case of that year, such amount greater or less than twenty pounds as the Society may fix.~~

~~(b) In exercising the powers conferred by the foregoing paragraph, the Society shall have regard to the principle of maintaining the total amount standing to the credit of the Fund (including the value of all investments forming part of the Fund but after deducting all outstanding liabilities) at £25,000.~~

23.—(1) In this section—

"the corresponding society" means the Incorporated Law Society of Northern Ireland,

"corresponding certificate" means a certificate issued by the corresponding society and corresponding to a practising certificate,

"corresponding practitioners" means persons holding corresponding certificates.

(2) Where a scheme operated by the corresponding society requires corresponding practitioners controlled by that society to contribute to any fund or insurance policy, or to take out any insurance policy, for the compensation or indemnification of clients for or against losses due to defalcations of such practitioners or their clerks or servants, the Society may make arrangements and agreements with the corresponding society in regard to persons who are entitled both to take out practising certificates and to take out corresponding certificates, and any such arrangement or agreement may provide—

(a) for the payment by each such person of one combined annual contribution and the manner in which the combined contribution is to be applied for the purposes of the Compensation Fund and any fund or insurance policy maintained for the purposes of the said scheme,

(b) for the manner in which claims in respect of defalcations by any such person, or his clerk or servant, shall be treated and the extent, if any, to which those claims shall be paid by the Society and the corresponding society respectively,

(c) for any consequential or incidental matters.

24.—Regulations made with the concurrence of the ~~President of the High Court~~ may—

(a) provide for procedure (other than court procedure) to be followed in giving effect to the provisions of this Part of this Act and the Second and Third Schedules to this Act,

(b) make provisions ancillary or supplemental to the provisions of this Part of this Act and the Second and Third Schedules to this Act,

Arrangements with the Incorporated Law Society of Northern Ireland.

Regulations for purposes of Part III.

Amended by the substitution of "President of the High Court" with "Authority" by section 191, LSRA 2015. See [page 386](#).

- (c) make provisions giving effect to any arrangement or agreement pursuant to section 23 of this Act or ancillary or supplemental thereto.

## PART IV

### MISCELLANEOUS

**25.**—(1) The functions of the Chief Justice under any of the provisions (other than subsection (3) of section 14) of the Principal Act are hereby transferred to the President of the High Court, and references in those provisions to the Chief Justice shall be construed accordingly.

Transfer to the President of the High Court of certain functions of the Chief Justice under the Principal Act, and rules of court in relation to the exercise of those functions.

(2) (a) The Superior Courts Rules Committee may make rules of court for the purposes of the hearing by the President of the High Court of applications and appeals under the Principal Act, as amended by subsection (1) of this section, and generally as to procedure in relation to those matters.

(b) An order made on any application or appeal to the President of the High Court under the Principal Act, as amended by subsection (1) of this section, may contain such provisions as to costs as the President of the High Court considers proper.

New section 49 of Solicitors' Act, 1954 substituted by section 61, 1994 Act. See [page 158](#).

**26.**—~~The following paragraphs shall be substituted for paragraph (1) of subsection (1) of section 49 of the Principal Act:~~

Amendment of section 49 of the Principal Act.

~~"(1) having failed to comply with an order of the High Court,~~

~~(m) having failed to comply with regulations made under section 66 or 71 of this Act."~~

**27.**—The following subsections shall be added to section 73 of the Principal Act:

Amendment of section 73 of the Principal Act.

"(6) A member of a committee under this section may resign his office by letter sent by registered post to the Council and his resignation shall take effect on the date on which the letter is delivered.

(7) The Council may remove a member of a committee under this section, may fill a vacancy therein and may increase or reduce the number of persons thereon.

(8) A committee under this section may act notwithstanding one or more than one vacancy in their membership.

~~(9) A member of a committee under this section, who was a~~

Subsection (9) substituted and

subsection (10)  
added by section  
7(2), 1994 Act.  
See [page 91](#).

~~member of the Council at the date of his appointment, may act on the committee notwithstanding the fact that he has ceased to be a member of the Council and, for the purposes of paragraph (a) or (b) (where relevant) of subsection (3) of this section, he shall be regarded as a member of the Council."~~

**28.**—In paragraph 8 of the Sixth Schedule to the Principal Act, the reference to section 21 (repealed by this Act) of the Principal Act shall be construed as a reference to section 17 of this Act.

Amendment of the  
Sixth Schedule to  
the Principal Act.

**29.**—Any person who, upon examination on oath authorised under this Act or the Principal Act, or in any affidavit in or about any matter arising under this Act or the Principal Act, wilfully and corruptly gives false evidence or wilfully and corruptly swears anything which is false, being convicted thereof, shall be liable to the penalties for wilful and corrupt perjury.

Penalty for false  
evidence, etc.

**30.**—Where any document is required or authorised by or under the Principal Act or this Act or any regulations made thereunder to be served on any person, the following provisions shall apply in relation to the service of that document—

Service of  
documents.

(a) it may be served—

(i) by delivering it to that person, or

(ii) by sending it by registered post in an envelope addressed to that person at his last known place of business or residence in the State or, if he is a solicitor, at the last address appearing in the register of practising solicitors,

(b) where that person is absent from the State or his whereabouts is unknown and cannot be ascertained by reasonable inquiries, or where the notice or document, having been sent by registered post in the manner specified in subparagraph (ii) of paragraph (a) of this subsection, has been returned undelivered, the High Court may make such order for substituted or other service, or for the substitution for service of notice, by advertisement or otherwise, as may seem just.

**31.**—(1) Every solicitor to whom the provisions of the Solicitors' Accounts Regulations apply shall, once in each practice year, unless he satisfies the Society that owing to the circumstances of his case it is unnecessary to do so, deliver to the registrar a certificate signed by an accountant (in this section referred to as an accountant's certificate) stating—

Provisions as to  
accountants'  
certificates.

(a) that in compliance with this section and any regulations made thereunder the accountant has examined the books, accounts and documents of the solicitor or his firm for such accounting

period as may be specified in the certificate,

- (b) whether or not the accountant is satisfied, from his examination of the books, accounts and documents produced to him and from the information and explanations given to him, that during the said accounting period the solicitor or his firm has complied with the Solicitors' Accounts Regulations, and
- (c) if the accountant is not satisfied as aforesaid, the matters in respect of which he is not so satisfied.

Subsection (2) amended by the substitution of "President of the High Court" with "Authority" by section 192, LSRA 2015. See [page 386](#).

(2) The Society shall, with the concurrence of the ~~President of the High Court~~, make regulations (in this section referred to as the Accountant's Certificate Regulations) prescribing—

- (a) the qualifications to be held by an accountant by whom an accountant's certificate may be given,
- (b) the nature and extent of the examination to be made by the accountant of the books and accounts of a solicitor or his firm and of any other relevant documents with a view to the signing of a certificate to be delivered by the solicitor under this section,
- (c) the form of the accountant's certificate, and
- (d) the evidence, if any, which shall satisfy the Society that the delivery of an accountant's certificate is unnecessary and the cases in which such evidence is or is not required.

(3) The Accountant's Certificate Regulations may include provision—

- (a) permitting in such special circumstances as may be defined in the regulations a different accounting period from that specified in subsection (4) of this section, and
- (b) regulating any matters of procedure or matters incidental, ancillary or supplemental to the provisions of this section.

(4) Subject to the Accountant's Certificate Regulations, the accounting period for the purposes of an accountant's certificate shall—

- (a) begin at the expiry of the last preceding accounting period for which an accountant's certificate has been delivered,
- (b) cover not less than twelve months,
- (c) terminate not more than twelve months, or such less period as the Accountant's Certificate Regulations may prescribe, before

the date of the delivery of the certificate to the registrar, and

- (d) where possible, consistently with the foregoing paragraphs, correspond to a period or consecutive periods for which the accounts of the solicitor or his firm are ordinarily made up.

(5) A certificate under the hand of the registrar shall, until the contrary is proved, be evidence that a solicitor has or, as the case may be, has not delivered to the registrar an accountant's certificate or supplied any evidence required under this section or the Accountant's Certificate Regulations.

(6) Before a practising certificate is issued to a solicitor, he shall comply with the provisions of this section and the Accountant's Certificate Regulations and the registrar may withhold the issue of the practising certificate until the solicitor delivers to him an accountant's certificate in respect of the last preceding accounting period stating that the solicitor has during that period complied with the Solicitors' Accounts Regulations.

**32.—(1) Where—**

- (a) a solicitor is adjudicated a bankrupt or enters into a composition with his creditors or a deed of arrangement for the benefit of his creditors or dies insolvent, and
- (b) the sum at the credit of the client account kept by the solicitor at a bank in accordance with regulations made under section 66 of the Principal Act, or, where two or more such accounts are kept by the solicitor, the total of the sums at the credit of the said accounts, is less than the total of the sums received by the solicitor in the course of his practice on behalf of his clients and remaining due by him to them,

Provisions in relation to certain accounts kept by a solicitor at a bank.

then, notwithstanding any rule of law to the contrary, the sum at the credit of the said client account, or where the solicitor has kept two or more client accounts the total of the sums at the credit of those accounts, shall be divisible proportionately amongst the clients of the solicitor according to the respective sums received by the solicitor in the course of his practice on behalf of his clients and remaining due by him to them.

**(2) For the purposes of this section no account shall be taken—**

- (a) of any account at a bank kept by the solicitor in his own name for a specified client,
- (b) of sums received by the solicitor in the course of his practice on behalf of that client and remaining due by him to the client so far as represented by the sum in the bank account in the name of the solicitor for the client,
- (c) of any account at a bank kept by the solicitor in his own name

for moneys of any trust of which the sole trustee is the solicitor or the trustees are the solicitor with a partner, clerk or servant of his or with more than one of such persons, or

- (d) of sums received by the solicitor in the course of his practice on behalf of that trust and remaining due by him to the trust so far as represented by the sum in the bank account in the name of the solicitor for the trust.

Subsection (3) amended by the substitution of "in the Bankruptcy Office such court fees as are payable on a realisation account of the Official Assignee in a bankruptcy matter" with "such fee as may be prescribed under section 20 of the Personal Insolvency Act 2012" by section 41(1), Courts and Civil Law (Miscellaneous Provisions) Act 2013.

(3) Where the Official Assignee in Bankruptcy is appointed a trustee by the High Court under section 25 of the Trustee Act, 1893, in respect of any account or accounts kept by a solicitor at a bank in accordance with regulations made under section 68 of the Principal Act, there shall be payable ~~in the Bankruptcy Office such court fees as are payable on a realisation account of the Official Assignee in a bankruptcy matter.~~

(4) For the purposes of this section any reference to an account at a bank shall include a reference to a deposit receipt at a bank.

**33.**—(1) In this section—

"the Charter" means the Royal Charter dated the 5th day of April, 1852, whereby the Incorporated Law Society of Ireland was, by the name of "the Incorporated Society of Attorneys and Solicitors of Ireland", incorporated;

"the Supplemental Charter" means the Royal Charter dated the 14th day of December, 1888, whereby the terms of the Charter were amended and extended.

(2) Notwithstanding anything contained in the Supplemental Charter, the Council may appoint as an additional extraordinary member of the Council any solicitor holding at the time of his appointment the office of President or member of the Council of the Dublin Solicitors' Bar Association.

(3) The number of additional extraordinary members shall not at any time be more than three.

(4) Every additional extraordinary member shall hold office for the period for which ordinary members of the Council, holding office at the time at which such additional extraordinary member is appointed, hold office.

(5) Additional extraordinary members shall have the same powers and duties during their terms of office as are given by the Charter and the Supplemental Charter to ordinary members of the Council, except that no extraordinary additional member shall be eligible to be President or Vice-President of the Council.

Additional  
extraordinary  
members of the  
Council.

**FIRST SCHEDULE****PROVISIONS OF THE PRINCIPAL ACT REPEALED****PART I***Provisions Repealed Absolutely*

Section 5 (1).

<b>Provisions of the Principal Act (1)</b>	<b>Extent of Repeal (2)</b>
Subsection (1) of section 3.	The definition of the expression “the Disciplinary Committee”.
Subsection (4) of section 3.	The words “Supreme Court or”.
Subsection (1) of section 6.	The words “Supreme Court or”.
Section 13.	The whole section.
Section 14.	Subsections (1) and (2).
Sections 15 to 23.	The whole of each of the sections.
Subsection (1) of section 49.	Paragraphs (b), (c) and (l).
Subsection (1) of section 66.	Paragraph (f).
Section 70.	The whole section.
Section 80.	The whole section.
Section 83.	The whole section.

**PART II***Provisions Repealed with Saving*

Section 5 (2).

<b>Provisions of the Principal Act (1)</b>	<b>Extent of Repeal (2)</b>
Section 69.	The whole section.
The Fifth Schedule.	The whole of the Schedule.

## SECOND SCHEDULE

Heading and introduction substituted by section 34(2)(a), 1994 Act. See [page 135](#)

### ~~PROVISIONS HAVING EFFECT FOR THE PURPOSES OF SECTIONS 8 (2) AND 19 (5) (a) OF THIS ACT~~

Sections (8)(2) (b) and 19(5) (b).

~~The following provisions shall have effect for the purposes of the following provisions of this Act, namely, paragraph (a) of subsection (2) of section 8 and paragraph (a) of subsection (5) of section 19—~~

- (a) the Society, on receipt of an application for the delivery of documents from a person claiming to be entitled to the possession or custody thereof, may either—
- (i) investigate the claim of such person to the possession or custody of the documents, or
  - (ii) require such person to nominate a solicitor to take delivery of the documents on his behalf,
- (b) the Society shall not be bound to investigate the claim of any person who applies for delivery of documents in the possession of the Society or to schedule or list such documents save at the expense of such person, and payment of such sum as the Society may require as a deposit in respect of the costs and expenses of the investigation, scheduling or listing shall be a condition precedent to the undertaking of the investigation or to the delivery of such documents to such person by the Society,
- (c) the Society or the person making a deposit as aforesaid may, after the claim has been investigated, require the costs and expenses to which the deposit relates to be taxed by a Taxing Master of the High Court (subject to appeal to the High Court), and the amount found due on such taxation after allowing all just credits shall be a simple contract debt due by such person to the Society or by the Society to such person (as the case may be) and recoverable in any court of competent jurisdiction,
- (d) if the Society, in lieu of investigating the claim of the person applying for delivery of documents, require such person to nominate a solicitor to take delivery thereof on his behalf, the Society may retain the documents until the nomination is duly made,
- (e) on the nomination of a solicitor to take delivery of documents, the Society may deliver the documents to the solicitor in exchange for—
- (i) a receipt for the documents,

- (ii) a statutory declaration by the solicitor that, to the best of his knowledge and belief, the person on whose nomination he is acting is lawfully entitled to possession of the documents and that no other person has any prior title thereto or claim thereon by way of mortgage, charge, lien or otherwise,
- (iii) a statutory declaration by the person applying for delivery of the documents to the same effect, and
- (iv) an undertaking by the solicitor to return the documents to the Society if it should be ascertained, while the documents are in his possession, that his client was not so entitled at the date of the declaration,

and such receipt, declarations and undertaking shall constitute a full discharge to the Society for the documents,

- (f) no action or claim shall lie against the Society by any person claiming to be entitled to documents or to any property to which they relate, or to any mortgage, charge or lien in respect of such documents or property, for any loss or injury occasioned by the taking of possession of the documents by the Society, or by the delivery of the documents by the Society in accordance with this Schedule,
- (g) the Society shall have a lien over documents, for all costs and expenses, if any, incurred by the Society in connection therewith (including, where appropriate, the costs and expenses of investigating the claim of any person claiming to be entitled thereto).

New paragraph  
(h) inserted by  
section 34(2)(b),  
1994 Act. See  
[page 136.](#)

### THIRD SCHEDULE

#### PROVISIONS IN RELATION TO THE COMPENSATION FUND

Section 21

1. In this Schedule "the Fund" means the Compensation Fund.
2. The Society may invest moneys of the Fund in securities in which trustees are authorised by law to invest trust funds.
3. The Society may borrow for the Fund and, for the purpose of giving security with respect to such borrowing, may charge investments of the Fund.
4. The Society may insure against any risk relating to the Fund.
5. The following shall be paid into the Fund—

- (a) all annual contributions and additional contributions paid to the Society under section 22 of this Act,
  - (b) all interest, dividends and other income and accretions of capital arising from the investment of the Fund or any part thereof,
  - (c) the proceeds of any realisation of any investments of the Fund,
  - (d) all moneys borrowed for the purposes of the Fund,
  - (e) all moneys received by the Society under any insurance effected by the Society under paragraph 4 of this Schedule,
  - (f) all penalties recovered by the Society under subsection (3) of section 8 of this Act,
  - (g) all moneys received by the Society under subsection (8) of section 21 of this Act,
  - (h) any other moneys which may belong to or accrue to the Fund or be received by the Society in respect thereof.
6. The following shall be paid out of the Fund—
- (a) costs, charges and expenses incurred in maintaining, protecting, administering and applying the Fund,
  - (b) premiums on any insurance effected by the Society under paragraph 4 of this Schedule,
  - (c) repayments of moneys borrowed by the Society for the Fund and payments of interest on such moneys,
  - (d) payments of any grants which the Society may make under section 21 of this Act,
  - (e) costs, charges and expenses incurred by the Society under Part III of this Act or under this Schedule,
  - (f) costs, charges and expenses incurred by the Society in enforcing compliance with the Solicitors' Accounts Regulations and ascertaining whether those Regulations have been complied with,

[1960.]

*Solicitors (Amendment) Act, 1960.*

[No. 37.]

(g) other sums properly payable out of the Fund.

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*Number 27 of 1994.*

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**SOLICITORS (AMENDMENT) ACT, 1994.**

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**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY AND GENERAL**

Section

1. Short title, collective citation, construction and commencement.
2. Interpretation.
3. Amendment of section 3 of Principal Act and amendment of sections 3 and 4 of Act of 1960.

**PART II**

**NAME AND MEMBERSHIP OF LAW SOCIETY OF IRELAND**

4. Change of name of Society.
5. Amendment of bye-laws so as to conform with the *Solicitors Acts, 1954 to 1994*, and regulations thereunder (section 78 of Principal Act).
6. Honorary and associate membership of Society.
7. Amendment of section 73 of Principal Act.

**PART III**

**INVESTIGATION OF COMPLAINTS**

8. Power of Society to impose sanctions for inadequate services.
9. Power of Society to impose sanctions for charging excessive fees.

## Section

10. Production of documents.
11. Appeals to the High Court against determinations, directions or requirements of the Society.
12. Contribution by solicitor.
13. Adjournment of investigations under *sections 8 and 9* of this Act.
14. Power to inspect documents.
15. Investigation of complaints.
16. Disciplinary Tribunal (section 6 of Act of 1960).
17. Inquiry by the Disciplinary Tribunal into the conduct of a solicitor on the ground of alleged misconduct (section 7 of Act of 1960).
18. Proceedings before High Court (section 8 of Act of 1960).
19. Amendment of section 10 of Act of 1960.
20. Restriction on employment of person struck off roll or suspended (section 60 of Principal Act).
21. Disclosure of having been struck off roll, etc. (section 63 of Principal Act).
22. Publication of information on complaints.
23. Publication of orders.
24. Amendment of section 3 of Act of 1960.
25. Powers of Disciplinary Tribunal as to taking evidence, etc. (section 15 of Act of 1960).

**PART IV****PROTECTION OF CLIENTS**

26. Provision of professional indemnity cover.
27. Power of Society to deal with documents of certain solicitors (section 19 of Act of 1960).
28. Control of banking accounts or assets of solicitors (section 20 of Act of 1960).

## Section

29. Compensation for loss due to dishonesty of solicitor or clerk or servant of solicitor (section 21 of Act of 1960).
30. Contributions to the Compensation Fund by solicitors (section 22 of Act of 1960).
31. Intervention in practice of sole practitioner in cases of death, incapacity, bankruptcy, or abandonment (section 61 of Principal Act).
32. Intervention in practice of solicitor who has died.
33. Sale of solicitor's practice in certain circumstances.
34. Ancillary provisions in relation to certain applications or orders (Second Schedule to the Act of 1960).
35. Notice of court applications to be given to the Society.
36. Defences in actions against Society.
37. Restriction following admission as solicitor on practising as a sole practitioner.
38. General powers of the High Court.
39. Finality of orders of the High Court (section 12 of Act of 1960)

**PART V****QUALIFYING FOR ADMISSION AS A SOLICITOR**

40. Requirements for admission as solicitor (section 24 of the Principal Act).
41. Requirements for admission to apprenticeship (section 25 of Principal Act).
42. Term of indentures (section 26 of Principal Act).
43. Evidence of education, employment and character (section 27 of Principal Act).
44. Restriction on solicitor taking or retaining apprentice (section 29 of Principal Act).
45. Assignment of indentures on death of solicitor, etc. (section 32 of Principal Act).
46. General power to discharge indentures (section 33 of Principal Act).

## Section

47. Number of apprentices (section 36 of Principal Act).
48. Obligation to serve *bona fide* apprenticeship (section 37 of Principal Act).
49. Amendment of section 40 of Principal Act.
50. General exemption from preliminary examination (section 41 of Principal Act).
51. Exemptions for practising barristers (section 43 of Principal Act).
52. Exemptions (reciprocal provisions) (section 44 of Principal Act).
53. Exemption for certain apprentices.

**PART VI****PRACTISING CERTIFICATES AND PRACTICE**

54. Application for practising certificate (section 47 of Principal Act).
55. Saving for regulations made under section 47 of Principal Act and amendment of section 48 of Principal Act.
56. Prohibition on practising as a solicitor without practising certificate.
57. Acting as a solicitor without a practising certificate.
58. Suspension of practising certificates.
59. Imposition of conditions while practising certificates are in force.
60. Proof of practice by an unqualified person.
61. Direction to grant or refuse practising certificate (section 49 of Principal Act).
62. Qualifications for acting as solicitor (section 54 of Principal Act).
63. Amendment of section 55 of Principal Act.
64. Amendment of section 56 of Principal Act.

**PART VII****MISCELLANEOUS PROVISIONS**

## Section

65. Roll of solicitors (section 9 of Principal Act).
66. Fees for applications to Society.
67. Register of solicitors prepared to act in certain cases.
68. ~~Charges to clients.~~
69. Amendment of section 71 of Principal Act.
70. Incorporated practices.
71. Fee-sharing by solicitors.
72. Administration of oaths and taking of affidavits.
73. Interest on clients' moneys.
74. ~~Restriction on the withdrawal of a solicitor from a case.~~
75. Extension of list of approved institutions.
76. Regulations for accounts (section 66 of Principal Act).
77. Amendment of section 58 of Principal Act.
78. Will making and probate services provided by credit unions.
79. Investigation of complaints about credit unions.
80. Non-application to applicants under European Communities regulations.
81. Amendment of section 53 of Principal Act.
82. Laying of regulations.

## ACTS REFERRED TO

Arbitration Acts, 1954 and 1980	1954, No. 26 and 1980, No. 7
Attorneys and Solicitors Act, 1870	1870, c.28
Attorneys and Solicitors (Ireland) Act, 1849	1849, c. 53
Central Bank Acts, 1942 to 1989	
Courts Act, 1981	1981, No. 11
Credit Union Act, 1966	1966, No. 19
Criminal Procedure Act, 1967	1967, No. 12
Debtors (Ireland) Act, 1840	1840, c. 3 – 4 Vict. c.105
Legal Practitioners (Qualification) Act, 1929	1929, No. 16
Lunacy Regulation (Ireland) Act, 1871	1871, c. 22
National Council for Educational Awards Act, 1979	1979, No. 30
Petty Sessions (Ireland) Act, 1851	1851, 14 – 25 Vict. c.93
Registration of Title Act, 1891	1891, c. 29
Solicitors Acts, 1954 and 1960	1954, No. 36 and 1960, No. 37
Stamp Duties Management Act, 1891	1891, c. 38
Statutory Instruments Act, 1947	1947, No. 44
Succession Act, 1965	1965, No. 22
Supreme Court of Judicature Act (Ireland), 1877	1877, c. 57

Number 27 of 1994.

**SOLICITORS (AMENDMENT) ACT, 1994.**

AN ACT TO AMEND AND EXTEND THE SOLICITORS ACTS, 1954 AND 1960, AND TO PROVIDE FOR RELATED MATTERS. [4th November, 1994]

[4th November, 1994]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**PART I**

**PRELIMINARY AND GENERAL**

1.—(1) This Act may be cited as the Solicitors (Amendment) Act, 1994.

Short title, collective citation, construction and commencement.

(2) The Solicitors Acts, 1954 and 1960, and this Act may be cited together as the Solicitors Acts, 1954 to 1994, and shall be construed together as one Act.

(3) *Section 68* of this Act shall come into operation 3 months after the date of its passing.

(4) *Sections 16, 17, 18, 22, 23, 25 and 58 (3)* of this Act shall come into operation on such day as may be fixed by order of the Minister.

2.—In this Act, unless the context otherwise requires—

Interpretation.

"the Principal Act" means the Solicitors Act, 1954;

"the Act of 1960" means the Solicitors (Amendment) Act, 1960;

"apprentice" includes a person who has completed the term of his indentures of apprenticeship but who has not yet been admitted as a solicitor;

"authorised person" means a person authorised in writing by the Society for the purpose of exercising any of the Society's functions pursuant to *section 14* of this Act or pursuant to or as prescribed pursuant to *section 66* (as substituted by this Act) of the Principal Act;

"bank" and cognate words shall be construed in accordance with *section 75* of this Act;

Definition of "authorised investment business firm" inserted by section 45 of the Investor Compensation Act, 1998. See [pages 188, 191 and 195.](#)

Definition of "Authority" inserted by section 193, LSRA 2015. See [page 386.](#)

"bill of costs" includes any statement of account sent, or demand made, by a solicitor to a client for fees, charges, outlays, disbursements or expenses;

"clerk or servant" includes an apprentice and a person employed whole-time or part-time by a solicitor and a person providing services under a contract for services;

"client" includes the personal representative of a client and any person on whose behalf the person who gave instructions was acting in relation to any matter in which a solicitor or his firm had been instructed; and includes a beneficiary to an estate under a will, intestacy or trust;

"client account" means an account opened and kept by a solicitor arising from his practice as a solicitor at a bank for clients' moneys, in accordance with regulations made pursuant to subsection (1) of section 66 (as substituted by this Act) of the Principal Act;

"clients' moneys" means moneys received, held or controlled by a solicitor arising from his practice as a solicitor for or on account of a client or clients, whether the moneys are received, held or controlled by him as agent, bailee, stakeholder, trustee or in any other capacity;

"Compensation Fund" means the fund maintained by the Society pursuant to sections 21 and 22 (as substituted by this Act) of the Act of 1960;

"contentious business" means business done by a solicitor in or for the purposes of or in contemplation of proceedings before a court or tribunal or before an arbitrator appointed under the Arbitration Acts, 1954 and 1980;

Definition of "investment business services" inserted by section 45 of the Investor Compensation Act, 1998. See [pages 188 and 192-193](#).

"Disciplinary Tribunal" means the Disciplinary Tribunal established by section 6 (as substituted by this Act) of the Act of 1960, and, as and from the coming into operation of *section 16* of this Act, any reference to the Disciplinary Committee in the Act of 1960 shall, subject to *section 16 (2)* of this Act, be construed as a reference to the Disciplinary Tribunal;

"indentures" means indentures of apprenticeship;

"indentures of apprenticeship" includes any form of agreement as may be prescribed whereunder solicitors in the course of their practice as solicitors provide training for persons seeking to be admitted as solicitors;

Definition of "legal services" substituted by section 45 of the Investor Compensation Act, 1998. See [page 188](#).

~~"legal services" means services of a legal or financial nature provided by a solicitor arising from that solicitor's practice as a solicitor, and includes any part of such services;~~

"the Minister" means the Minister for Justice;

"moneys" includes moneys in a currency other than that of the State, cheques, bank notes, postal orders, money orders or any form of negotiable or non-negotiable instrument, moneys deposited or otherwise credited to a bank account or moneys deposited or otherwise credited to a bank or other financial institution outside the State;

Section 2 amended by the addition of a new subsection (2) inserted

"persons seeking to be admitted as solicitors" includes persons seeking to

by section 12, 2002 Act, as substituted by section 38, 2008 Act and as amended by section 58, Civil Law (Miscellaneous Provisions) Act 2011. See pages [210-211](#) and [232](#).

be bound by indentures of apprenticeship;

"the register" has the meaning assigned to it in section 47 (as substituted by this Act) of the Principal Act;

"sole practitioner" means a solicitor who is practising as a sole principal in a solicitor's practice.

**3.—(1)** Section 3 of the Principal Act is hereby amended by—

(a) the deletion of the definition of "solicitor" and the substitution of the following definition:

" 'solicitor' means a person who has been admitted as a solicitor and whose name is on the roll; and a reference to a solicitor includes a reference to a firm of solicitors unless the context otherwise requires and includes a former solicitor or a deceased solicitor unless the context otherwise requires;"; and

(b) with effect from the 1<sup>st</sup> day of January, 1996, the substitution of the following definition for the definition of "practice year":

" 'practice year' means any year ending on the 31st day of December;".

(2) Section 4 of the Act of 1960 is hereby repealed.

(3) Section 3 of the Act of 1960 is hereby amended by the deletion of the definition of "documents" and the substitution of the following definition:

" 'documents' includes deeds, wills, papers, books of account, records, vouchers, correspondence and files and shall be construed to include any documents stored in an electronic or other non-written form or on film or otherwise;".

Amendment of section 3 of Principal Act and amendment of sections 3 and 4 of Act of 1960.

## PART II

### NAME AND MEMBERSHIP OF LAW SOCIETY OF IRELAND

**4.—(1)** The body heretofore known as the "Incorporated Law Society of Ireland" shall be known as the "Law Society of Ireland" and may provide itself with a seal.

Change of name of Society.

(2) Where, before the coming into operation of this section, any legal proceedings are pending to which the Incorporated Law Society of Ireland

is a party, the name Law Society of Ireland shall be substituted in the proceedings for the name Incorporated Law Society of Ireland and the proceedings shall not abate because of such substitution.

(3) References to the Incorporated Law Society of Ireland contained immediately before the coming into operation of this section in any statute or statutory instrument (within the meaning of the Statutory Instruments Act, 1947) or in the memorandum or articles of association of any company or in any will, trust, deed, agreement or other document shall be construed on and after the coming into operation of this section as references to the Law Society of Ireland.

**5.**—The Principal Act is hereby amended by the substitution of the following section for section 78:

Amendment of bye-laws so as to conform with the *Solicitors Acts, 1954 to 1994*, and regulations thereunder (section 78 of Principal Act).

78.—(1) Notwithstanding the provisions of their Charters, the Society shall make any amendments to the bye-laws of the Society that are necessary to bring them into conformity with the *Solicitors Acts, 1954 to 1994*, and any regulations made thereunder.

"Amendment of bye-laws so as to conform with the *Solicitors Acts, 1954 to 1994*, and regulations thereunder.

(2) Notwithstanding anything contained in their Charters, the Society may in their bye-laws make provision for all or any of the following, namely—

- (i) the membership of the Council,
- (ii) the election or appointment of persons to membership of the Council,
- (iii) the admission of persons as honorary or associate members of the Society.

(3) In this section 'their Charters' means, respectively, the Charter and the Supplemental Charter of the Society referred to in section 33 (1) of the Act of 1960."

**6.**—(1) The Society may—

Honorary and associate membership of Society.

- (a) admit as an honorary member of the Society any person whom the Society wish so to admit, and
- (b) admit as an associate member of the Society any person or class of persons who is or are a member or members of a corresponding professional body in another jurisdiction.

(2) In this section "corresponding professional body" means a body established outside the State with objectives and functions similar to those

of the Society.

7.—(1) Section 73 (as amended by the Act of 1960) of the Principal Act is hereby amended by the substitution of the following subsections for subsections (3) and (4):

Amendment of section 73 of Principal Act.

Subsections (3) and (4) substituted and a new subsection (4A) added by section 34, 2008 Act. See [page 230](#).

~~"(3) A committee under this section may include solicitors who are not members of the Council and persons who are not solicitors, but where functions of the Society which are performable by the Council are delegated to a committee, at least two thirds of the members of the committee and of any quorum of the committee shall be members of the Council.~~

~~(4) Where functions of the Society which are performable by the Council are delegated to a committee under this section, that committee, in the performance of all or any of its delegated functions, may sit in one or more divisions, provided that—~~

~~(a) the quorum of such committee or any division of such committee shall be three, and~~

~~(b) where there are one or more members of such committee who are not solicitors, the quorum of such committee or any division of such committee shall include at least one of such members."~~

(2) Section 73 (as amended by the Act of 1960) of the Principal Act is hereby amended by the substitution of the following subsections for subsection (9):

"(9) A member of a committee under the section, who was a member of the Council at the date of his appointment, may act on the committee notwithstanding the fact that he has ceased to be a member of the Council and, for the purposes of subsection (3) of this section, he shall be regarded as a member of the Council.

(10) Where the Council has delegated functions to a committee under subsection (1) of this section, that committee may, subject to the prior approval of the Council, delegate any of such functions to a designated senior officer or senior officers for the time being appointed by the Society for that purpose, with or without restrictions, for such period as the committee may specify with the approval of the Council, and the committee or the Council may revoke such delegation with or without notice."

Subsection (1) amended by the substitution of "Where the Society" with "Where the Society, before the date on which Part 6 of the Legal Services Regulation Act 2015 comes into operation" by section 194(a), LSRA 2015. See [page 387](#).

### PART III

#### INVESTIGATION OF COMPLAINTS

8.—(1) ~~Where the Society~~ receive a complaint from a client of a Power of Society to

solicitor, or from any person on behalf of such client, alleging that the legal services provided or purported to have been provided by that solicitor in connection with any matter in which he or his firm had been instructed by the client were inadequate in any material respect and were not of the quality that could reasonably be expected of him as a solicitor or a firm of solicitors, then the Society, unless they are satisfied that the complaint is frivolous or vexatious, shall investigate the complaint and shall take all appropriate steps to resolve the matter by agreement between the parties concerned and may, if they think fit, following investigation of the complaint, do one or more of the following things, namely—

impose sanctions for inadequate services.

- (a) determine whether the solicitor is entitled to any costs in respect of such legal services or purported services, and if he is so entitled, direct that such costs in respect of such services shall be limited to such amount as may be specified in their determination;
- (b) direct the solicitor to comply, or to secure compliance, with such of the requirements set out in subsection (2) of this section as appear to them to be necessary as a result of their investigation;
- (c) direct the solicitor to secure the rectification, at his own expense or at the expense of his firm, of any error, omission or other deficiency arising in connection with the said legal services as the Society may specify;
- (d) direct the solicitor to take, at his own expense or at the expense of his firm, such other action in the interests of the client as the Society may specify;
- (e) direct the solicitor to transfer any documents relating to the subject matter of the complaint (but not otherwise) to another solicitor nominated by the client or by the Society with the consent of the client, subject to such terms and conditions as the Society may deem appropriate having regard to the circumstances, including the existence of any right to possession or retention of such documents or any of them vested in the first-mentioned solicitor or in any other person.

(2) The requirements referred to in *subsection (1)* of this section are—

- (a) a requirement to refund, whether wholly or to any specified extent, any amount already paid by or on behalf of the client in respect of the solicitor's costs in connection with the services he had provided or purported to provide, and
- (b) a requirement to waive, whether wholly or to any specified extent, the right to recover the costs of the solicitor to the extent that they have not already been paid by or on behalf of the client.

New paragraph  
(da) inserted by  
section 39(a),  
2008 Act. See  
[page 232.](#)

(3) (a) The Society shall not make a determination or give a direction under *subsection (1)* of this section unless they are of opinion that it would in the circumstances be appropriate to do so.

(b) In determining whether it would be appropriate to make a determination or give a direction, the Society may have regard to such matters as they think fit including—

- (i) the existence of any remedy that could reasonably be expected to be available to the client in civil proceedings;
- (ii) whether proceedings seeking any such remedy have not been commenced by the client and whether it would be reasonable to expect the client to commence such proceedings;
- (iii) whether *section 13* of this Act applies to the subject matter of the complaint.

(4) Where the Society have made a determination or given a direction under *subsection (1)* of this section as to the costs of a solicitor in respect of any legal services provided or purported to have been provided by him, then—

(a) for the purposes of any subsequent taxation of a bill of costs covering those costs, the amount charged by the bill of costs in respect of those costs shall be deemed to be limited to the amount specified in the Society's determination and a copy of the written confirmation of either or both the Society's determination or direction given under *subsection (1)* of this section shall be included with the bill of costs submitted for taxation, and

(b) where a bill of costs covering those costs has not been taxed, the client shall, for the purposes of the recovery of those costs (by whatever means) and notwithstanding any statutory provision or agreement to the contrary, be deemed to be liable to pay in respect of those costs only the amount specified in the determination of the Society.

(5) Where a bill of costs covering costs of a solicitor has been taxed in accordance with *subsection (4) (a)* of this section, the determination of the Society under *subsection (1)* of this section shall, so far as relating to those costs, cease to have effect.

(6) The fact that a person who was a party before any court, tribunal or arbitrator appointed under the Arbitration Acts, 1954 and 1980, was not satisfied with the outcome of such proceedings, shall not, of itself, be grounds for a complaint to the Society under this section.

Subsection (8) amended by the substitution of “President of the High Court” with “Authority” by section 194(b), LSRA 2015. See [page 387](#).

New subsection (9) inserted by section 39(b), 2008 Act. See [page 232](#).

Subsection (1) amended by the substitution of “Where the Society” with “Where the Society, before the date on which Part 6 of the Legal Services Regulation Act 2015 comes into operation” by section 195(a), LSRA 2015. See [page 387](#).

Subsection (2) amended by the substitution of “basis” with “basis, or to the Chief Legal Costs Adjudicator for adjudication under Part 10 of the Legal Services Regulation Act 2015” by section 195(b), LSRA 2015. See [page 387](#).

Subsection (3) amended by the substitution of “basis” with “basis, or to the Chief Legal Costs Adjudicator for adjudication under Part 10 of the Legal Services Regulation Act 2015”, and by the substitution of “taxation” with “taxation, or to the Chief Legal Costs Adjudicator for adjudication under Part 10 of the Legal Services Regulation Act 2015” by section 195(c)(i) and 195(c)(ii), LSRA 2015. See [page 387](#).

(7) The Society shall not enter upon, or proceed with, the investigation of a complaint under this section, or otherwise apply the provisions of this section, where the Society are of the opinion that such complaint relates to the alleged inadequacy in any material respect of legal services provided by a solicitor more than five years before the date on which the complaint was made.

(8) The Society, with the concurrence of the ~~President of the High Court~~, may make rules of procedure in relation to complaints received by the Society under this section.

**9.—**(1) ~~Where the Society~~ receive a complaint from a client of a solicitor, or from any person on behalf of such client, that a solicitor has issued a bill of costs that is excessive, in respect of legal services provided or purported to have been provided by that solicitor, the Society, unless they are satisfied that the complaint is frivolous or vexatious, shall investigate the complaint and shall take all appropriate steps to resolve the matter by agreement between the parties concerned and may, if they are satisfied that the bill of costs is excessive, direct the solicitor to comply or to secure compliance with one or both of the following requirements, namely—

- (a) a requirement to refund without delay, whether wholly or to any specified extent, any amount already paid by or on behalf of the client in respect of the solicitor's costs in connection with the said legal services;
- (b) a requirement to waive, whether wholly or to any specified extent, the right to recover those costs.

(2) Nothing in *subsection (1)* of this section shall prevent any person from exercising any existing right in law to require a solicitor to submit a bill of costs to a Taxing Master of the High Court for taxation on a solicitor and own client ~~basis~~.

(3) Where the Society have received a complaint under *subsection (1)* of this section and the client concerned (before or after the receipt of the complaint) has duly requested the solicitor concerned to submit his bill of costs to a Taxing Master of the High Court for taxation on a solicitor and own client ~~basis~~, the Society shall not make a direction under *subsection (1)* of this section unless, after due notice to that solicitor, they are of the opinion that the solicitor or his agent in that regard is unreasonably delaying in submitting such bill of costs to a Taxing Master of the High Court for such ~~taxation~~.

(4) Where a bill of costs, which has been the subject of a complaint under *subsection (1)* of this section has been subsequently taxed, then—

- (a) if the Society have given a direction under *subsection (1)* of this section, such direction shall cease to have effect, or
- (b) if the Society have not given a direction under *subsection (1)* of

Power of Society to impose sanctions for charging excessive fees.

this section, the Society shall not enter upon or proceed with the investigation of such complaint or otherwise apply the provisions of this section.

(5) Where the Society have notified a solicitor of the making of a complaint under *subsection (1)* of this section in relation to a bill of costs issued by that solicitor, the solicitor shall not—

- (a) issue or cause to be issued civil proceedings (whether on his own behalf or on behalf of any other person or persons), or
- (b) if already issued, proceed further with civil proceedings,

in relation to the amount (or any part thereof) of such bill of costs without the written consent of the Society before the Society has completed any investigation of the complaint pursuant to *subsection (1)* of this section, unless on application by that solicitor, on notice to the Society, a court otherwise orders.

(6) The Society shall not enter upon or proceed with the investigation of a complaint under this section or otherwise apply the provisions of this section, where the Society are of the opinion that the bill of costs, the subject of such complaint, was issued prior to a date that is five years before the date on which the complaint was made.

(7) The Society, with the concurrence of the ~~President of the High Court~~, may make rules of procedure in relation to complaints received by the Society under this section.

Subsection (7) amended by the substitution of "Authority" with "President of the High Court" by section 195(d), LSRA 2015. See [page 387](#).

**10.**—(1) Where it appears to the Society that it is necessary to do so for the purpose of investigating any complaint ~~made to the Society~~—

Production of documents.

- (a) alleging misconduct by a solicitor, or
- (b) alleging that the provision of legal services by a solicitor was inadequate in any material respect and was not of the quality that could reasonably be expected of him as a solicitor, or
- (c) alleging that a solicitor has issued a bill of costs that is excessive,

the Society may give notice in writing 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, of all documents in the possession or under the control or within the procurement of the solicitor or his firm in connection with the matters to which the complaint relates (whether or not they relate also to other matters).

(2) The Society shall return any documents delivered to them under *subsection (1)* of this section to the solicitor or to his firm when their investigations are completed unless the Society exercise their power under

Section 196, LSRA 2015 not commenced at publication (Feb 2020). Go to [eLSB](#) to confirm current status.

Section 10 amended by the substitution of "made to the Society - " with "made, before the date on which Part 6 of the Legal Services Regulation Act 2015 comes into operation, to the Society - " by section 196, LSRA 2015. See [page 387](#).

*section 8 (1) (e)* of this Act in relation to such documents.

Section 10A  
inserted by  
section 13,  
2002 Act. See  
[page 211](#)

**11.**—(1) A solicitor in respect of whom a determination or direction has been made or given by the Society under *section 8 (1)*, *9 (1)* or *12 (1)* of this Act or who has received a notice for production or delivery of documents from the Society under *section 10 (1)* of this Act may, within a period of 21 days of the notification of such determination or direction to him, or the receipt of such notice by him, apply to the High Court for an order directing the Society to rescind or to vary such determination or direction, or to vary or withdraw such notice, and on hearing such application the Court may make such order as it thinks fit.

Appeals to the High Court against determinations, directions or requirements of the Society.

(2) Where a solicitor in respect of whom a determination or direction has been made or given by the Society under the provisions of *section 8 (1)*, *9 (1)* or *12 (1)* of this Act has not applied within the period provided to the High Court under *subsection (1)* of this section, such determination or direction shall become absolutely binding on the solicitor immediately upon the expiration of such period.

(3) Where the Society have given notice in writing to a solicitor or his firm under the provisions of *section 10 (1)* of this Act and where an application has not been made by the solicitor within the period provided under *subsection (1)* of this section, the Society may apply to the High Court for an order directing the solicitor to produce or deliver to any person authorised by the Society all documents in respect of which such notice was given.

(4) Where an application has been made by a solicitor under *subsection (1)* of this section, the Society may apply to the High Court and the Court may dismiss the application of the solicitor if it is satisfied that such application has no merits and has been made purely for the purposes of delay, and, where applicable and if the Court thinks fit, shall order the solicitor to produce or deliver to any person appointed by the Society all documents in respect of which a notice has been given to the solicitor or his firm under *section 10 (1)* of this Act.

In subsection (5),  
“£1,500”  
substituted with  
“€3,000” by  
section 22(1)(j),  
2002 Act. See  
[page 219](#).

(5) If a solicitor, in respect of whom a determination or a direction has been made or given by the Society under the provisions of *section 8 (1)* or *9 (1)* of this Act or who has received a notice for production or delivery of documents from the Society under the provisions of *section 10 (1)* of this Act (to the extent that it has not been rescinded or varied by the High Court pursuant to an application under *subsection (1)* of this section), refuses, neglects or otherwise fails to comply with such determination or direction or notice without reasonable excuse, he shall be guilty of an offence and be liable on summary conviction thereof to a fine not exceeding €1,500.

Section 12  
substituted by  
section 14, 2002  
Act. See pages  
[211-213](#).

**12.**—(1) ~~Where, following an investigation of a complaint under *section 8 (1)* or *9 (1)* of this Act against a solicitor, the Society have made a determination or given a direction under the provisions of *section 8 (1)* or *9 (1)* of this Act, the Society may require payment from the solicitor of a sum not exceeding £1,000 to the Society by way of contribution towards the costs incurred by the Society in investigating the complaint and the~~

Contribution by solicitor.

solicitor shall comply with any such requirement.

~~(2) Subject to any order made under *section 11 (1)* of this Act, the Society may recover any sum the payment of which has been required by the Society by way of contribution under *subsection (1)* of this section as a liquidated debt payable to the Society.~~

**13.**—(1) Where civil proceedings or criminal proceedings are instituted in connection with a matter that is the subject of a complaint under *section 8* or *9* of this Act and have not been finally determined, and the Society consider that in those proceedings it is likely that the court will determine an issue relevant to or concerning such complaint, the Society may adjourn their investigation under *section 8* or *9* of this Act of such complaint until the civil proceedings or criminal proceedings, as the case may be, have been finally determined.

Adjournment of investigations under *sections 8* and *9* of this Act.

(2) If the Society consider that the subject matter of a complaint under *section 8* or *9* of this Act has been investigated by a court in civil proceedings or criminal proceedings and that a final determination of the issues which are, in substance, the issues involved in the complaint has been made by the court in those proceedings in favour of the solicitor concerned (whether or not the solicitor was a party to those proceedings), the Society may decide to take no action or no further action in relation to the complaint.

(3) Proceedings shall not be regarded as finally determined for the purposes of *subsection (1)* or *(2)* of this section until any appeal (including an appeal by way of case stated), rehearing or retrial in relation to those proceedings has been determined.

Section 14 (1) and (2) substituted by section 15, 2002 Act, and subsection (1) subsequently amended by section 197, LSRA 2015. See pages [213-214](#) and [387](#).

**14.**—(1) ~~Where it appears to the Society, whether as a result of a complaint or otherwise, that it is necessary, for the purpose of investigating alleged misconduct by a solicitor, for an authorised person to attend with or without prior notice at the place or places of business of that solicitor, an authorised person may so attend at such place or places.~~

Power to inspect documents.

~~(2) Where an authorised person attends under this section at the place or places of business of a solicitor, he shall inform such solicitor or any clerk or servant of the solicitor of the purpose of his attendance as specified in *subsection (1)* of this section and may in pursuance of that purpose require the solicitor or any clerk or servant of the solicitor to make available to him for inspection such specified documents or categories of documents in the possession or under the control or within the procurement of the solicitor as the authorised person deems necessary to fulfil that purpose (whether or not such documents or any of them relate also to other matters).~~

New section 14A inserted by section 40, 2008 Act, and subsequently substituted by section 198, LSRA 2015. See pages [233](#) and [388-389](#).

(3) If a solicitor or clerk or servant of a solicitor who is required to make available specified documents or categories of documents to an authorised person for inspection under *subsection (1)* of this section refuses, neglects or otherwise fails without reasonable cause to duly comply with such requirement, the Society may, on notice to the solicitor, apply to the High

New section 14B inserted by section 41, 2008 Act. See page [233](#).

New section 14C inserted by section 42, 2008 Act, but another additional section 14C added by section 199, LSRA 2015. See pages [233-234](#) and [389](#).

Court for an order (which said order the Court is hereby empowered to make) requiring the solicitor to make available for inspection at his place or places of business such specified documents or categories of documents as the Society deem necessary for the purpose specified in *subsection (1)* of this section or as the Court thinks fit.

**15.**—(1) The Minister may, by regulations, require the Society to establish, maintain and fund a scheme for the examination and investigation by an independent adjudicator of any written complaint made to the adjudicator by or on behalf of a member of the public against the Society, concerning the handling by the Society of a complaint about a solicitor made to the Society by any person.

Investigation of complaints.

(2) Without prejudice to the generality of *subsection (1)* of this section, regulations under this section may make provision in relation to any one or more of the following—

- (a) the establishment and administration of a scheme for the examination and investigation of complaints to the adjudicator,
- (b) the manner of appointment by the Society of an adjudicator and the terms and conditions of his appointment,
- (c) the appointment of staff to assist the adjudicator and the terms and conditions of their appointment,
- (d) the matters to be subject to examination or investigation under the scheme, including the reinvestigation of complaints handled by the Society,
- (e) the procedures to be followed in the conduct of an investigation by the adjudicator,
- (f) the procedures for making complaints to the adjudicator,
- (g) the attendance of the adjudicator at meetings of the Society, or of any committee of the Society, concerned with complaints made to the Society by members of the public about solicitors,
- (h) the reporting to the Society of conclusions or recommendations of the adjudicator in relation to cases investigated by him, and the consideration of such conclusions or recommendations by the Society,
- (i) the powers of the adjudicator to direct the Society with regard to the making of applications to the Disciplinary Tribunal under section 7 (as substituted by this Act) of the Act of 1960,

- (j) the provision by the Society of any information that may be required by the adjudicator in relation to any case with which he is involved,
  - (k) the powers of the adjudicator to recommend changes in the procedures of the Society in relation to complaints to the Society by members of the public about solicitors,
  - (l) the submission of reports, including annual reports, by the adjudicator to the Minister in relation to the discharge of his duties, and the publication of such reports and the laying of such reports before both Houses of the Oireachtas.
- (3) (a) The consent of the Minister shall be obtained by the Society for the appointment of any independent adjudicator under this section.
  - (b) A person appointed as an adjudicator shall not be a practising solicitor, a member of the Society, or a practising barrister and shall be independent in the exercise of his functions.
- (4) An adjudicator appointed under this section—
  - (a) shall not examine or investigate any issue which is being or has been determined by—
    - (i) a court,
    - (ii) the Disciplinary Committee appointed under Part II of the Act of 1960, or
    - (iii) the Disciplinary Tribunal appointed under Part II (as amended by this Act) of the Act of 1960,
  - (b) may, subject to *paragraph (f)* of this subsection, examine or investigate a complaint made to him under this section relating to a matter which arose before this section comes into operation,
  - (c) may examine or investigate a complaint made to him under this section even though the person making the complaint may be entitled to bring proceedings in any court with respect to the matter complained of,
  - (d) may make more than one recommendation in a report to the Society,
  - (e) shall give reasons for his conclusions or recommendations in every report to the Society,

(f) may not examine or investigate a complaint made to him under this section after the expiration of three years following the determination by the Society of a complaint made to the Society.

(5) An adjudicator appointed under this section shall have power to require the production of documents in the possession of the Society in connection with his examination or investigation of a complaint.

(6) Subject to *paragraph (f) of subsection (4)* of this section, an adjudicator may direct the Society to re-examine or reinvestigate a complaint made to the Society about a solicitor, if the adjudicator is not satisfied that the Society have investigated the complaint adequately.

(7) Subject to *paragraph (f) of subsection (4)* of this section and notwithstanding the provisions of *subsection (6)* of this section, an adjudicator appointed under this section may re-examine or reinvestigate a complaint made to the Society about a solicitor, if the adjudicator is not satisfied that the Society has investigated the complaint adequately, and no provision in this section or in any regulations made pursuant to *subsection (2)* of this section shall prevent, or shall be construed as preventing, an adjudicator from re-examining or reinvestigating any complaint under this subsection.

(8) Where an adjudicator re-examines or reinvestigates a complaint made to the Society under *subsection (7)* of this section, he shall have power, following that re-examination or reinvestigation, to direct the Society to make an application to the Disciplinary Tribunal under section 7 (as substituted by this Act) of the Act of 1960, or to recommend that the Society should take any other action, which he may specify, in relation to the solicitor pursuant to the Society's powers under the *Solicitors Acts, 1954 to 1994*.

(9) Where an adjudicator re-examines or reinvestigates a complaint made to the Society under *subsection (7)* of this section, he may require any person who, in his opinion, is in possession of information, or has a document or thing in his power or control, that is relevant to the re-examination or reinvestigation, to furnish that information, document or thing to him and, where appropriate, may require the person to attend before him for that purpose, and the person concerned shall comply with each such requirement.

(10) A person to whom a requirement is addressed under *subsection (9)* of this section may, within a period of 21 days of the notification of such requirement, apply to the High Court for an order to rescind or vary the requirement and, where the Court is satisfied that the information, documents or things, or any of them, are not relevant or are not reasonably required for the purposes of the re-examination or reinvestigation or are confidential to the interests of that person, it may rescind or vary the requirement or make such other order as it thinks fit.

(11) An adjudicator may not require a solicitor to furnish any information, document or thing that is held in the possession or control of

the solicitor on behalf of a client of that solicitor, without receiving the prior written authority of that client to such a requirement.

(12) A person to whom a requirement is addressed under *subsection (9)* of this section shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

(13) A person shall not by act or omission obstruct or hinder an adjudicator in the performance of his functions or do any other thing which would, if the adjudicator were a court having power to commit for contempt of court, be contempt of such court.

(14) A person who contravenes *subsection (9)* or *(13)* of this section shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding €1,500.

(15) Any information, document or thing obtained by an adjudicator in the course of or for the purpose of the examination or investigation or the re-examination or reinvestigation of a complaint shall not be disclosed except for the purposes of that examination or investigation or re-examination or reinvestigation and the adjudicator shall not be called upon to give evidence in any proceedings of matters coming to his knowledge in the course of an examination or investigation or a re-examination or reinvestigation.

(16) An adjudicator appointed under this section may decide not to examine or investigate a complaint made to the adjudicator under this section, or may discontinue an examination or investigation of such complaint, if he becomes of opinion that—

- (a) the complaint is trivial or vexatious, or
- (b) the person making the complaint has an insufficient interest in the matter, or
- (c) the person making the complaint has not taken reasonable steps to seek redress in respect of the subject matter of the complaint, or if he has, has not been refused redress.

(17) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

**16.—**(1) The Act of 1960 is hereby amended by the substitution of the following section for section 6:

Disciplinary  
Tribunal (section 6  
of Act of 1960).

Subsection (1)  
substituted by  
section 8(a), 2002  
Act and

"Disciplinary  
Tribunal.

~~6.—(1) The President of the High Court shall, from time to time as the occasion requires, appoint a tribunal (to be known and in this Act referred to as~~

subsection (1A)  
inserted by  
section 8(b),  
2002 Act, and  
further amended  
by the insertion  
of a new  
subsection (1B)  
by section 35,  
2008 Act. See  
pages [204-205](#)  
and [230](#).

~~'the Disciplinary Tribunal' consisting of—~~

~~(a) not more than ten persons from among practising solicitors of not less than 10 years standing (to be known and referred to in this section as 'solicitor members'), one of whom shall be appointed by the President of the High Court to be chairperson of the Disciplinary Tribunal and each of whom shall be appointed after consultation with the Society, and~~

~~(b) not more than five persons, who are not solicitors or barristers (to be known and referred to in this section as 'lay members'), who shall be nominated by the Minister to represent the interests of the general public,~~

~~for such a period, not exceeding five years, as the President of the High Court may determine, and any such person so appointed shall be eligible for reappointment to the Disciplinary Tribunal.~~

(2) A member of the Disciplinary Tribunal may resign his membership by letter sent by registered post to the President of the High Court and his resignation shall take effect on the date on which the letter is delivered.

(3) (a) The President of the High Court may remove a member of the Disciplinary Tribunal, may fill a vacancy therein and, subject to the limits stated in subsection (1) of this section, may increase or reduce the number of persons thereon.

(b) The President of the High Court may not remove a lay member of the Disciplinary Tribunal, without prior consultation with the Minister.

(4) The Society shall defray any reasonable costs and expenses incurred by the Disciplinary Tribunal.

(5) For the purpose of hearing and determining any application under section 7 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, the Disciplinary Tribunal shall sit in divisions, each of which shall comprise three members of whom one

shall be a lay member and two shall be solicitor members.

Subsection (6) substituted by section 8(c), 2002 Act. See pages [204-205](#).

~~(6) There shall be paid to the members of the Disciplinary Tribunal, out of funds at the disposal of the Society, reasonable travelling and subsistence expenses incurred by them in connection with their attendance at meetings of the Disciplinary Tribunal.~~

(7) Any information, document or thing obtained by any member of the Disciplinary Tribunal as a result of any application to the Disciplinary Tribunal, or in the course of any inquiry by that Tribunal, shall not be disclosed except for the purposes of the *Solicitors Acts, 1954 to 1994*."

(2) *Subsection (1)* of this section shall not apply to any application under section 7 of the Act of 1960 made before the coming into operation of this section to the Disciplinary Committee appointed under section 6 of the Act of 1960.

Section 17 amended by the substitution of "or by the Society" with "made by the person before the date on which Part 6 of the Legal Services Regulation Act 2015 comes into operation, or made by the Society" by section 186, LSRA 2015. See [page 385](#).

**17.**—(1) The Act of 1960 is hereby amended by the substitution of the following section for section 7:

"Inquiry by the Disciplinary Tribunal into the conduct of a solicitor on the ground of alleged misconduct.

7.—(1) An application by a person (not being a person who has made a complaint to an independent adjudicator under *section 15* of the *Solicitors (Amendment) Act, 1994*, about the conduct of a solicitor referred to in the application) ~~or by the Society~~ for an inquiry into the conduct of a solicitor on the ground of alleged misconduct shall, subject to the provisions of this Act, be made to and heard by the Disciplinary Tribunal in accordance with rules made under section 16 of this Act.

Inquiry by the Disciplinary Tribunal into the conduct of a solicitor on the ground of alleged misconduct (section 7 of Act of 1960).

Subsections (2) and (3) substituted by section 9(a), 2002 Act. See [page 205](#).

~~(2) Where an application in relation to a solicitor is duly made under this section and the Disciplinary Tribunal, after consideration of the application, are of opinion that there is no *prima facie* case for inquiry, they shall so inform the applicant in writing and shall take no further action in relation to the application.~~

~~(3) Where an application in relation to a solicitor is duly made under this section and the Disciplinary Tribunal, after consideration of the application, are of opinion that there is a *prima facie* case for inquiry, the following provisions shall have effect:~~

~~(a) they shall proceed to hold an inquiry;~~  
~~(b) on the completion of the inquiry, the~~  
Disciplinary Tribunal shall —

~~(i) embody their findings in a report to the High Court, specifying therein the nature of the application and the evidence laid before them and any other matters in relation to the solicitor (hereinafter referred to in this section as the 'respondent solicitor') which they may think fit to report;~~

~~(ii) in a case where the Disciplinary Tribunal find that there has been misconduct on the part of the respondent solicitor and they have not made, and do not intend to make, an order under subsection (9) of this section, the Disciplinary Tribunal shall include in their report their opinion as to the fitness or otherwise of the respondent solicitor to be a member of the solicitor's profession having regard to the contents of the report and their recommendations as to the sanction which in their opinion should be imposed, and the Society shall bring the report before the High Court.~~

(4) Where, on completion of an inquiry under subsection (3) of this section, the Disciplinary Tribunal find that there has been misconduct on the part of the respondent solicitor but they have made or are of the opinion that it is appropriate that they should make an order under subsection (9) of this section, the Disciplinary Tribunal shall include in their report the reasons for their opinion that it is appropriate to make an order under subsection (9) of this section.

Subsection (5) substituted by section 9(b), 2002 Act. See [page 207](#).

(5) The Disciplinary Tribunal shall, as soon as possible after it has been prepared, make available to the respondent solicitor a copy of their report prepared pursuant to subsections (3) and (4) of this section, as the case may be.

Subsection (6) substituted by section 9(c), 2002 Act. See [page 207](#).

~~(6) Where, on completion of an inquiry under subsection (3) of this section, the Disciplinary Tribunal have found that there has been no misconduct on the part of the respondent solicitor, they shall take no further action in relation to the matter and they shall so inform the respondent solicitor and the Society or other person who made the application as the case may be.~~

(7) Where an application is made under this section, the Disciplinary Tribunal may, at any stage of the proceedings in relation to the application and before the completion of any inquiry under subsection (3) of this section, postpone the taking of any steps or further steps in the matter for a specified period and, if they do so, then, if before the expiration of that period the applicant applies to the Disciplinary Tribunal for leave to withdraw the application, the Disciplinary Tribunal may, if they think fit, allow the application to be withdrawn and, if they do so, no further action shall be taken by them in relation to the application.

(8) The Society shall be entitled to make an application to the Disciplinary Tribunal in accordance with the provisions of this section, notwithstanding that any other person may be entitled to make such an application.

(9) Where, on completion of an inquiry under subsection (3) of this section, the Disciplinary Tribunal find that there has been misconduct on the part of the respondent solicitor, they shall have power, by order, to do one or more of the following things, namely—

- (a) to advise and admonish or censure the respondent solicitor;
- (b) to direct payment of a sum, not exceeding £5,000, to be paid by the respondent solicitor to the Compensation Fund;
- (c) to direct that the respondent solicitor shall pay a sum, not exceeding £5,000, as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;
- (d) to direct that the whole or part of the costs

In paragraphs (b) and (c), “£5,000” substituted with “€15,000” by section 9(d)(i), 2002 Act. See [page 207](#).

Paragraph (d) extended by

section 9(d)(ii),  
2002 Act.  
See [page 207](#).

of the Society or of any person appearing before them, as taxed by a Taxing Master of the High Court, in default of agreement, shall be paid by the respondent solicitor.

Subsection (10)  
substituted by  
section 9(e),  
2002 Act. See  
[page 208](#).

~~(10) On the making of an order under subsection (9) of this section, the Disciplinary Tribunal shall, as soon as possible, serve a copy of such order on the respondent solicitor, either personally or by sending same by prepaid registered post to his address as stated in the register (or, if never on the register, the roll).~~

Subsection (11)  
substituted by  
section 9(f),  
2002 Act. See  
[page 208](#).

~~(11) A respondent solicitor in respect of whom an order has been made by the Disciplinary Tribunal under subsection (9) of this section may, within the period of 21 days beginning on the date of the due service of the order, appeal to the High Court to rescind or vary the order in whole or in part, and the Court on hearing such an appeal may—~~

~~(i) rescind or vary the order, or~~

~~(ii) confirm that it was proper for the Disciplinary Tribunal to make the order.~~

(12) The Society, or any person who has made an application under subsection (1) of this section, may, within the period provided under subsection (11) of this section, appeal to the High Court against an order made by the Disciplinary Tribunal under subsection (9) of this section on the ground that the sanction imposed by the Disciplinary Tribunal is inadequate, or that the Disciplinary Tribunal, in lieu of making such an order, ought to have exercised their powers under subsection (3) (b) (ii) of this section, and the Court, on hearing such an appeal, may—

New additional  
subsections (12A)  
and (12B)  
inserted by  
section 9(g) of the  
2002 Act. See  
[page 208-209](#).

(i) confirm the sanction imposed by the Disciplinary Tribunal on the respondent solicitor, or

(ii) in relation to the respondent solicitor, do one or more of the things specified in section 8 (1) (a) (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act.

(13) A respondent solicitor may appeal to the

High Court against a finding of misconduct on his part by the Disciplinary Tribunal pursuant to subsection (3) of this section, and the Court shall determine such appeal when it considers the report of the Disciplinary Tribunal in accordance with the provisions of section 8 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, or as part of its determination of any appeal under subsection (11) of this section, as the case may be.

(14) Where a respondent solicitor refuses, neglects or otherwise fails to comply with an order made under subsection (9) (b) or (c) of this section (to an extent that it has not been rescinded or varied by the High Court consequent on an appeal to the High Court under subsection (11) of this section), the Society or any aggrieved party to whom a sum by way of restitution or part restitution has been ordered, may recover that sum as a liquidated debt.

(15) An application brought under subsection (1) of this section may relate to one or more complaints against a respondent solicitor.

(16) An application by the Society under subsection (1) of this section shall include an application made by the Society pursuant to a direction by an adjudicator appointed under *section 15* of the *Solicitors (Amendment) Act, 1994*.

(17) The Society may authorise any person on their behalf to do all such things and acts as may be necessary for the purposes of any application made or inquiry held under this section."

(2) *Subsection (1)* of this section shall not apply to any application under section 7 of the Act of 1960 made before the coming into operation of this section.

**18.**—(1) The Act of 1960 is hereby amended by the substitution of the following section for section 8:

Proceedings before High Court (section 8 of Act of 1960).

"Proceedings before High Court.

8.—(1) Where the Disciplinary Tribunal, after holding an inquiry into the conduct of a solicitor, make a report to the High Court under section 7 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act which is brought before the Court by the Society under the said section 7, the following provisions shall have effect:

In paragraph (a) “the High Court, after consideration of the report” substituted by section 37(a), 2008 Act. See [page 231](#).

(a) ~~the High Court, after consideration of the report —~~

(i) may by order do one or more of the following things, namely—

(I) strike the name of the solicitor off the roll;

(II) suspend the solicitor from practice for such specified period and on such terms as the Court thinks fit;

(III) prohibit the solicitor from practising on his own account as a sole practitioner or in partnership for such period, and subject to such further limitation as to the nature of his employment, as the Court may provide;

(IV) restrict the solicitor practising in a particular area of work for such period as the Court may provide;

(V) censure the solicitor or censure him and require him to pay a money ~~penalty~~;

(ii) may by order direct that a specified bank shall furnish any information in its possession that the Society may require relating to any aspect of the financial affairs of the practice of the solicitor;

(iii) may by order direct that the solicitor shall swear an affidavit disclosing all information relating to or contained in any accounts, held in his own name or in the name of his firm or jointly with third parties, with any bank within a specified duration of time, to be fixed by the Court;

(iv) may make such order as to the costs

In sub-paragraph (i)(V), “penalty” substituted and extended by section 10(a), 2002 Act. See [page 209](#).

incurred in the proceedings before it and the Disciplinary Tribunal as the Court thinks fit;

(v) may make any ancillary order in relation to the matter which the Court thinks fit;

(b) the High Court may, if it thinks fit, remit the case to the Disciplinary Tribunal to take further evidence for submission to it and to make to it a supplementary report, and the Court may adjourn the hearing of the matter pending the submission to it of such further evidence and the making of such supplementary report;

(c) in addition to doing any of the things specified in the foregoing paragraphs of this subsection, the Court may also by order do any one or more of the following things, namely —

(i) direct the solicitor to make such restitution to any aggrieved party as the Court thinks fit;

(ii) on the application of the Society, direct that the solicitor swear an affidavit (within a specified duration of time to be fixed by the Court) disclosing all information as to his assets either then in his possession or control or within his procurement or which had been but no longer are in his possession or control or within his procurement and, if no longer in his possession or control or within his procurement, his belief as to the present whereabouts of those assets;

(iii) direct that the solicitor make himself available before the Court on a specified date and at a specified time for oral examination under oath in relation to the contents of any affidavit of assets sworn by him pursuant to subparagraph (ii) of this paragraph;

- (iv) on the application of the Society and where it is shown that the conduct of the solicitor or of any clerk or servant of that solicitor arising from that solicitor's practice as a solicitor has given or is likely to give rise to the making by the Society of a grant or grants out of the Compensation Fund under section 21 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, direct that the solicitor shall not reduce his assets below a certain specified amount or value unless the Court otherwise directs;
- (v) on the application of the Society, direct the delivery to any person appointed by the Society of all or any documents in the possession or control or within the procurement of the solicitor arising from his practice as a solicitor;
- (vi) direct either—
  - (I) that no bank shall, without leave of the Court, make any payment out of an account in the name of the solicitor or his firm, or
  - (II) that a specified bank shall not, without leave of the Court, make any payment out of an account in the name of the solicitor or his firm;
- (vii) direct that the solicitor shall not attend at the place of business of his practice as a solicitor unless otherwise permitted by the Court;
- (viii) direct that the solicitor shall not represent himself as having, or hold himself out as having, any connection with his former practice as a solicitor, or permit any other person to so represent that solicitor, unless otherwise permitted by the Court.

In sub-paragraph (viii), "Court" substituted and extended by section 10(b), 2002 Act. See [page 209](#).

New subsection  
(1A) inserted by  
section 37(b),  
2008 Act. See  
[page 231](#).

(2) (a) Where an order in respect of documents is made by the High Court under subparagraph (v) of paragraph (c) of subsection (1) of this section, the Society may make such enquiries as may be reasonably necessary to ascertain the person or persons entitled to the possession or custody of such documents and may thereafter deal with such documents, or any of them, in accordance with the directions of such person or persons so entitled.

(b) For the purposes of paragraph (a) of this subsection, the Second Schedule (as amended by the *Solicitors (Amendment) Act, 1994*) to this Act shall have effect.

(3) Where the High Court by an order under subsection (1) of this section requires a solicitor to pay a money penalty, the order shall operate as a judgment against the solicitor in favour of the Society, and the money penalty, when recovered, shall be paid into the Compensation Fund.

In subsection (4),  
“£1,500”  
substituted with  
“€3,000” by  
section 22(1)(f),  
2002 Act. See  
[page 219](#).

(4) Where any person acts as agent or nominee of a solicitor or his firm so as to render nugatory an order made by the High Court under subparagraph (vi) of paragraph (c) of subsection (1) of this section, such person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding £1,500.”.

(2) *Subsection (1)* of this section shall not apply to any report to the High Court made under section 7 of the Act of 1960 before the coming into operation of this section.

New section 18A  
inserted by  
section 43, 2008  
Act. See [page 234](#).

**19.**—Section 10 of the Act of 1960 is hereby amended by the insertion of the following subsection:

Amendment of  
section 10 of Act of  
1960.

"(4) Where, on the hearing of an application under this section, it is shown that the circumstances which gave rise to the striking off the roll of the applicant's name involved an act or acts of dishonesty on the part of the applicant arising from his former practice as a solicitor or that the applicant was convicted of a criminal offence, the High Court shall not restore the applicant's name to the roll, either conditionally or unconditionally, unless it is satisfied that, having regard to all the evidence, the applicant is a fit and proper person to practise as a solicitor and that the restoration of the applicant to the roll would not adversely affect public confidence in the solicitors' profession as a whole or in the administration of

justice.".

**20.**—The Principal Act is hereby amended by the substitution of the following section for section 60:

Restriction on employment of person struck off roll or suspended (section 60 of Principal Act).

"Restriction on employment of person struck off roll or suspended.

60.—(1) No person shall knowingly, save under and in accordance with a written permission under this section, employ or remunerate in any capacity involving or in connection with the provision of legal services a solicitor who is an unqualified person by reason of—

(a) his name having been struck off the roll, or

(b) his suspension from practice, or

(c) his having had the issue to him of a practising certificate refused under section 49 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, or

(d) his having his practising certificate suspended under *section 58* of the *Solicitors (Amendment) Act, 1994*, or

(e) his having given to the High Court an undertaking not to practise as a solicitor.

(2) The Society may grant a permission for the purposes of subsection (1) of this section for such period and subject to such conditions as they think fit, or may refuse to grant such a permission.

(3) A person aggrieved by the refusal of the Society to grant a permission under subsection (2) of this section, or by any conditions attached by the Society to the grant thereof, may appeal to the High Court and the Court may confirm the refusal or the conditions, as the case may be, or may grant the permission for such period and subject to such conditions as the Court thinks fit.

(4) Where a person continues to employ an unqualified person in contravention of subsection (1) of this section notwithstanding his having been requested by the Society to discontinue such employment, the Society may apply to the High Court, and the Court may by order restrain that person from continuing the employment of that unqualified person.

(5) Where a solicitor has been issued with a practising certificate that is subject to a condition or conditions under *section 59* of the *Solicitors (Amendment) Act, 1994*, that solicitor shall be deemed to be an unqualified person for the purposes of subsection (1) of this section to the extent that such condition or conditions prohibit him from engaging in the provision of a certain category or categories of legal services."

**21.**—The Principal Act is hereby amended by the substitution of the following section for section 63:

Disclosure of having been struck off roll, etc. (section 63 of Principal Act).

63.—(1) A person who is an unqualified person by reason of—

"Disclosure of having been struck off roll, etc.

(a) his name having been struck off the roll, or

(b) his suspension from practice, or

(c) his having had the issue to him of a practising certificate refused under section 49 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, or

(d) his having his practising certificate suspended under *section 58* of the *Solicitors (Amendment) Act, 1994*, or

(e) his having given to the High Court an undertaking not to practise as a solicitor,

shall not seek or accept employment from any person in any capacity involving or in connection with the provision of legal services without previously informing that person that he is such an unqualified person.

(2) Save under and in accordance with a written permission under this section, a solicitor—

(a) whose name has been struck off the roll, or

(b) who is suspended from practice, or

(c) to whom a practising certificate has been refused under section 49 (as substituted

by the *Solicitors (Amendment) Act, 1994* of this Act, or

(d) whose practising certificate has been suspended under *section 58* of the *Solicitors (Amendment) Act, 1994*, or

(e) who has given an undertaking to the High Court not to practise as a solicitor,

shall not engage in any work in any capacity involving, or in connection with, the provision of legal services, whether in relation to his former practice as a solicitor or otherwise, until —

- (i) the High Court has made an order restoring his name to the roll, or
- (ii) the High Court has lifted the said order of suspension from practice, or
- (iii) the High Court has made an order directing the granting of a practising certificate to him, or
- (iv) the High Court has discharged any order of suspension of his practising certificate, or
- (v) the High Court has released him from any undertaking by him not to practise as a solicitor,

as the case may be.

In subsection (3), “£1,500” substituted with “€3,000” by section 22(1) (d), 2002 Act. See [page 219](#).

(3) A solicitor who contravenes subsection (1) or (2) of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ~~£1,500~~.

(4) The Society may grant a permission for the purposes of subsection (2) of this section for such period and subject to such conditions as they think fit.

(5) Where a solicitor has been issued with a practising certificate that is subject to a condition or conditions under *section 59* of the *Solicitors*

*(Amendment) Act, 1994*, that solicitor shall be deemed to be an unqualified person for the purposes of subsection (1) of this section to the extent that such condition or conditions prohibit him from engaging in the provision of a certain category or categories of legal services."

Section 22 amended by the insertion of "or the Legal Practitioners Disciplinary Tribunal" after "Tribunal" in each place that it occurs by section 200, LSRA 2015. See [page 390](#).

**22.**—The Society shall publish annually, in the Gazette of the Society and in any other manner as the Society may direct, information on—

Publication of information on complaints.

- (a) the number of complaints together with a description of the general nature of those complaints received by the Society about solicitors;
- (b) the number of complaints together with a description of the general nature of those complaints referred to the Disciplinary Tribunal; and
- (c) the outcome of the investigation of those complaints by the Disciplinary Tribunal.

Section 23(1) substituted by section 17(a), 2002 Act. See [page 214](#).

**23.**—(1) ~~Where, on the completion of an inquiry by the Disciplinary Tribunal held under section 7 (3) (as substituted by this Act) of the Act of 1960, the Disciplinary Tribunal have made an order under section 7 (9) (as substituted by this Act) of the Act of 1960, the Disciplinary Tribunal shall notify the Society in writing of the making of such order and the Society may arrange to publish the order of the Disciplinary Tribunal, or notice of the making of the order and its effect, in such a manner as the Society think fit.~~

Publication of orders.

Section 23(2) substituted by section 17(b), 2002 Act. See [page 214-215](#).

~~(2) Where, on the completion of an inquiry by the Disciplinary Tribunal held under section 7 (3) (as substituted by this Act) of the Act of 1960, the Disciplinary Tribunal have made an order under section 7 (9) (as substituted by this Act) of the Act of 1960, the order of the Disciplinary Tribunal, or notice of the making of the order and its effect, shall not be published by the Society until a period of at least 21 days shall have elapsed after the making of the order, or until any application made under section 7 (11) (as substituted by this Act) of the Act of 1960 has been determined by the High Court, and thereafter the notice of the making of the order shall not be published if the Court rescinds the order of the Disciplinary Tribunal.~~

(3) Where, following the consideration by the High Court of a report of the Disciplinary Tribunal brought before it under section 7 (3) (as substituted by this Act) of the Act of 1960, the Court has made an order under the provisions of section 8 (as substituted by this Act) of the Act of 1960, the Society shall arrange to publish the order of the Court, or notice of the making of the order and its effect, in the Gazette of the Society and in any other manner as the Society may decide, save that where the Court has ordered that the name of a solicitor be struck off the roll or that a solicitor be suspended from practice for a specified period of time, the

Society shall as soon as possible arrange to publish the order of the Court or notice of the making of the order and its effect in the *Iris Oifigiúil* and in the Gazette of the Society, and, in addition, in any other manner as the Society may think fit.

Subsection (4) inserted by section 17(c), 2002 Act. See pages [214-215](#).

**24.**—Section 3 of the Act of 1960 is hereby amended by the substitution of the following paragraph for paragraph (c) in the definition of "misconduct":

Amendment of section 3 of Act of 1960.

Paragraph (c) substituted by section 7, 2002 Act. See pages [203-204](#).

~~"(c) the contravention of a provision of the Principal Act or this Act or the *Solicitors (Amendment) Act, 1994*, or any order or regulation made thereunder,"~~

and the said definition as so amended is set out in the Table to this section.

#### TABLE

"misconduct" includes —

- (a) the commission of treason or a felony or a misdemeanour,
- (b) the commission, outside the State, of a crime or an offence which would be a felony or a misdemeanour if committed in the State,
- ~~(c) the contravention of a provision of the Principal Act or this Act or the *Solicitors (Amendment) Act, 1994*, or any order or regulation made thereunder,~~
- (d) — conduct tending to bring the solicitors' profession into disrepute;

Paragraphs (c) and (d) substituted and new paragraph (e) added by section 7, 2002 Act. See pages [203-204](#).

**25.**—The Act of 1960 is hereby amended by the substitution of the following section for section 15:

Powers of Disciplinary Tribunal as to taking evidence, etc. (section 15 of Act of 1960).

New additional subsections (1A), (1B), (1C), (1D) and (1E) inserted by section 11, 2002 Act. See page [210](#).

"Powers of Disciplinary Tribunal as to taking evidence, etc.

**15.**—(1) The Disciplinary Tribunal shall, for the purposes of any inquiry held by them under section 7 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act or the consideration by them of an application under section 9 of this Act, or the taking by them of further evidence under paragraph (b) of subsection (1) of section 8 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action, in respect of—

- (a) the enforcement of the attendance of witnesses and their examination on oath or otherwise,
- (b) the compelling of the production of documents, and

- (c) the compelling of the discovery under oath of documents,

and a summons signed by a member of the Disciplinary Tribunal may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production and the discovery under oath of documents.

(2) If a person—

- (a) on being duly summoned as a witness before the Disciplinary Tribunal, without just cause or excuse disobeys the summons, or
- (b) being in attendance as a witness before the Disciplinary Tribunal, refuses to take an oath or to make an affirmation when legally required by the Disciplinary Tribunal to do so, or to produce or discover under oath any documents (which said word shall be construed in this subsection and in subsection (1) of this section as including things) in his possession or under his control or within his procurement legally required by the Disciplinary Tribunal to be produced or discovered under oath by him, or to answer any question to which the Disciplinary Tribunal may legally require an answer, or
- (c) wilfully gives evidence to the Disciplinary Tribunal which is material to their inquiry which he knows to be false or does not believe to be true, or
- (d) by act or omission, obstructs or hinders the Disciplinary Tribunal in the performance of their functions, or
- (e) fails, neglects or refuses to comply with the provisions of an order made by the Disciplinary Tribunal, or
- (f) does or omits to do any other thing which would, if the Disciplinary Tribunal had

been the High Court, have been contempt of that Court,

the person shall be guilty of an offence.

(3) A witness before the Disciplinary Tribunal shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

(4) (a) A person guilty of an offence under this section shall be liable—

In sub-paragraph (i), “£10,000” substituted with “€30,000” by section 22(2)(d), 2002 Act. See [page 219-220](#).

(i) on conviction on indictment thereof to a fine not exceeding £10,000 or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment, and

In sub-paragraph (ii), “£1,500” substituted with “€3,000” by section 22(1)(g), 2002 Act. See [page 219](#).

(ii) on summary conviction thereof to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment.

(b) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this section as if, in lieu of the penalties specified in subsection (3) of that section, there were specified therein the penalties provided for by paragraph (a)(ii) of this subsection, and the reference in subsection (2) (a) of that section to the penalties provided for in subsection (3) of that section shall be construed accordingly.”.

Section 26(1) amended by the substitution of “The Society may make regulations” with “The Society may, with the consent of the Authority, make regulations” by section 201(a)(i), LSRA 2015. See [page 390](#).

## PART IV

### PROTECTION OF CLIENTS

**26.**—(1) ~~The Society may make regulations~~ (in this section referred to as “indemnity regulations”) making provision for indemnity against losses arising from claims in respect of any description of civil liability incurred—

Provision of professional indemnity cover.

Section 26(1)(a) amended by the substitution of “solicitor, or” with “solicitor,” by section 201(a)(ii), LSRA 2015. See [page 390](#).

(a) by a solicitor arising from his practice as a ~~solicitor, or~~

Section 26(1)(b) amended by the substitution of “as a solicitor.” with “as a solicitor, or” by section 201(a)(iii), LSRA 2015. See [page 390](#).

Section 201, LSRA 2015 commenced at publication (Feb 2020) other than insofar as ss (1)(c) and (1A) inserted by that section in section 26, Solicitors (Amendment) Act 1994 relates to LPs and MDPs. Go to [eISB](#) to confirm current status.

New subsection(1)(c) and new subsection (1A) inserted by Section 201, LSRA 2015. See [page 390](#).

(b) by a partner, clerk or servant or former partner, clerk or servant of a solicitor arising from that solicitor's practice ~~as a solicitor.~~

(2) For the purposes of providing such indemnity, indemnity regulations may do any one or more of the following, namely—

- (a) authorise the Society to establish and maintain any indemnity fund or funds, including a mutual fund;
- (b) authorise the Society to effect and maintain a general policy of indemnity insurance making provision for indemnity against losses arising from claims in respect of any description of civil liability, in which solicitors would be required to participate;
- (c) require solicitors or any specified category of solicitors to effect and maintain a policy of indemnity insurance with insurers approved of by the Society or to participate or to continue to participate in a fund or funds established or maintained pursuant to *paragraph (a)* of this subsection or in any other fund approved of by the Society, including the mutual fund known as the "Solicitors Mutual Defence Fund Limited".

(3) The Society may, without prejudice to any of their other powers, carry into effect any arrangements which they consider necessary or expedient for the purpose of ensuring that there is indemnity against losses pursuant to this section.

(4) Without prejudice to the generality of *subsections (1), (2) or (3)* of this section, indemnity regulations may—

- (a) specify terms and conditions on which indemnity against losses is to be available to solicitors from any indemnity fund or funds or under any general policy of indemnity insurance or under any policy of indemnity insurance with insurers approved of by the Society and any circumstances in which the right to such indemnity is to be excluded or modified;
- (b) specify minimum levels of cover for indemnity against losses arising from claims or different classes of claims;
- (c) provide for the management, administration and protection of any fund maintained under *subsection (2)* of this section and require solicitors or any specified category of solicitors to make payments to any such fund;
- (d) require that solicitors or any specified category of solicitors make payments by way of premium in respect of any general policy of indemnity insurance maintained by the Society by virtue of *subsection (2)* of this section;

- (e) specify conditions which indemnity cover shall satisfy for the purposes of *subsection (2)* of this section;
- (f) provide for the determination by the management of any fund maintained by the Society under *subsection (2)* of this section of the contribution payable by solicitors or any specified category of solicitors in respect of each description of civil liability for which cover is provided by such fund;
- (g) specify the circumstances in which, where a solicitor for whom indemnity cover is provided has failed to comply with the indemnity regulations or with the terms and conditions of such indemnity cover, proceedings for the recovery of sums paid by way of indemnity against losses in respect of that solicitor may be taken against him by the providers of such indemnity cover or by the Society, as may be appropriate;
- (h) specify circumstances in which any solicitor or specified category of solicitor may be exempted from the indemnity regulations;
- (i) enable the Society to take such steps as they think necessary or expedient to ascertain whether or not the indemnity regulations are being complied with;
- (j) include arrangements for the submission to arbitration of any dispute arising between a solicitor and his client in relation to any claim or claims by the client against the solicitor in respect of civil liability to which the indemnity regulations apply by reason of the provisions of this section, where both the solicitor and the client have agreed in writing to submit the dispute to arbitration;
- (k) specify the manner in which solicitors or any specified category of solicitors shall bring their compliance with, or exemption from, the indemnity regulations to the notice of their clients or the Society; and
- (l) include incidental, procedural or supplementary provisions in relation to any of the matters set out in *paragraphs (a) to (k)* of this subsection.

(5) Notwithstanding the foregoing provisions of this section, ~~the Minister~~ may direct the Society to make or amend indemnity regulations.

~~(6) It shall be misconduct for a solicitor to whom indemnity regulations apply knowingly to make a false or misleading declaration of a material nature for the purpose of obtaining indemnity against losses arising from claims in respect of any description of civil liability incurred by him.~~

Subsection (5) amended by the substitution of "the Minister" with "the Authority" by section 201(c), LSRA 2015. See [page 390](#).

Subsection (6) deleted by section 201(d), LSRA, 2015. See [page 390](#).

New section 26A inserted by section 44, 2008 Act. See [page 234](#).

27.—The Act of 1960 is hereby amended by the substitution of the following section for section 19:

Power of Society to deal with documents of certain solicitors (section 19 of Act of 1960).

"Power of Society to deal with documents of certain solicitors.

19.—(1) Where the Society are of the opinion that—

- (a) a solicitor or a clerk or servant of a solicitor has been guilty of dishonesty arising from that solicitor's practice as a solicitor, or
- (b) a solicitor who is a sole practitioner has abandoned his practice or has ceased to carry on his practice other than for one or more of the reasons set forth in section 60 (1) (as substituted by the *Solicitors (Amendment) Act, 1994*) of the Principal Act,

and that adequate arrangements have not been made for the making available to the clients of such solicitor of all or any documents held in the possession or in the control or within the procurement of that solicitor on behalf of those clients, the Society may give notice in writing to that solicitor or to any other person or persons in possession or control of such documents, or any of them, requiring the production and delivery to any person appointed by the Society, at a time and place to be fixed by the Society, of such documents or any of them.

(2) Where a solicitor or other person to whom subsection (1) of this section applies refuses, neglects or otherwise fails without reasonable excuse to produce or deliver documents in his possession or control or within his procurement within 14 days after receipt by him of a notice under subsection (1) of this section from the Society—

- (a) he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £1,500, and
- (b) the Society may apply to the High Court and the Court may by order require such solicitor or other person to produce or deliver such documents or any of them within such time as the Court thinks fit.

In paragraph (a), "£1,500" substituted with "€3,000" by section 22(1)(h), 2002 Act. See [page 219](#).

(3) Where the Society take possession of documents produced or delivered under a requirement under this section—

(a) they shall serve on the solicitor and on every other person from whom the documents were received a notice giving particulars of the documents and the date of taking possession thereof, and

(b) if any of the documents are grouped together as relating to a particular matter, the notice may give particulars of those documents by referring to the group and the matter to which it relates.

(4) Within 14 days after service of a notice under subsection (3) of this section on a solicitor or other person, the solicitor or other person may apply to the High Court for an order directing the Society to return the documents received by the Society to him or to such other person or persons as the applicant may require and the Court may make the order applied for or such other order as the Court thinks fit.

(5) (a) Where an application is not made in accordance with subsection (4) of this section or the High Court on such application directs that the documents shall remain in the possession of the Society, the Society may make such enquiries as may be reasonably necessary to ascertain the person or persons entitled to the possession or custody of such documents, or any of them, and may thereafter deal with such documents, or any of them, in accordance with the directions of such person or persons so entitled.

(b) For the purposes of paragraph (a) of this subsection, the provisions set out in the Second Schedule (as amended by the *Solicitors (Amendment) Act, 1994*) to this Act shall have effect.

(6) Where it appears to the Society, in relation to a solicitor who is a sole practitioner who has, to the knowledge of or in the opinion of the Society, abandoned his practice or has otherwise ceased to carry on his practice, that any premises occupied or

formerly occupied by that solicitor which contain or might contain documents relating to that solicitor's practice are not sufficiently secured, a person authorised in writing by the Society shall have power to enter upon such premises for the purpose of securing such documents either there or elsewhere in the interests of clients of that solicitor."

**28.**—The Act of 1960 is hereby amended by the substitution of the following section for section 20:

"Control of banking accounts or assets of solicitors.

20.—(1) Where the Society are of opinion that a solicitor or a clerk or servant of a solicitor has been guilty of dishonesty arising from that solicitor's practice as a solicitor, or where any of the circumstances of paragraph (b) of section 19 (1) (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act apply, the Society may apply to the High Court and the Court may make an order directing one or more of the following things, namely—

Control of banking accounts or assets of solicitors (section 20 of Act of 1960).

- (a) that no bank shall, without leave of the Court, make any payment out of an account in the name of the solicitor or his firm;
- (b) that a specified bank shall not, without leave of the Court, make any payment out of an account kept at such bank in the name of the solicitor or his firm;
- (c) that the solicitor shall not, without leave of the Court, dispose of or direct or facilitate the disposal of any assets in his possession or control or within his procurement;
- (d) that the solicitor shall not, without leave of the Court, reduce his assets below a certain specified amount or value.

(2) The High Court shall have power to hear *in camera* an application for an order under subsection (1) of this section.

(3) Where the High Court makes in relation to a solicitor an order under subsection (1) of this section, the Court may at the same time order that any practising certificate issued to him be suspended.

In subsection (4),  
“£1,500”  
substituted with  
“€3,000” by  
section 22(1)(i),  
2002 Act. See  
[page 219](#).

(4) Where any person acts as agent or nominee of a solicitor or his firm so as to render nugatory an order made by the High Court under subsection (1) of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £1,500.

(5) Where the High Court makes in relation to a solicitor an order under subsection (1) of this section, the Court may make one or more of the following further orders, namely, an order or orders—

- (i) directing a specified bank to furnish any information in its possession that the Society require relating to any aspect of the financial affairs of the practice of the solicitor;
- (ii) directing the solicitor to swear an affidavit disclosing all information relating to or contained in any account with any bank held in his own name, or in the name of his firm, or jointly with third parties, within a specified duration of time to be fixed by the Court;
- (iii) directing the solicitor to swear an affidavit disclosing all information as to his assets, either then in his possession or control or within his procurement or which had been but are no longer in his possession or control or within his procurement, within a specified duration of time to be fixed by the Court, and, if no longer in his possession or control or within his procurement, his belief as to the present whereabouts of those assets;
- (iv) directing the solicitor to make himself available before the Court on a specified date and at a specified time for oral examination under oath in relation to the contents of any affidavit of assets sworn by him pursuant to paragraph (iii) of this subsection.

(6) Where the High Court makes in relation to a

solicitor an order under subsection (1) of this section, the solicitor shall forthwith lodge (or cause to be lodged) in the manner prescribed under section 66 (1) (as substituted by the *Solicitors (Amendment) Act, 1994*) of the Principal Act any clients' moneys subsequently received by him to the appropriate client account or client accounts, unless otherwise ordered by the Court.

In subsection (7),  
"£1,500"  
substituted with  
"€3,000" by  
section 22(1)(i),  
2002 Act. See  
[page 219](#).

(7) A solicitor who refuses, neglects or otherwise fails without reasonable excuse to comply with subsection (6) of this section shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding ~~£1,500~~.

(8) Where the High Court is satisfied, on an application being made to it by the Society, that there is reason to believe that any person holds or has held moneys or assets on behalf of a solicitor or his firm to whom subsection (1) of this section applies, the Court may order that person to disclose to the Society all information as to such moneys or assets, either then in his possession or control or within his procurement or which had been but are no longer in his possession or control or within his procurement, and, if no longer within his possession or control or within his procurement, his belief as to the present whereabouts of those moneys or assets."

**29.**—The Act of 1960 is hereby amended by the substitution of the following section for section 21:

"Compensation for loss due to dishonesty of solicitor or clerk or servant of solicitor.

21.—(1) In this section and in section 22 of this Act—

'the Fund' means the Compensation Fund;

'grant' means a grant under subsection (4) of this section.

(2) The Society shall continue to maintain the Fund.

(3) The Fund shall be maintained and administered in accordance with the provisions of the Third Schedule to this Act.

(4) (a) Where it is proved to the satisfaction of the Society that any client of a solicitor has sustained loss in

Compensation for loss due to dishonesty of solicitor or clerk or servant of solicitor (section 21 of Act of 1960).

consequence of dishonesty on the part of that solicitor or any clerk or servant of that solicitor arising from that solicitor's practice as a solicitor within the jurisdiction of the State, then, subject to the provisions of this section, the Society shall make a grant to that client out of the Fund.

- (b) Subject to the provisions of this section, the amount of the grant referred to in paragraph (a) of this subsection shall be such as represents in the opinion of the Society reimbursement of the amount or value of the loss sustained with, where appropriate in the opinion of the Society, interest (at the rate per annum standing specified for the time being in section 26 of the Debtors (Ireland) Act, 1840, as varied from time to time pursuant to section 20 of the Courts Act, 1981) on the whole or any part of the amount or value of such loss in respect of the whole or any part of the period between the date when such loss was sustained and the date of the making of a grant, but excluding damages or any other form of loss consequent on the client of a solicitor being deprived of the amount or value of the loss sustained.

(5) Notwithstanding the foregoing provisions of this section, if it is shown to the satisfaction of the Society that a client of a solicitor has entrusted moneys to that solicitor, with express instructions to apply or to invest those moneys in a specified manner which would (if so applied or invested) have yielded a return higher than that which would have accrued had the moneys been applied or invested at the rate of interest standing specified for the time being in section 26 of the Debtors (Ireland) Act, 1840, as varied from time to time pursuant to section 20 of the Courts Act, 1981, and the solicitor has dishonestly misappropriated such moneys, the amount granted under subsection (4) of this section shall, in lieu of interest at the rate mentioned in that subsection, include an amount representing such higher return in respect of the whole or any part of the period, as appropriate, between the date when such moneys were so entrusted to that solicitor and the date of the making of a grant.

In subsection (6),  
“£350,000”  
substituted with  
“€700,000” by  
section 16(a),  
2002 Act. See  
[page 214](#).

(6) The amount of a grant made to any client of a solicitor (including any body or bodies corporate beneficially owned or controlled by that client) under subsection (4) of this section shall not exceed ~~£350,000~~ in respect of matters arising from the relationship between such client and that solicitor.

(7) The Minister may, from time to time, vary by regulations the amount specified in subsection (6) of this section having regard to changes in the value of money generally in the State since the said amount was first specified.

(8) Notwithstanding the amount specified in subsection (6) of this section (as may from time to time be varied pursuant to subsection (7) of this section), a grant of a larger amount may, at the discretion of the Society, be made to a client of a solicitor, where the Society are of opinion that the particular circumstances giving rise to the making of a grant under subsection (4) of this section are such that none of the provisions of subsection (9) of this section apply and that grave hardship would be caused if such grant of a larger amount was not made (whether in one sum or in such instalments as the Society, in their discretion, determine).

(9) Notwithstanding the provisions of subsection (4) of this section, the Society shall have a discretion to make or refuse to make a grant—

- (a) in a case in which the solicitor did not have a practising certificate in force at the time when, in the opinion of the Society, the loss was sustained,
- (b) in a case in which the Society are of opinion that there has been dishonesty or negligence on the part of the client of the solicitor or of any person for whom that client is responsible which has contributed to the loss in question,
- (c) in a case in which the Society are of opinion that the client of the solicitor has assisted (whether by act or omission) in the commission of misconduct by the solicitor,
- (d) in a case in which the Society are of opinion that the loss sustained has arisen

otherwise than as a result of the dishonest misappropriation or dishonest conversion of moneys, securities or other property of a client of a solicitor entrusted by the client, or by any other person for or on behalf of the client, to that solicitor or to any clerk or servant of that solicitor,

- (e) in a case in which the Society are of opinion that, having regard to all the circumstances, the loss sustained by the client of the solicitor did not arise from, or was not directly related to, the provision of services of a legal nature to the client by the solicitor,

and, where the Society decide to make a grant in any such case, they shall have a discretion to make it only to a limited extent.

(10) A grant may be made notwithstanding that the solicitor has, after the act of dishonesty, died, had his name removed from or struck off the roll, ceased to practise, been suspended from practice, or had his practising certificate suspended.

(11) No grant may be made in respect of a loss made good otherwise.

(12) (a) On the making of any grant to any client of a solicitor in respect of any loss—

- (i) the Society shall, to the amount of the grant, be subrogated—

(I) to any rights or remedies to which that client was entitled on account of the loss against the solicitor or any other person or against the estate of such solicitor or other person,

(II) to any rights or remedies to which the solicitor or his clerk or servant was entitled on account of the loss against any other person or against the estate of such other person, and

(III) to all other rights and remedies (if any) of that client or such solicitor, clerk or servant in respect of the loss; and

(ii) the client of the solicitor shall have no right under bankruptcy or other legal proceedings or otherwise to receive any sum out of the assets of the solicitor, clerk or servant in respect of the loss until the Society has been reimbursed the full amount of the grant.

(b) In paragraph (a) of this subsection, references to the client of a solicitor or to the solicitor, clerk or servant include, in the event of his or their death, insolvency or other disability, references to his or their personal representative or any other person having authority to administer his or their estate or estates.

(13) No grant shall be made unless notice of the loss is received by the Society—

(a) in the prescribed manner, and

(b) within the prescribed period after the loss comes to the knowledge of the client of the solicitor concerned.

(14) The Society, for the purposes of inquiry into any matters which may affect the making or refusal of a grant, may take evidence on oath, and the administration of such oath is hereby authorised.

(15) (a) A grant may, at the discretion of the Society, be paid either in one sum or in such instalments as the Society may determine.

(b) The Society, if they are of opinion that the financial stability of the Fund so requires, may postpone payment of any grant or any instalment of any grant.

(16) Where the Society are of opinion that—

- (i) there has been no dishonesty or negligence on the part of a solicitor, and
- (ii) that solicitor is vicariously liable to any one or more of his or his firm's clients who has or have sustained loss in consequence of dishonesty on the part of any partner of that solicitor in circumstances where, but for such vicarious liability of that solicitor, a grant would have been made under subsection (4) of this section to such client or clients,

a grant may, nonetheless, at the discretion of the Society, be made under subsection (4) of this section to any such client or clients of an amount determined by the Society, subject to the provisions of this section.

(17) For the purposes of this section, a solicitor or a body corporate beneficially owned or controlled by that solicitor shall not be a client of a solicitor's practice in which he is the sole practitioner or in which he is a partner.

(18) The Society may apply, by regulations, to the extent provided in such regulations, the provisions of this section to a solicitor's practice outside the jurisdiction of the State."

**30.**—The Act of 1960 is hereby amended by the substitution of the following section for section 22:

"Contributions to the Compensation Fund by solicitors.

22.—(1) Before a practising certificate is issued to a solicitor in respect of the practice year following the coming into operation of this section or any subsequent practice year, he shall pay to the Society an annual contribution to the Fund of such amount as may be prescribed from time to time, and the registrar may withhold the issue of such practising certificate to that solicitor until the payment is made.

Contributions to the Compensation Fund by solicitors (section 22 of Act of 1960).

In subsection (2), "£1,000,000" substituted with "€2,000,000" by section 16(b), 2002 Act. See [page 214](#).

(2) In exercising the powers conferred on them under this section, the Society shall have regard to the principle that the total amount standing to the credit of the Fund (including the value of all investments forming part of the Fund) should be not less than €1,000,000, or such greater sum as may be

prescribed from time to time, on the date that is three months after the commencement date of each practice year.

(3) No annual contribution to the Fund shall be payable by a solicitor in the full-time service of the State within the meaning of section 54 (3) (as substituted by the *Solicitors (Amendment) Act, 1994*) of the Principal Act.

(4) The Society may, by regulations, provide that no contribution to the Fund shall be payable by a solicitor who resides outside the State and is engaged in the provision of legal services outside the State.

(5) Notwithstanding the provisions of section 21 of this Act (as substituted by the *Solicitors (Amendment) Act, 1994*), no grant shall be made out of the Fund in consequence of dishonesty on the part of a solicitor in the full-time service of the State or any clerk or servant of that solicitor. "

Section 30A inserted by section 46 of the Investor Compensation Act, 1998. See [page 188](#).

**31.**—The Principal Act is hereby amended by the substitution of the following section for section 61:

Intervention in practice of sole practitioner in cases of death, incapacity, bankruptcy, or abandonment (section 61 of Principal Act).

"Intervention in practice of sole practitioner in cases of death, incapacity, bankruptcy, or abandonment.

61.—(1) Where a solicitor who was a sole practitioner has died, his personal representative may appoint another solicitor to carry on his practice for such period and on such terms as the Society may think fit.

(2) Where a solicitor who is a sole practitioner becomes of unsound mind or becomes otherwise incapacitated by illness or accident to such an extent that he is, in the opinion of the Society, incapable (whether permanently or temporarily) of managing his own affairs or the affairs of his practice, the High Court may, on the application of the Society (or, if applicable, on the application of the committee of his estate on notice to the Society), appoint another solicitor to carry on the practice (including the operation by that appointed solicitor, either solely or jointly with another person nominated by the Society and approved of by the Court, of any client account) of that incapacitated solicitor for such period and on such terms as the Court thinks fit, and may require the production and delivery to the appointed solicitor of all documents of such practice in the possession or control or within the procurement of that incapacitated solicitor or any clerk or servant or former clerk or servant of that incapacitated solicitor.

(3) Where a solicitor who is a sole practitioner is adjudicated a bankrupt, then, as the case may be —

(a) the court by whom he is adjudicated a bankrupt, after due notice to the Society, or

(b) the High Court, on the application of the Society or of the Official Assignee,

may appoint another solicitor to carry on the practice of that solicitor for such period and on such terms as that court or the High Court thinks fit.

(4) Where, in relation to a solicitor who is a sole practitioner, any of the circumstances of paragraph (b) of section 19 (1) (as substituted by the *Solicitors (Amendment) Act, 1994*) of the Act of 1960 apply, the High Court may, on the application of the Society, appoint another solicitor to carry on the practice (including the operation by that appointed solicitor, either solely or jointly with another person nominated by the Society and approved of by the Court, of any client account) of the solicitor for such period and on such terms as the Court thinks fit, and may require the production and delivery to the appointed solicitor of all documents of such practice in the possession or control or within the procurement of that solicitor or any clerk or servant or former clerk or servant of that solicitor.

(5) Any reference to a 'personal representative' in this section or in *section 32 or 34* of the *Solicitors (Amendment) Act, 1994*, shall be construed as a reference to any person or persons entitled to apply for a grant of probate or for letters of administration in relation to the estate of a deceased solicitor."

**32.**—(1) Where a solicitor who was a sole practitioner has died, and another solicitor has not been appointed within four weeks of his death to carry on his practice under section 61 (1) (as substituted by this Act) of the Principal Act, then, without prejudice to the rights of any personal representative under that section, the right to operate or otherwise deal with any client account in the name of the deceased solicitor or his firm shall vest in the Society and shall be exercisable as and from the death of that solicitor by a solicitor appointed in writing by the Society in that behalf for such period and on such terms as the Society may determine and the Society shall be empowered to take any further measures in relation to the practice as they deem necessary in the interests of the clients of the deceased solicitor.

Intervention in practice of solicitor who has died.

(2) Where the Society have operated or otherwise dealt with a client account under *subsection (1)* of this section, the Society shall be entitled to recover from the estate of the deceased solicitor such reasonable expenses as the Society have thereby incurred.

(3) The Society may apply to the High Court for an order in relation to the disposal of any moneys that are in any client account of any sole practitioner who died before or after the provisions of this section come into effect, or in relation to the disposal of any documents in his practice and the Court may make such order as it thinks fit.

(4) Where a solicitor who was a sole practitioner has died and where the Society are of opinion that that solicitor or any clerk or servant of that solicitor has been guilty of dishonesty arising from that solicitor's practice as a solicitor and that, notwithstanding his death, it is appropriate for the Society to issue proceedings with a view to applying to the High Court for an order or orders under section 20 (as substituted by this Act) of the Act of 1960 in relation to that deceased solicitor, the Society may issue proceedings naming as defendant or defendants a clerk or servant or other person closely connected with the practice of, or spouse or relative of, or personal representative of, that deceased solicitor, and may apply to the Court, with or without prior notice to such defendant or defendants, for such orders as the Society deem appropriate.

(5) The High Court, on the hearing of any application under *subsection (4)* of this section, may make such order or orders under section 20 (as substituted by this Act) of the Act of 1960 on such terms and conditions (if any) as the Court thinks fit, including an order joining any other person or persons as defendant or defendants or an order requiring that notice be given to any person or persons of such application.

(6) Where an order is made by the High Court under *subsection (5)* of this section, the Court, with or without prior notice to any person or persons, may make such further order or orders on such terms and conditions (if any) as the Court thinks fit to enable the Society to have access to the former place or places of business of the deceased solicitor concerned and to examine and take into their possession all documents found there to be retained by the Society in their possession until such time as their investigations in relation to the practice of that deceased solicitor are completed, whereupon the Society shall deliver such documents or any part of them to such person or persons whom the Society deem entitled to receive them or as may be directed by the Court.

(7) (a) Where an order in respect of documents is made by the High Court under *subsection (6)* of this section, the Society may make such enquiries as may be reasonably necessary to ascertain the person or persons entitled to the possession or custody of such documents, or any of them, and may thereafter deal with such documents, or any of them, in accordance with the directions of such person or persons so entitled.

(b) For the purposes of *paragraph (a)* of this subsection, the provisions set out in the Second Schedule (as amended by

Subsection (4) amended by the insertion of "civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010" after "spouse" by section 170 and the Schedule to the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

this Act) to the Act of 1960 shall have effect.

(8) Notwithstanding the making of an order by the High Court under *subsection (6)* of this section, any person or persons may apply to the Court for an order directing the Society to deliver to such person or persons the documents, or any of them, so taken by the Society into their possession and the Court may make such order on such terms and conditions (if any) as the Court thinks fit.

**33.**—(1) Where, in relation to any solicitor or deceased solicitor to whom section 61 (as substituted by this Act) of the Principal Act or *section 32* of this Act applies, the Society are of the opinion that the conduct of such solicitor or deceased solicitor, arising from his practice as a solicitor, has given, or is likely to give, rise to the Society making a grant or grants out of the Compensation Fund, the High Court may, on the application of the Society and after due notice to and after hearing such person or persons as the Court may think fit, authorise the Society to sell the practice of that solicitor (including, where appropriate, premises, furniture, fittings and equipment and goodwill of such practice), upon such terms, including such terms as to the temporary investment of the proceeds of sale of the practice pending the hearing of an application under *subsection (3)* of this section as the Court thinks fit.

Sale of solicitor's practice in certain circumstances.

(2) (a) Where the Society have sold the practice of a solicitor or deceased solicitor pursuant to *subsection (1)* of this section, the Society shall, within a period of four weeks following the date of completion of the sale, make application to the High Court for directions as to the manner in which the proceeds of such sale are to be applied.

(b) Notice of such application shall be given by the Society in at least one daily newspaper circulating in the area in which the solicitor or deceased solicitor carried on practice not less than 10 days prior to the hearing of the application, and the notice shall state that persons having claims against the solicitor or deceased solicitor may attend the hearing.

(3) On an application made to the High Court pursuant to *subsection (2) (a)* of this section, the Court may, after hearing such person or persons as the Court may think fit, by order direct that the proceeds of sale, or such part thereof as the Court thinks fit, of the practice of the solicitor—

(a) be paid to the Compensation Fund, or

(b) be held in trust by the Society for such period and on such terms as to the investment of such proceeds as the Court may specify, and the Court may make one or more orders in exercising its powers under this subsection.

(4) (a) Where the High Court orders that any proceeds of the sale of a practice be kept in trust for a specified period under

*subsection (3) (b)* of this section, the Society shall cause notice of the making of that order to be given in at least one daily newspaper circulating in the area in which the solicitor or deceased solicitor carried on practice.

- (b) Notice of the making of an order under *subsection (3) (b)* of this section shall, in addition, indicate that persons having claims against the solicitor or deceased solicitor should furnish details of their claims to the Society within 21 days of the date of publication of such notice or such longer period as the High Court may order, and the Society shall keep a record of all such claims received.
- (5) (a) The Society shall, prior to the expiry of the period specified by the High Court pursuant to *subsection (3) (b)* of this section and after the expiry of the time limit for the furnishing of claims pursuant to *subsection (4) (b)* of this section, apply to the Court for directions as to the disposal of any proceeds of sale of a practice held in trust by the Society pursuant to *subsection (3) (b)* of this section.
- (b) On an application under this subsection, the Society shall furnish to the High Court a list of all claims against the solicitor or deceased solicitor received by the Society, and the Court may direct that notice of the application for directions be given to such person or persons as the Court thinks fit.
- (6) The High Court may, on the application of the Society and after due notice to and after hearing such person or persons as the Court thinks fit, make such order or orders as the Court thinks fit to facilitate the completion of the sale of the practice of a solicitor or deceased solicitor sold or to be sold pursuant to *subsection (1)* of this section, including orders as to the transfer of property, the discharge of encumbrances and the indemnifying by the Society of any purchaser of such practice.

**34.—**(1) The Second Schedule to the Act of 1960 shall have effect in relation to all or any documents taken into the possession of the Society under any provision of the *Solicitors Acts, 1954 to 1994*.

Ancillary provisions in relation to certain applications or orders (Second Schedule to the Act of 1960)

(2) The Second Schedule to the Act of 1960 is hereby amended by—

- (a) the substitution for the heading thereof and the introductory four line paragraph of the following:

*"Provisions Having Effect in Relation to any Documents of a Solicitor's Practice taken into the Possession of the Society"*

The following provisions shall have effect in relation to any documents of a solicitor's practice taken into the possession of the

Society:",

(b) the insertion of the following paragraph:

"(h) The foregoing provisions of this Schedule shall have effect in relation to documents notwithstanding the existence or alleged existence of any right to possession or retention of such documents or any of them vested in any solicitor or in any other person."

(3) The High Court, on the application of the Society and after due notice to and after hearing such person or persons as the Court thinks fit, may order that vouched expenditure incurred by the Society under section 19 (as substituted by this Act) of the Act of 1960 or section 61 (as substituted by this Act) of the Principal Act or *section 32* of this Act, including the costs of any person exercising powers and functions under those provisions on behalf of the Society, shall be recouped to the Society by the solicitor concerned or his personal representative and shall be recoverable as a debt owing to the Society.

Section 35 amended by the substitution of "Society" with "Society and to the Authority" by section 202, LSRA 2015. See [page 390](#).

**35.**—Without prejudice to any specific provision as to notice contained in any section of the Principal Act or the Act of 1960 or this Act, notice of any application brought by any person to any court pursuant to or in connection with the *Solicitors Acts, 1954 to 1994*, shall be given to the Society, unless a court otherwise orders.

Notice of court applications to be given to Society.

**36.**—(1) Without prejudice to any other defence, it shall be a defence to an action for damages against the Society in relation to exercising or in relation to not exercising any power conferred on the Society by the *Solicitors Acts, 1954 to 1994*, for the Society to prove that—

Defences in actions against Society.

(a) the Society, in relation to exercising or not exercising their powers, have acted in good faith, and

(b) the Society, in relation to exercising their powers, have acted reasonably having regard to all the circumstances.

(2) In this section "the Society" includes any person acting for or appointed by the Society.

**37.**—(1) A solicitor shall not, without the written consent of the Society, commence to carry on practice—

Restriction following admission as solicitor on practising as a sole practitioner.

(a) as a sole practitioner, or

(b) as a partner with another solicitor or other solicitors, except where such other solicitor or one of them has been continuously engaged full-time in the provision of legal services for a period of not less than three years at the time of

such commencement,

unless, following the date of his admission as a solicitor, he has been employed full-time as a solicitor in the provision of legal services for such period not exceeding three years as may be prescribed, and lesser periods of such employment may be aggregated in reckoning the period so prescribed.

(2) A solicitor who may not practise as a sole practitioner, or as a partner with another solicitor or other solicitors, by virtue of the provisions of *subsection (1)* of this section, shall attend such course or courses of further education or training (or both) as may be prescribed.

(3) In considering an application for their consent under *subsection (1)* of this section, the Society may have regard to any professional experience gained by a solicitor in another jurisdiction.

(4) Where the Society refuse to grant their consent to a solicitor under *subsection (1)* of this section, that solicitor may appeal against their refusal to the President of the High Court who may make such order as he thinks fit.

(5) The Society shall be entitled to be heard in connection with the hearing of an appeal under *subsection (4)* of this section.

Subsection (1) amended by the substitution of "the Solicitors Acts 1954 to 1994" with "the Solicitors Acts 1954 to 2015, or the Legal Services Regulation Act 2015" and by the insertion of "or the Authority" after "Society" by section 203(a), LSRA 2015. See [page 391](#).

**38.**—(1) On any application coming before it under the ~~*Solicitors Acts, 1954 to 1994*~~, the High Court may make such order as it thinks fit in relation to a solicitor, including any order in relation to the production, delivery, inspection, disposal or destruction of any document or documents in the possession or control or within the procurement of that solicitor or any clerk or servant or any former clerk or servant of that solicitor or his firm, to protect or secure the rights of a client or clients of that solicitor or the public interest or the interests of the solicitors' profession as a whole, or to enable the Society to discharge their functions under those Acts, without prejudice to the determination of any issue that may be, or may later come, before the Court as to the conduct of the solicitor named in such order.

General powers of the High Court.

(2) The High Court, on the hearing of any application or appeal coming before it under the ~~*Solicitors Acts, 1954 to 1994*~~, may make such order as to costs as the Court thinks fit.

**39.**—The Act of 1960 is hereby amended by the substitution of the following section for section 12:

Finality of orders of the High Court (section 12 of Act of 1960).

"Appeals to Supreme Court.

12.—The Society or the solicitor concerned may appeal to the Supreme Court against an order of the High Court made under section 8 (1) (as substituted by the *Solicitors (Amendment) Act, 1994*) or section 9 or 10 (as amended by the *Solicitors (Amendment) Act, 1994*) of this Act within a period of 21 days beginning on the date of the order, and unless the

Subsection (2) amended by the substitution of "the Solicitors Acts 1954 to 1994" with "the Solicitors Acts 1954 to 2015, or the Legal Services Regulation Act 2015" by section 203(b), LSRA 2015. See [page 391](#).

High Court or the Supreme Court otherwise orders, the order of the High Court shall have effect pending the determination of such appeal."

## PART V

### QUALIFYING FOR ADMISSION AS A SOLICITOR

**40.**—The Principal Act is hereby amended by the substitution of the following section for section 24:

"Requirements for admission as solicitor.

24.—(1) Subject to this Part of this Act, a person shall not be admitted as a solicitor unless—

Requirements for admission as solicitor (section 24 of Principal Act).

- (a) he has attained the age of 21 years,
- (b) he has been bound by indentures of apprenticeship for the appropriate term and has satisfied the Society that he has duly served under such indentures of apprenticeship, or has been exempted, as may be prescribed, from being bound by or from service under such indentures of apprenticeship,
- (c) he has duly attended such course or courses of education or training (or both) and passed such examination or examinations as may be prescribed, or has been exempted as may be prescribed from attending such course or courses or passing such examinations, or any of them, except those examinations that are obligatory for him,
- (d) he has complied with the prescribed requirements (if any) as to service under indentures of apprenticeship and admission of persons to be solicitors or compliance therewith has been waived in the prescribed manner by the Society, and
- (e) he has satisfied the Society that he is a fit and proper person to be admitted as a solicitor.

(2) (a) Where the Society decide that a person has not satisfied them that he is a fit and proper person to be admitted as a solicitor, the Society shall, as soon as practicable, send a notice in writing to that person stating that decision, the date thereof and the reasons therefor.

(b) A person to whom a decision under paragraph (a) of this subsection relates may, within a period of two months from the date of receipt from the Society of notice in writing stating that decision, apply to the President of the High Court to rescind that decision and the President of the High Court, on hearing such application, and on directing such further enquiries as he may think fit, may by order—

(i) confirm that it was proper for the Society to make the decision, or

(ii) rescind the decision and declare that person to be a fit and proper person to be admitted as a solicitor."

**41.**—The Principal Act is hereby amended by the substitution of the following section for section 25:

"Requirements for admission to apprenticeship.

25.—Subject to this Part of this Act, a person shall not be capable of being bound by indentures of apprenticeship unless—

Requirements for admission to apprenticeship (section 25 of Principal Act).

(a) he has attained the age of 17 years,

(b) he has duly attended such course or courses of education or training (or both) as may be prescribed pursuant to section 40 (as amended by the *Solicitors (Amendment) Act, 1994*) of this Act,

(c) he has passed such examination or examinations as may be prescribed pursuant to section 40 (as amended by the *Solicitors (Amendment) Act, 1994*) of this Act,

- (d) he has obtained the written consent of the Society under section 27 (2) (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, and
- (e) he has complied with any requirements as may be prescribed as to admission to apprenticeship, or compliance therewith has been waived as may be prescribed."

**42.**—The Principal Act is hereby amended by the substitution of the following section for section 26:

Term of indentures  
(section 26 of  
Principal Act).

"Term of  
indentures.

26.—(1) The Society may by regulations provide for the term or terms (not to exceed two years) of service under indentures of apprenticeship of persons (including law clerks) or specified categories of persons seeking to be admitted as solicitors and any such regulations shall apply to indentures of apprenticeship existing at the date on which such regulations come into effect.

(2) On the date which is six months after the coming into operation of this section, or the coming into effect of regulations made under subsection (1) of this section, whichever is the sooner, the provisions of the Second Schedule to this Act shall cease to have effect.

(3) In this section 'law clerk' means a person who has satisfied the Society—

- (a) that he has for a continuous period of at least five years been a *bona fide* clerk to a practising solicitor or solicitors,
- (b) that he has, during such period, been *bona fide* engaged in the transaction and performance under the direction and supervision of a practising solicitor or solicitors of such legal business as the Society are satisfied was of a sufficiently responsible nature, and
- (c) that he has diligently served as such clerk."

**43.**—The Principal Act is hereby amended by the substitution of the

Evidence of

following section for section 27:

"Evidence of education, employment and character.

education, employment and character (section 27 of Principal Act).

27.—(1) Before a person becomes bound by indentures of apprenticeship, he shall give notice to the Society of his intention so to do and shall furnish the Society with such evidence as may be prescribed of his previous education and employment record and of his character.

(2) Where the Society are satisfied with the evidence furnished under subsection (1) of this section by a person seeking to become bound by indentures of apprenticeship and with any information obtained from any enquiries they deem it proper to make and are satisfied that that person has complied with the provisions of paragraphs (a), (b), (c) and (e) of subsection (1) of section 25 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, the Society shall issue their written consent to such person becoming bound by indentures of apprenticeship.

(3) Where the Society are not satisfied with the evidence furnished under subsection (1) of this section by a person seeking to become bound by indentures of apprenticeship, the Society may decide to refuse to issue their written consent under subsection (2) of this section to such person becoming bound by indentures of apprenticeship, and where the Society so decide they shall, as soon as practicable, send a notice in writing to that person stating the decision, the date thereof and the reasons therefor.

(4) A person to whom a decision made under subsection (3) of this section relates may, within a period of two months from the date of receipt by him of notice in writing stating that decision, apply to the President of the High Court to rescind that decision, and the President of the High Court, on hearing such application and on directing such further enquiries as he may think fit, may by order—

- (i) confirm that it was proper for the Society to make that decision, or
- (ii) rescind that decision and direct the Society to issue their written consent under subsection (2) of this section to such person becoming bound by indentures of apprenticeship.

(5) The registrar shall refuse to register indentures of apprenticeship produced to him under section 28 of this Act unless the indentures are accompanied by a consent issued under this section and dated not earlier than six months before the date of the indentures.

(6) Service of an apprentice under indentures of apprenticeship of which registration has been refused under this section shall be deemed not to be good service by the apprentice under his indentures."

**44.**—The Principal Act is hereby amended by the substitution of the following section for section 29:

"Restriction on solicitor taking or retaining apprentice.

29.—(1) Only a practising solicitor may take an apprentice under indentures of apprenticeship.

(2) A practising solicitor who has not at some time been in continuous practice as a solicitor for a period of at least ~~five~~ years shall not, without the written consent of the Society, take an apprentice.

(3) Where a solicitor, who has taken an apprentice under indentures of apprenticeship the term of which is unexpired, ceases to practise or to be a solicitor qualified to practise or becomes employed as an assistant or clerk by another solicitor, he shall not, without the written consent of the Society, retain that apprentice for longer than six months thereafter.

(4) Where a solicitor has taken or retains an apprentice under indentures of apprenticeship in contravention of the foregoing provisions of this section, service or continued service by that apprentice under such indentures of apprenticeship shall be deemed not to be good service, unless the Society direct otherwise.

(5) In this section and in sections 26, 32, 36, 40, 43 and 44 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act 'practising solicitor' means a solicitor engaged full-time in the provision of legal services as—

(a) a sole practitioner, or

(b) a partner in a firm of solicitors, or

Restriction on solicitor taking or retaining apprentice (section 29 of Principal Act).

Subsection (2) amended by substituting "four" for "five" by section 33, 2008 Act. See [page 230](#).

(c) a solicitor in the whole time employment of a body corporate, or

(d) a solicitor in the full-time service of the State within the meaning of section 54 (3) (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act."

**45.**—The Principal Act is hereby amended by the substitution of the following section for section 32:

"Assignment of indentures on death of solicitor, etc.

32.—Where, before the expiration of the term for which an apprentice is bound by indentures of apprenticeship—

(a) the solicitor concerned dies or ceases to practise as a solicitor, or

(b) the indentures of apprenticeship are cancelled by mutual consent, or

(c) the indentures of apprenticeship are discharged by virtue of an order of the Society or of any court or otherwise,

the apprentice may, with the written consent of the Society, be bound by an assignment of the indentures of apprenticeship or by fresh indentures of apprenticeship to another practising solicitor for the residue of the said term."

Assignment of indentures on death of solicitor, etc. (section 32 of Principal Act).

**46.**—The Principal Act is hereby amended by the substitution of the following section for section 33:

"General power to discharge indentures.

33.—(1) Where the Society are of opinion that indentures of apprenticeship ought to be discharged, the Society may, after due notice to, and after due consideration of any submissions from, each party to the indentures of apprenticeship, by order discharge the indentures of apprenticeship on such terms (if any) as they think fit, and determine what period (if any) of service by the apprentice under the indentures of apprenticeship should be deemed good service.

(2) Where the Society make an order pursuant to subsection (1) of this section, the Society shall, as soon as practicable, send a notice in writing to each party to the indentures of apprenticeship stating the

General power to discharge indentures (section 33 of Principal Act).

terms of the order, the date thereof and the reasons therefor.

(3) A party to indentures of apprenticeship, the subject of an order of the Society made pursuant to subsection (1) of this section, may, within a period of two months from the date of receipt by him of notice in writing pursuant to subsection (2) of this section, apply to the President of the High Court to rescind that decision, and the President of the High Court, on hearing such application and on directing such further enquiries as he may think fit, may, by order—

(a) confirm that it was proper for the Society to make such an order, or

(b) rescind or vary the order of the Society,

and give such consequential directions (if any) as he thinks fit, including a direction as to what period (if any) of service by the apprentice under the indentures of apprenticeship should be deemed good service."

47.—The Principal Act is hereby amended by the substitution of the following section for section 36:

Number of apprentices (section 36 of Principal Act).

"Number of apprentices.

36.—(1) Subject to subsection (2) of this section, a practising solicitor shall not have more than two apprentices at the same time under indentures of apprenticeship.

(2) A practising solicitor may, with the written consent of the Society, have under indentures of apprenticeship one apprentice for every two assistant solicitors in his employment or in the employment of his firm at the date of the registration under section 28 of this Act of each such indentures of apprenticeship.

(3) Where a practising solicitor has, under subsection (2) of this section, an apprentice or apprentices under indentures of apprenticeship the terms of which are unexpired, that solicitor shall notify the Society in the event of the number of assistant solicitors employed being reduced below the ratio provided for in that subsection and the notification shall be made within three months of the reduction of the number of assistant solicitors below the said ratio.

(4) Where the Society have been notified under subsection (3) of this section or otherwise become aware of a reduction in the number of assistant solicitors employed below the ratio provided for in that subsection, service or continued service under his indentures of apprenticeship by each apprentice concerned shall be deemed not to be good service, unless the Society direct otherwise."

**48.**—The Principal Act is hereby amended by the substitution of the following section for section 37:

Obligation to serve *bona fide* apprenticeship (section 37 of Principal Act).

"Obligation to serve *bona fide* apprenticeship.

37.—An apprentice shall, during the whole term of his indentures of apprenticeship serve, in the prescribed manner, a *bona fide* apprenticeship."

**49.**—Section 40 of the Principal Act is hereby amended by—

Amendment of section 40 of Principal Act.

(a) the substitution of the following subsection for subsection (1):

"(1) The Society may—

- (a) either on their own or by arrangement with or in association with any other body or institution, provide or procure the provision of courses and the holding of examinations for the education or training (or both) of—
  - (i) persons seeking to be admitted as solicitors, or
  - (ii) solicitors or other persons;
- (b) authorise any other body or institution, either on its own or by arrangement with or in association with the Society, to provide or procure the provision of courses and the holding of examinations for the education or training (or both) of—
  - (i) persons seeking to be admitted as solicitors, or
  - (ii) solicitors or other persons;
- (c) join or associate with any other body or institution providing education or training (or both) in providing or procuring the provision of courses and the holding of examinations leading, in appropriate cases, to a joint or common qualification;

- (d) provide for aptitude or other testing of persons seeking to be admitted as solicitors;
  - (e) appoint professors, lecturers, tutors and examiners;
  - (f) award diplomas, certificates and other awards of merit.";
- (b) the substitution of the following subsection for subsection (4):

"(4) Regulations for the purposes of this section shall provide for the holding by the Society, either on their own or by arrangement with or in association with any other body or institution, at least once in every 12 month period, of—

- (a) a preliminary examination (of such content and form and standard as may be prescribed) to be passed by a person seeking to be bound under indentures of apprenticeship who is not otherwise exempted therefrom pursuant to section 41 (as substituted by the *Solicitors (Amendment) Act, 1994*) and section 42 of this Act;
  - (b) such other examination or examinations as are required by the Society to be passed by a person seeking to be admitted as a solicitor.";
- (c) the substitution for paragraphs (a), (b) and (c) of subsection (5) of the following paragraphs:

"(a) restricting the taking of apprentices to practising solicitors whose fitness and capacity to train apprentices is deemed satisfactory by the Society,

(b) the attendance of apprentices, intending apprentices or other persons seeking to be admitted as solicitors at education or training courses (or both) and the content of such education or training courses,

(c) the passing by apprentices, intending apprentices, or other persons seeking to be admitted as solicitors of such examination or examinations as are required by the Society to be passed by a person before being admitted as a solicitor,";

- (d) the substitution for paragraphs (i) and (j) of subsection (5) of the following paragraphs:

- "(i) the control and discipline of apprentices, intending apprentices or other persons seeking to be admitted as solicitors,
- (j) the exemption, subject to this Act, from courses or examinations (or both), in whole or in part, of persons who produce satisfactory evidence that they have acquired degrees or professional qualifications of a standard and content deemed satisfactory by the Society and awarded by a university or body or institution recognised by the Society as being appropriate, or who have such other special qualifications as the Society deem appropriate,
- (k) the holding of courses of further education or training (or both) and the required attendance by solicitors or any specified category of solicitors at one or more of such courses,
- (l) the designation of an age below which persons may not sit for the preliminary examination,
- (m) the awarding of diplomas, certificates or other awards of merit to solicitors or other persons who have duly completed prescribed courses or passed prescribed examinations (or both)."; and
- (e) the insertion of the following subsections:

"(7) Regulations made pursuant to this section shall be made only with the concurrence of the Minister.

(8) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder."

**50.**—The Principal Act is hereby amended by the substitution of the following section for section 41:

"General exemption from preliminary examination.

41.—The preliminary examination of the Society shall not be required to be passed—

- (a) by a person who holds a degree from any of the universities of Ireland, England, Scotland or Wales, or a degree

General exemption from preliminary examination (section 41 of Principal Act).

conferred or recognised by the National Council for Educational Awards under section 3 of the National Council for Educational Awards Act, 1979,

- (b) by a person who has passed an examination prescribed as being equivalent thereto, or
- (c) by a person who holds the degree of barrister-at-law from the Honorable Society of King's Inns, Dublin, or other professional qualification prescribed as being equivalent thereto."

**51.**—The Principal Act is hereby amended by the substitution of the following section for section 43:

Exemptions for practising barristers (section 43 of Principal Act).

"Exemptions for practising barristers.

43.—(1) This section applies to a person—

- (a) who seeks to be admitted as a solicitor,
- (b) who has been called to the bar of Ireland and has practised as a barrister in the State for such period (not exceeding three years) and at such time or times as may be prescribed,
- (c) who has procured himself to be disbarred with a view to being admitted as a solicitor,
- (d) who has obtained from two of the Benchers of the Honorable Society of the King's Inns, Dublin, a certificate of his being in good standing while he was practising as a barrister in the State, and
- (e) who has satisfied the Society that he is a fit and proper person to be admitted as a solicitor.

~~(2) Subject to subsection (8) of this section, the following provisions shall have effect in relation to a person to whom this section applies:~~

- ~~(a) he shall not be required to obtain a certificate of his having passed any examination of the Society other than~~

Subsection (2) repealed by section 4(c), Irish Language Act 2008. See [page 226](#).

~~the final examination (being the examination or an examination in like form referred to in section 40 of this Act before the coming into operation of section 49 of the *Solicitors (Amendment) Act, 1994*, as 'a final examination' and in this section referred to as the final examination) and (if obligatory on him) the second examination in the Irish language which is referred to in the said section 40, but he shall not be re-examined in any subject of substantive law which he has passed or is deemed to have passed as part of a qualifying examination for the degree of barrister at law,~~

- ~~(b) he shall be entitled, without being bound under indentures of apprenticeship to a practising solicitor, to apply to present himself for the final examination;~~
- ~~(c) on passing the final examination (except so much of that examination as relates to indentures of apprenticeship and service thereunder) and (if obligatory on him) the second examination in the Irish language, he shall be entitled to apply to be admitted and enrolled as a solicitor.~~

(3) A person to whom this section applies shall not be required to become bound under indentures of apprenticeship to a practising solicitor but shall attend such courses (if any) and complete such training (if any) and pass such examinations (if any) as may be prescribed but he shall not be re-examined in any subject of substantive law which he has passed or is deemed to have passed as part of a qualifying examination for the degree of barrister-at-law.

~~(4) A person to whom this section applies shall not be required to pass any examination in the Irish language held by the Society under section 40 (3) of this Act if he has passed or was exempted from an examination in the Irish language prescribed by the Chief Justice under section 3 of the *Legal Practitioners (Qualification) Act, 1929*.~~

(5) Subject to the provisions of subsection (1) of this section, a person who has attended such courses (if any) completed such training (if any) and passed

Subsection (4) substituted by section 3, Irish Language Act 2008. See [pages 225-226](#).

such examinations (if any) as he shall have been required to undertake pursuant to regulations (if any) made under this section, shall be entitled to apply to be admitted and enrolled as a solicitor.

(6) For the purposes of this section, service by a person as a member of the judiciary in the State, or as a barrister in the full-time service of the State or as a barrister in employment shall be deemed to be practice as a barrister.

(7) In this section—

'barrister in employment' means a barrister who satisfies the Society in the prescribed manner that he has been engaged, under a contract of employment with an employer, full-time in the provision of services of a legal nature for a prescribed period (not exceeding three years) at such time or times as may be prescribed;

'barrister in the full-time service of the State' means a barrister who is required to devote the whole of his time to the service of the State in the provision of services of a legal nature and is remunerated for such service wholly out of moneys provided by the Oireachtas.

(8) Subsection (2) of this section shall stand repealed on the coming into operation of regulations made under subsection (3) of this section."

**52.**—The Principal Act is hereby amended by the substitution of the following section for section 44:

"Exemptions (reciprocal provisions).

44.—(1) In this section 'corresponding profession' means a profession in another jurisdiction, other than the jurisdiction of a Member State of the European Communities, which in the opinion of the Society corresponds substantially to the profession of solicitor.

Exemptions (reciprocal provisions) (section 44 of Principal Act).

(2) This section applies to a person who—

(a) is qualified to practise in a corresponding profession,

(b) has applied to the Society to be admitted

as a solicitor or who has been admitted as a solicitor under subsection (5) of this section having so applied, and

- (c) has satisfied the Society that he is a fit and proper person to be admitted as a solicitor.

(3) Subject to subsections (4) and (6) of this section, the following provisions shall have effect in relation to a person to whom this section applies:

- (a) he shall not be required to become bound under indentures of apprenticeship;
- (b) he shall not be required to comply with the provisions of section 40 (3) of this Act;
- (c) he shall be required to have practised his profession in the jurisdiction in which he is qualified to practise for such minimum period as may be prescribed;
- (d) he shall attend such course or courses of education or training (or both) and pass such examination or examinations as may be prescribed;
- (e) he shall not, for such period as may be prescribed (not to exceed three years) following the date of his admission as a solicitor (during which period he shall have worked full-time in the provision of legal services) commence to carry on practice—
  - (i) as a sole practitioner, or
  - (ii) as a partner with another practising solicitor or other practising solicitors unless that other practising solicitor or one of such other practising solicitors has been engaged full-time in the provision of legal services for a period of not less than three years at the time of such commencement;
- (f) he shall, during the period referred to in

paragraph (e) of this subsection, be required to attend such courses of further education or training (or both) as may be prescribed.

(4) The Society may waive in the prescribed manner, in whole or in part, any one or more of the provisions of paragraphs (c), (d), (e) or (f) of subsection (3) of this section in relation to any prescribed category of person to whom this section applies.

(5) A person to whom this section applies who has complied with the provisions of paragraphs (c) and (d) of subsection (3) of this section (insofar as they have not been waived in whole or in part under subsection (4) of this section) shall be entitled to be admitted as a solicitor.

(6) The Minister may by order appoint a day or days for the coming into operation of this section in relation to a corresponding profession in any jurisdiction being a day or days on which he is satisfied that reciprocal provisions will be in operation in that jurisdiction in respect of solicitors whose names are on the roll and he may revoke an order so made if such reciprocal provisions cease to apply."

**53.**—For the purposes of Part IV (as amended by this Act) of the Principal Act, the Society may prescribe by regulations the circumstances in and the conditions under which a person may become bound by indentures of apprenticeship to a person who holds a certificate issued by the Law Society of Northern Ireland or, in relation to England and Wales, the Law Society, corresponding to a practising certificate issued by the Society.

Exemption for certain apprentices.

## PART VI

### PRACTISING CERTIFICATES AND PRACTICE

**54.**—The Principal Act is hereby amended by the substitution of the following section for section 47:

"Application for practising certificate.

47.—(1) Subject to the provisions of this Act, the Society may make regulations with regard to—

Application for practising certificate (section 47 of Principal Act).

- (a) applications for practising certificates, and
- (b) the issue of practising certificates (including the form of such certificates).

(2) The Society may make regulations pursuant to subsection (1) of this section requiring that every solicitor who applies to the Society for a practising certificate in respect of a practice year commencing after a date specified in the regulations shall not be issued with such practising certificate unless such solicitor has furnished to the Society written evidence of there being in force the prescribed minimum level of cover for indemnity against losses arising from claims against him as required by indemnity regulations in force under *section 26* of the *Solicitors (Amendment) Act, 1994*, for the duration of the practice year in respect of which such practising certificate so applied for relates.

(3) The registrar shall maintain a register of practising solicitors (in this Act known as 'the register') and the register shall include the following particulars relating to each solicitor issued with a practising certificate—

- (a) the full name of the solicitor,
- (b) his place or places of business,
- (c) the date of his admission as a solicitor, and
- (d) particulars of his cover for indemnity against losses for claims against him required by indemnity regulations in force under *section 26* of the *Solicitors (Amendment) Act, 1994*.

- (4) (a) The register, which may be kept in an electronic or such other non-written form as is considered appropriate by the Society, shall be available for inspection during office hours without payment by any person who applies to inspect it,
- (b) if the register is kept in an electronic or other non-written form, the Society may comply with its obligation to have the register available for

inspection under paragraph (a) of this subsection by making any relevant entry in the register available in written form for inspection in accordance with the said paragraph (a), and

(c) the Society may publish at any time in whatever manner they deem appropriate the names and the place or places of business of solicitors entered on the register.

(5) Subject to the provisions of this Part of this Act and of the *Solicitors (Amendment) Act, 1994*, the registrar shall issue a practising certificate to a solicitor on application being duly made by him in that behalf, as may be prescribed.

(6) Where a solicitor alleges that the registrar has wrongly refused to issue him with a practising certificate, he may apply to the President of the High Court who may make such order in the matter as he thinks fit.

(7) On the coming into effect of regulations made under subsection (1) of this section, the provisions of the Third Schedule and the Fourth Schedule to this Act shall cease to have effect.

(8) The ~~Minister~~ may direct the Society to make regulations (or to amend regulations made) under subsection (1) of this section providing for the requirement set forth in subsection (2) of this section."

**55.**—(1) Notwithstanding the coming into effect of regulations made by the Society under section 47 (1) (as substituted by this Act) of the Principal Act, a practising certificate which is in force at the time of the passing of this Act shall, unless subsequently suspended pursuant to section 20 (3) (as substituted by this Act) of the Act of 1960 or *section 58* of this Act, continue in force until the end of the practice year during which it was issued and shall then expire.

(2) Section 48 of the Principal Act shall be amended with effect from the 1st day of January, 1996—

(a) by the substitution of the following subsection for subsection (1):

Saving for regulations made under section 47 of Principal Act and amendment of section 48 of Principal Act.

Section 179, LSRA 2015 not commenced at publication (Feb 2020). Go to [eLSB](#) to confirm current status.

Subsection (8) amended by the substitution of "Minister" with "Authority" by section 179, LSRA 2015. See [page 383](#).

"(1) A practising certificate issued during the period beginning on the 1st day of January in any year and ending on the next following 1st day of February shall bear the date of the said 1st day of January and a practising certificate not so issued shall bear the date of the day on which it is issued.",

(b) by the substitution in subsection (3) of:

"the 1st day of February" for "the 5th day of February" where it occurs.

**56.**—(1) No solicitor shall practise as a solicitor unless a practising certificate in respect of him is in force.

Prohibition on practising as solicitor without practising certificate.

(2) Without prejudice to section 29 (5) (as substituted by this Act) of the Principal Act, a solicitor shall be deemed to practise as a solicitor if he engages in the provision of legal services whether as a sole practitioner or as a partner in a solicitor's practice or as an employee of any solicitor or of any other person or body, or as a solicitor in the full-time service of the State within the meaning of section 54 (3) (as substituted by this Act) of the Principal Act.

(3) *Subsection (1)* of this section shall not apply to—

- (a) a solicitor in the full-time service of the State within the meaning of section 54 (3) (as substituted by this Act) of the Principal Act, or
- (b) a solicitor whose name is on the roll and who does not stand suspended from practice and who is employed full-time in the State to provide conveyancing services for his employer, provided that such employer is not a solicitor.

(4) In *paragraph (b)* of *subsection (3)* of this section "conveyancing services" means services in connection with the preparation of transfers, conveyances, contracts, leases or other assurances in connection with the disposition or acquisition of estates or interests in land.

**57.**—Without prejudice to the generality of section 3 (as amended by this Act) of the Act of 1960, and without prejudice to any provision of or proceedings under section 55 (as amended by this Act) of the Principal Act a solicitor who acts as a solicitor when not a solicitor qualified to practise under section 54 (as substituted by this Act) of the Principal Act by reason of a practising certificate in respect of him not being in force when such a practising certificate is required by the *Solicitors Acts, 1954 to 1994*, shall be guilty of misconduct.

Acting as a solicitor without a practising certificate.

Subsection (1) substituted in part by section 204(a), LSRA 2015. See [page 391](#).

**58.**—(1) ~~Where a solicitor fails to comply with any provision of the~~

Suspension of practising

~~Solicitors Acts, 1954 to 1994, or with any regulations made thereunder or with any conditions specified in a direction relating to a practising certificate under section 59 of this Act, and the Society are of the opinion that such failure to comply is serious and warrants the making of an application under this section;~~ certificates.  
 the Society may, on notice to that solicitor, apply to the President of the High Court and the President of the High Court may (after hearing such evidence and receiving such submissions from the Society, the solicitor concerned and such other person or persons as the President of the High Court thinks fit) by order do one or more of the following things, namely—

- (a) suspend the current practising certificate of the solicitor for such period as the President of the High Court thinks fit up to and including the end of the current practice year;
- (b) direct the Society not to issue to the solicitor a practising certificate during any subsequent practice year until such time as the President of the High Court thinks fit;
- (c) direct the solicitor to take such action as the President of the High Court thinks fit to remedy any consequences of his failure to comply with such Acts, regulations or conditions;
- (d) direct the solicitor to take such action as the President of the High Court thinks fit to ensure that the solicitor does not in the future so fail to comply with such Acts, regulations or conditions;
- (e) adjourn the application and direct that further enquiries be made by the Society in regard to the matter, or require the Society to furnish further information to the Court;
- (f) adjourn the application for such period as the President of the High Court thinks fit, to enable the solicitor to comply with any direction or directions of the President of the High Court under *paragraph (c) or (d)* (or both) of this subsection;
- (g) dismiss the Society's application.

(2) The Society shall, unless otherwise directed by the President of the High Court, arrange to publish, as soon as possible after it is made, the terms of any order made by the President of the High Court under *subsection (1)(a) or (1)(b)* of this section in the *Iris Oifigiúil* and in the Gazette of the Society and in any other manner as the Society may think fit.

(3) ~~Any application made by the Society pursuant to subsection (1) of this section shall be without prejudice to the right of the Society under section 7 (as substituted by this Act) of the Act of 1960 to apply to the Disciplinary Tribunal for an inquiry into the conduct of the solicitor concerned on the ground of alleged misconduct.~~

Subsection (3) substituted by section 204(b), LSRA 2015. See [page 391](#).

**59.**—(1) Subject to and in accordance with the provisions of this section, the Society may give a direction that the practising certificate issued to a solicitor and for the time being in force shall have effect subject to such specified conditions as the Society may think fit and a reference in this section to such a direction shall be deemed to include a reference to such specified conditions.

Imposition of conditions while practising certificates are in force.

Subsection (2) amended by the substitution of “section 49(1)(c) to (p) (as substituted by this Act)” with “section 49(1)(c) to (v)” by section 205, LSRA 2015. See [page 391](#).

(2) The Society may give a direction under *subsection (1)* of this section where, had an application for a practising certificate been made by the solicitor concerned at the time the direction is given, one or more of the circumstances set out in ~~section 49(1)(c) to (p) (as substituted by this Act)~~ of the Principal Act would have applied to that solicitor.

(3) Subject to *subsection (4)* of this section, a direction given under *subsection (1)* of this section shall have effect from the date that is 21 days after the date of receipt by the solicitor concerned of notification in writing of the giving of such direction, whereupon that solicitor shall, within that period of 21 days, surrender his current practising certificate to the Society and the Society shall, as soon as possible, reissue it with the specified conditions endorsed thereon to that solicitor.

(4) A solicitor in relation to whom the Society give a direction under *subsection (1)* of this section may, within 21 days of the receipt by him of notification in writing of the giving of such direction, appeal to the President of the High Court against the giving of that direction.

(5) Notwithstanding that the solicitor concerned appeals to the President of the High Court under *subsection (4)* of this section, the direction given by the Society under *subsection (1)* of this section shall have effect from the date specified in *subsection (3)* of this section up to the date of the determination of such appeal, unless the President of the High Court, on application by that solicitor, otherwise orders.

(6) Where an appeal has been brought by a solicitor under *subsection (4)* of this section and the President of the High Court has made an order under *subsection (5)* of this section staying the coming into effect of the direction given by the Society, the Society may, on notice to that solicitor, make application to the President of the High Court at any time thereafter, and the President of the High Court may (on the hearing of that application) dismiss such appeal and confirm the direction given by the Society if the President of the High Court is satisfied that that solicitor has delayed unduly in proceeding with such appeal and may for that purpose revoke any order which he has made under *subsection (5)* of this section.

(7) On hearing an appeal under *subsection (4)* of this section, the President of the High Court may, by order, do one or more of the following things, namely—

- (a) confirm the direction given by the Society;
- (b) direct that the current practising certificate of that solicitor shall have effect subject to such conditions as the President of the High Court thinks fit;

- (c) direct that any subsequent practising certificate issued to that solicitor shall have effect subject to such conditions as the President of the High Court thinks fit;
- (d) revoke the direction given by the Society;
- (e) direct as the President of the High Court otherwise thinks fit;
- (f) revoke or vary any order which he has made under *subsection (5)* of this section.

**60.**—(1) Where the registrar has reasonable grounds to believe that an unqualified person was at a particular time acting as a solicitor, he may issue a certificate in writing to that effect.

Proof of practice by an unqualified person.

(2) Upon production in court by or on behalf of the Society or the registrar of a document purporting to be a certificate referred to in *subsection (1)* of this section, it shall be presumed until the contrary is proved that the said certificate was properly issued by the registrar and the contents of the certificate shall be admitted as *prima facie* evidence of the facts therein stated.

**61.**—The Principal Act is hereby amended by the substitution of the following section for section 49:

Direction to grant or refuse practising certificate (section 49 of Principal Act).

49.—(1) This section applies where a solicitor makes application for a practising certificate in any one or more of the following circumstances:

"Direction to grant or refuse practising certificate.

- (a) he has, for 12 months or more, ceased to hold a practising certificate in force (exclusive of cases in which the applicant has practised as a solicitor in the full-time service of the State within 12 months before his application);
- (b) he has not held a practising certificate in force within 12 months following the date of his admission as a solicitor;
- (c) he is a person in respect of whose person or property any of the powers and provisions of the Lunacy Regulation (Ireland) Act, 1871, or any Act amending or extending that Act, relating to management and administration of property apply;

- (d) he has an office or place of business in more than one place at any one time (disregarding, where he has a Dublin agent, the office or place of business of such agent) and having been invited by the Society to satisfy them that he exercises adequate personal supervision over each office or place of business, he has failed to satisfy the Society as aforesaid and has been notified in writing by the Society that he has so failed;
  
- (e) he has been invited by the Society to give an explanation in respect of any matter affecting his conduct (including conduct in another jurisdiction), and he has failed to give the Society an explanation in respect of that matter which the Society regard as sufficient and satisfactory, and has been notified in writing by the Society that he has so failed;
  
- (f) he has had an order of attachment or committal made against him;
  
- (g) he has had a judgment or decree given against him —
  - (i) which involves the payment of moneys, and
  
  - (ii) which is not a judgment or decree in relation to which he is entitled, as respects the whole effect of the judgment or decree upon him, to indemnity or relief from any other person,and he has not produced to the registrar evidence of the satisfaction of such judgment or decree;
  
- (h) he has been adjudicated a bankrupt;
  
- (i) he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors;

- (j) he has failed to comply with an order of the High Court;
  - (k) he has failed to comply with regulations made under section 66 (as substituted by the *Solicitors (Amendment) Act, 1994*) or 71 (as amended by the *Solicitors (Amendment) Act, 1994*) of this Act or section 73 of the *Solicitors (Amendment) Act, 1994*;
  - (l) he has failed to comply with a determination, requirement or direction of the Society under section 8, 9 or 10 of the *Solicitors (Amendment) Act, 1994*;
  - (m) he has been sentenced to a term of imprisonment;
  - (n) he has failed to comply with the terms of any regulations in force by virtue of the power vested in the Society by section 26 of the *Solicitors (Amendment) Act, 1994*;
  - (o) he has failed to attend a course or courses of further education or training (or both), where his attendance at such course or courses was required in the prescribed manner by the Society;
  - (p) he has failed to satisfy the Society that he is fit to carry on the practice of a solicitor, having regard to the state of his physical or mental health;
  - ~~(q) he has failed to satisfy the Society that, having regard to all the circumstances, including the financial state of his practice, he should be issued with a practising certificate or a practising certificate not subject to specified conditions.~~
- (2) (a) Where this section applies, the Society shall as soon as practicable consider the application (including such submissions as may be made by or on

Paragraph (q) substituted by section 2, 2002 Act, as amended by section 181, LSRA 2015. See [pages 199 and 383](#).

New paragraphs (r), (s), (t), (u) and (v) inserted after subsection (1)(q) by section 181, LSRA 2015. See [pages 383-384](#).

behalf of the applicant) and shall thereafter direct the registrar to do any one of the following things:

- (i) issue a practising certificate unconditionally;
- (ii) issue a practising certificate subject to such specified conditions as the Society think fit, including conditions requiring the solicitor concerned to take any specified steps that the Society consider necessary for his carrying on an efficient practice as a solicitor and notwithstanding that any such specified steps may result in expenditure being incurred by the solicitor concerned; or
- (iii) refuse to issue a practising certificate.

(b) If the Society direct the registrar either to refuse to issue a practising certificate or to issue a practising certificate subject to specified conditions, the solicitor concerned shall, as soon as possible, be notified in writing by the Society of the direction and the grounds on which it was given.

(3) A solicitor in relation to whom the Society have directed the registrar under subsection (2) (a) of this section either to refuse to issue a practising certificate or to issue a practising certificate subject to specified conditions may, within 21 days of the receipt by him of the notification in writing of such direction, appeal to the President of the High Court against such direction to refuse or against the specified conditions, or any of them, as the case may be.

(4) Notwithstanding that the solicitor concerned appeals to the President of the High Court under subsection (3) of this section, the direction of the Society to the registrar under subsection (2) (a) of this section shall have effect up to the determination of such appeal, unless the President of the High Court, on application by that solicitor, otherwise orders pending the determination by him of such appeal.

(5) Where an appeal has been brought by a solicitor under subsection (3) of this section and the President of the High Court has made an order under subsection (4) of this section directing the registrar to issue a practising certificate (whether unconditionally or subject to specified conditions) to that solicitor pending the hearing of such appeal, the Society may, on notice to that solicitor, make application to the President of the High Court at any time thereafter, and the President of the High Court (on the hearing of that application) may dismiss such appeal and confirm the direction of the Society to the registrar under subsection (2) (a) of this section, if the President of the High Court is satisfied that the solicitor concerned has delayed unduly in proceeding with such appeal and may for that purpose revoke any order which he has made under subsection (4) of this section.

(6) On hearing an appeal under subsection (3) of this section, the President of the High Court may—

(a) in relation to an appeal against a direction by the Society to the registrar to refuse to issue a practising certificate to the solicitor concerned, by order—

- (i) confirm the direction to refuse and revoke any practising certificate already issued pursuant to an order under subsection (4) of this section,
- (ii) rescind the direction to refuse and direct that any practising certificate already issued pursuant to an order under subsection (4) of this section or any practising certificate to be issued by the registrar be issued unconditionally, or
- (iii) rescind the direction to refuse and direct that any practising certificate already issued pursuant to an order under subsection (4) of this section or any practising certificate to be issued by the registrar be issued subject to such specified conditions as the President of the High Court thinks fit;

(b) in relation to an appeal against a direction by the Society to the registrar to issue a practising certificate subject to specified conditions, by order—

(i) confirm the direction,

(ii) rescind the direction, or

(iii) vary the specified conditions, or any of them.

(7) The registrar shall cause particulars of a direction by the Society under subsection (2) (a) (ii) or (iii) of this section or an order of the President of the High Court under subsection (6) of this section to be entered in the register in relation to the solicitor concerned."

New subsections (8) and (9) inserted by section 181, LSRA 2015. See [page 384](#).

**62.**—The Principal Act is hereby amended by the substitution of the following section for section 54:

Qualifications for acting as solicitor (section 54 of Principal Act).

"Qualifications for acting as solicitor.

54.—(1) A solicitor who has the qualifications specified in subsection (2) of this section may act as a solicitor and is referred to in this Act as a solicitor qualified to practise.

(2) The qualifications referred to in subsection (1) of this section are—

(a) that the name of the solicitor is on the roll;

(b) that he does not stand suspended from practice;

(c) that either he is a solicitor in the full-time service of the State or a practising certificate in respect of him is in force; and

(d) that the solicitor concerned has not given an undertaking to the High Court that he will not act as a solicitor or if he has given such an undertaking, that it has been discharged by the Court.

(3) A solicitor shall be regarded as a solicitor in

the full-time service of the State if and while he is required to devote the whole of his time to the service of the State as solicitor and is remunerated in respect of such service wholly out of moneys provided by the Oireachtas."

**63.**—Section 55 of the Principal Act is hereby amended by the substitution in subsection (2) of "£10,000" for "two hundred pounds" and "£1,500" for "fifty pounds" and the subsection as so amended is set out in the Table to this section. Amendment of section 55 of Principal Act.

TABLE

(2) A person who contravenes subsection (1) of this section shall, without prejudice to any other liability or disability to which he may be subject, be guilty of an offence under this section and shall be liable—

(a) on conviction thereof on indictment, to imprisonment for a term not exceeding two years or, at the discretion of the Court, to a fine not exceeding £10,000 or to both such fine and such imprisonment, or

(b) on summary conviction thereof, to imprisonment for a term not exceeding six months or, at the discretion of the Court, to a fine not exceeding £1,500 or to both such fine and such imprisonment.

In paragraph (a), "£10,000" substituted with "€30,000" by section 22(2)(a), 2002 Act. See [pages 219-220](#).

In paragraph (b), "£1,500" substituted with "€3,000" by section 22(1)(a), 2002 Act. See [page 219](#).

**64.**—Section 56 of the Principal Act is hereby amended by the substitution in subsection (2) of "£1,500" for "fifty pounds" and the subsection as so amended is set out in the Table to this section. Amendment of section 56 of Principal Act.

TABLE

(2) A person who contravenes subsection (1) of this section shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding £1,500.

In subsection (2), "£1,500" substituted with "€3,000" by section 22(1)(b), 2002 Act. See [page 219](#).

**PART VII**

**MISCELLANEOUS PROVISIONS**

**65.**—The Principal Act is hereby amended by the substitution of the following section for section 9: Roll of solicitors (section 9 of Principal Act).

"Roll of solicitors.

9.—(1) The registrar shall maintain a roll of solicitors (in this Act referred to as 'the roll').

(2) The roll, which may be kept in an electronic or such other non-written form as is considered appropriate by the Society, shall be available for inspection during office hours without payment by

any person who applies to inspect it.

(3) If the roll is kept in an electronic or other non-written form, the Society may comply with its obligation to have the roll available for inspection under subsection (2) of this section by making any relevant entry available in written form for inspection in accordance with the said subsection (2)."

**66.**—The Sixth Schedule to the Principal Act may be amended from time to time by the inclusion of such additional applications as may be prescribed with the concurrence of the President of the High Court.

Fees for applications to Society.

**67.**—(1) The Society shall establish and maintain a register of solicitors who have indicated to the Society that they are willing to provide legal services to any person who is unable to obtain the services of a solicitor to act for him in civil proceedings against another solicitor, arising from the conduct of that other solicitor while acting for that person.

Register of solicitors prepared to act in certain cases.

(2) The Society shall make available information included in any register maintained under *subsection (1)* of this section to any person requesting such information, and shall take all reasonable measures to assist any person to obtain the services of a solicitor for the purposes of *subsection (1)* of this section.

~~**68.**—(1) On the taking of instructions to provide legal services to a client, or as soon as is practicable thereafter, a solicitor shall provide the client with particulars in writing of—~~

Charges to clients.

~~(a) the actual charges, or~~

~~(b) where the provision of particulars of the actual charges is not in the circumstances possible or practicable, an estimate (as near as may be) of the charges, or~~

~~(c) where the provision of particulars of the actual charges or an estimate of such charges is not in the circumstances possible or practicable, the basis on which the charges are to be made,~~

~~by that solicitor or his firm for the provision of such legal services and, where those legal services involve contentious business, with particulars in writing of the circumstances in which the client may be required to pay costs to any other party or parties and the circumstances, if any, in which the client's liability to meet the charges which will be made by the solicitor of that client for those services will not be fully discharged by the amount, if any, of the costs recovered in the contentious business from any other party or parties (or any insurers of such party or parties).~~

Section 68  
repealed by the  
Second Schedule  
to the LSRA  
2015. See [page 406](#).

~~(2) A solicitor shall not act for a client in connection with any contentious business (not being in connection with proceedings seeking only to recover a debt or liquidated demand) on the basis that all or any part of the charges to the client are to be calculated as a specified percentage or proportion of any damages or other moneys that may be or may become payable to the client, and any charges made in contravention of this subsection shall be unenforceable in any action taken against that client to recover such charges.~~

~~(3) A solicitor shall not deduct or appropriate any amount in respect of all or any part of his charges from the amount of any damages or other moneys that become payable to a client of that solicitor arising out of any contentious business carried out on behalf of that client by that solicitor.~~

~~(4) Subsection (3) of this section shall not operate to prevent a solicitor from agreeing with a client at any time that an amount on account of charges shall be paid to him out of any damages or other moneys that may be or may become payable to that client arising out of any contentious business carried out on behalf of that client by that solicitor or his firm.~~

~~(5) Any agreement under subsection (4) of this section shall not be enforceable against a client of a solicitor unless such agreement is in writing and includes an estimate (as near as may be) of what the solicitor reasonably believes might be recoverable from any other party or parties (or any insurers of such party or parties) in respect of that solicitor's charges in the event of that client recovering any damages or other moneys arising out of such contentious business.~~

~~(6) Notwithstanding any other legal provision to that effect a solicitor shall show on a bill of costs to be furnished to the client, as soon as practicable after the conclusion of any contentious business carried out by him on behalf of that client —~~

- ~~(a) a summary of the legal services provided to the client in connection with such contentious business;~~
- ~~(b) the total amount of damages or other moneys recovered by the client arising out of such contentious business; and~~
- ~~(c) details of all or any part of the charges which have been recovered by that solicitor on behalf of that client from any other party or parties (or any insurers of such party or parties);~~

~~and that bill of costs shall show separately the amounts in respect of fees, outlays, disbursements and expenses incurred or arising in connection with the provision of such legal services.~~

~~(7) Nothing in this section shall prevent any person from exercising any existing right in law to require a solicitor to submit a bill of costs for taxation, whether on a party and party basis or on a solicitor and own client basis, or shall limit the rights of any person or the Society under section 9 of this Act.~~

~~(8) Where a solicitor has issued a bill of costs to a client in respect of the provision of legal services and the client disputes the amount (or any part thereof) of that bill of costs, the solicitor shall—~~

~~(a) take all appropriate steps to resolve the matter by agreement with the client, and~~

~~(b) inform the client in writing of—~~

~~(i) the client's right to require the solicitor to submit the bill of costs or any part thereof to a Taxing Master of the High Court for taxation on a solicitor and own client basis, and~~

~~(ii) the client's right to make a complaint to the Society under section 9 of this Act that he has been issued with a bill of costs that he claims to be excessive.~~

~~(9) In this section "charges" includes fees, outlays, disbursements and expenses.~~

~~(10) The provisions of this section shall apply notwithstanding the provisions of the Attorneys and Solicitors (Ireland) Act, 1849 and the Attorneys and Solicitors Act, 1870.~~

**69.**—Section 71 of the Principal Act is hereby amended by the insertion of the following subsections:

Amendment of section 71 of Principal Act.

Subsections (2) to (7) substituted and subsections (8) to (10) added by section 4, 2002 Act, and

subsequently amended and repealed in part by section 183 and the Second Schedule to the LSRA 2015.

See [pages 200, 384 and 406.](#)

~~"(2) Without prejudice to the generality of subsection (1) of this section, the Society shall not prohibit a solicitor from charging less for a legal service than any charge or fee or remuneration specified for that legal service by way of any statutory scale or scales for the time being in force.~~

(3) The Society shall not prohibit advertising by solicitors.

(4) Nothing in subsection (3) of this section shall prevent the Society prohibiting advertising which—

(a) is likely to bring the solicitors' profession into disrepute, or

(b) is in bad taste, or

(c) reflects unfavourably on other solicitors, or

(d) contains an express or implied assertion by a solicitor that he has specialist knowledge in any area of law or practice superior to other solicitors, or

(e) is false or misleading in any respect, or

~~(f) comprises or includes unsolicited approaches to any person with a view to obtaining instructions in any legal matter, or~~

~~(g) is contrary to public policy.~~

~~(5) Subject to subsection (6) of this section, nothing in subsection (4) of this section shall entitle the Society to prohibit the advertising of any charge or fee by a solicitor for the provision of any specified legal service.~~

~~(6) Where the Society consider it appropriate, they may make regulations, after the expiration of 2 years following the coming into operation of section 69 of the *Solicitors (Amendment) Act, 1994*, prohibiting the advertising of any charge or fee by a solicitor for the provision of any specified legal service, provided that such regulations may be made only with the consent of the Minister and where the Minister is satisfied that such regulations are in the public interest.~~

~~(7) Notwithstanding the provisions of paragraph (d) of subsection (4) of this section, the Society may by regulations provide that a solicitor who in the prescribed manner satisfies the Society of his specialist knowledge in a prescribed area of law or practice be permitted by the Society to designate himself as having specialist knowledge in that area of law or practice."~~

**70.**—(1) Notwithstanding section 64 of the Principal Act, the Society, with the concurrence of the Minister given after consultation with the Minister for Enterprise and Employment, may make regulations providing for any one or more of the following matters, namely—

Incorporated practices.

- (a) the management and control by solicitors of bodies corporate (in this section referred to as "incorporated practices") carrying on business consisting of the provision of legal services such as are provided by individuals practising as solicitors;
- (b) the circumstances in which incorporated practices may be recognised by the Society as suitable to undertake the provision of any such legal services, and the revocation of such recognition on the grounds that it was granted improperly as a result of any error or fraud;
- (c) the conditions which (subject to any exceptions provided by the regulations) shall be satisfied at all times by incorporated practices so recognised if they are to remain so recognised;
- (d) the manner and form in which applications for recognition under this section are to be made, and for the payment of fees in connection with such applications;
- (e) the regulating of the names that may be used by incorporated

practices;

- (f) the period for which any recognition of incorporated practices remains in force;
- (g) the keeping by the Society of a list containing the names and places of business of all incorporated practices and for the information contained in any such list to be available for inspection;
- (h) the empowering of the Society to take such steps as they consider necessary or expedient to ascertain whether or not any regulations applicable to incorporated practices are being complied with;
- (i) regulating the conduct of the affairs of incorporated practices.

(2) Regulations made by the Society under the *Solicitors Acts, 1954 to 1994*, shall apply and have effect in relation to incorporated practices recognised by the Society pursuant to regulations made under *subsection (1)* of this section with such additions, omissions or other modifications as appear to the Society to be necessary or expedient.

(3) The Minister may by order provide that any enactment or statutory instrument (within the meaning of the Statutory Instruments Act, 1947), passed or made before the commencement of this section and having effect in relation to solicitors shall have effect in relation to incorporated practices recognised by the Society pursuant to regulations made under *subsection (1)* of this section, with such additions, omissions or other modifications as appear to the Minister to be necessary for the purposes of enabling such provisions to have effect.

(4) Any order made by the Minister under *subsection (3)* of this section may make provision for the application, subject to any necessary adaptations, of any of the provisions of the *Solicitors Acts, 1954 to 1994*, to incorporated practices recognised by the Society pursuant to regulations made under *subsection (1)* of this section.

- (5) (a) Every regulation made under *subsection (1)* of this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.
- (b) A draft of every order proposed to be made under *subsection (3)* of this section shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

**71.**—(1) Notwithstanding the provisions of section 59 of the Principal Act, the Society, with the concurrence of the Minister and, in the case of regulations made under *paragraph (a)* of this subsection, after consultation with the Minister for Enterprise and Employment, may make regulations in respect of—

Fee-sharing by solicitors.

- (a) the sharing of fees between a solicitor and a person who is not qualified to practise as a solicitor arising either from a partnership between them or from an agency arrangement concluded between them, or
- (b) the sharing of fees between a solicitor and a person who is not qualified to practise as a solicitor but who is a member, and entitled to practise as such, of a legal profession in another jurisdiction, arising either from a partnership between them or from an agency arrangement concluded between them.

(2) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

In section 72 the words “section 24 of the Stamp Duties Management Act, 1891” substituted with “section 157 of the Stamp Duties Consolidation Act, 1999” by Schedule 4 of the Stamp Duties Consolidation Act, 1999

**72.**—(1) Subject to the provisions of this section, every solicitor who holds a practising certificate which is in force shall, subject to any condition to which that practising certificate is subject under the *Solicitors Acts, 1954 to 1994* (in this section referred to as a “relevant condition”), have all the powers conferred by any enactment or statutory instrument (within the meaning of the Statutory Instruments Act, 1947) on a commissioner for oaths (including ~~section 24 of the Stamp Duties Management Act, 1891~~) and any reference to such a commissioner in any such enactment or statutory instrument, whether passed or made before or after the commencement of this section, shall include a reference to such a solicitor, unless the context otherwise requires.

Administration of oaths and taking of affidavits.

(2) A solicitor shall not exercise the powers conferred by this section in any proceedings in which he is solicitor to any of the parties or in which he has an interest, or in contravention of any relevant condition.

(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 the statement in the jurat or attestation mentioned in *subsection (3)* of this section and purporting to be sealed or signed by a solicitor pursuant to his powers as a commissioner for oaths or pursuant to this section shall be admitted in evidence without proof of the said seal or signature, and without proof that he is a solicitor or that he holds a practising certificate which is in force or that such document has not been so sealed or signed in contravention of a relevant condition.

(5) Nothing in this section shall affect the power to appoint

commissioners for oaths under section 73 of the Supreme Court of Judicature Act (Ireland), 1877.

**73.**—(1) Without prejudice to section 66 (as substituted by this Act) of the Principal Act the Society shall make regulations within six months of the coming into operation of this section, with the consent of the President of the High Court, to— Interest on clients' moneys.

- (a) require a solicitor, in prescribed cases, either—
  - (i) to open and maintain a separate deposit account at a bank for the benefit of the client for the holding of money received for or on account of the client, or
  - (ii) to pay to such client a sum equivalent to the interest which would have accrued if the money so received had been held on deposit by that solicitor,
- (b) define the obligations of a solicitor under *paragraph (a)* of this section by reference to the amount of any sum received or to the period for which it is or is likely to be held or both, and
- (c) enable a client (without prejudice to any other remedy) to require that any question arising under *paragraph (a)* or *(b)* (or both) of this subsection in relation to the client's money be referred to and determined by the Society.

(2) Except as provided for by regulations made under *subsection (1)* of this section, a solicitor shall not be liable by virtue of the relationship between solicitor and client to account to any client for interest received by the solicitor on money deposited at a bank, being money received or held for or on account of his clients generally.

(3) Nothing in this section or in regulations made under this section shall—

- (a) affect any arrangement in writing, whenever made, between a solicitor and his client as to the application of the client's money or interest thereon, or
- (b) apply to money received by a solicitor, being money subject to a trust of which the solicitor is a trustee.

(4) For the purposes of regulations made under *subsection (1)* of this section and subject to *subsection (3)* of this section, "client's money" and "money received for or on account of the client" shall mean money held or received by a solicitor on account of a person for whom he is acting in relation to the holding or receipt of such money either as a solicitor or, arising from his practice as a solicitor, as agent, bailee, stakeholder or in any other capacity.

Section 74  
repealed by the  
Second Schedule  
to the LSRA 2015.  
See page 406.  
But see section  
215, LSRA 2015,  
at page 395 for  
replacement  
provision.

~~74.—(1) A solicitor who has accepted instructions to appear in court for a client who is in custody may not withdraw from the client's case without obtaining permission from the court before which that client is next scheduled to appear.~~

Restriction on the  
withdrawal of a  
solicitor from a  
case.

~~(2) The court shall, in deciding whether to grant a solicitor permission to withdraw from a case under subsection (1) of this section, have regard to—~~

- ~~(a) the likely consequences of such action for the client notwithstanding that the client may have concurred in the solicitor's withdrawal from the case, and~~
- ~~(b) any delay or other adverse consequences which may arise for the proceedings in question as a result of the solicitor's withdrawal,~~

~~and the court shall have regard to any matter which is the subject of privilege between the solicitor and the client.~~

~~(3) The court may hear an application for permission under subsection (1) of this section *in camera* if it considers it necessary to do so in the interests of justice.~~

~~(4) A withdrawal by a solicitor from a case in contravention of subsection (1) of this section shall be notified to the Society by the court whose permission is required under that subsection to withdraw from the case and the Society, on being so notified, shall investigate the matter and take any necessary action under the provisions of Part II (as amended by this Act) of the Act of 1960.~~

75.—(1) For the purposes of Part VII (as amended by this Act) of the Principal Act and section 73 of this Act and regulations made thereunder, "bank" means—

Extension of list of  
approved  
institutions.

- (a) a bank which is the holder of a licence under section 9 (1) of the Central Bank Act, 1971,
- (b) any financial institution referred to in subsection (4) (a) (ii) and (iii) of section 7 (as inserted by the Central Bank Act, 1989) of the Central Bank Act, 1971, and
- (c) a bank or financial institution standing designated by order of the Minister under subsection (2) of this section,

and cognate words shall be construed accordingly:

Provided that such bank or financial institution, or the relevant branch thereof, is situate in the State.

(2) The Minister, after consultation with the Minister for Finance, may

by order designate banks or financial institutions under *subsection (1) (c)* of this section.

(3) A solicitor may open and keep a client account only at a bank within the meaning of *subsection (1)* of this section.

(4) For the purposes of sections 7, 8 and 20 (as respectively substituted by the *Solicitors (Amendment) Act, 1994*) of the Act of 1960, relating to the powers of the Society or the High Court in matters concerning the protection of clients or the disciplining of solicitors, "bank" shall include a bank within the meaning of *subsection (1)* of this section and shall also include any person or body corporate carrying on business as a bank or other financial institution, whether in the State or outside the State, and cognate words shall be construed accordingly.

(5) The Minister may by order amend or revoke an order made under *subsection (2)* of this section.

(6) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

**76.**—The Principal Act is hereby amended by the substitution of the following section for section 66:

Regulations for accounts (section 66 of Principal Act).

Subsection (1) amended by the substitution of "President of the High Court" with "the Authority" by section 182, LSRA 2015. See [page 384](#).

"Regulations for accounts.

66.—(1) The Society may make regulations, with the concurrence of the ~~President of the High Court~~, providing for all or any of the following matters:

- (a) the category or categories of solicitor to whom such regulations apply;
- (b) the type or types of accounts at banks which may be opened and kept by a solicitor arising from his practice as a solicitor;
- (c) the opening and keeping of accounts at banks by a solicitor arising from his practice as a solicitor;
- (d) the rights, duties and responsibilities of a solicitor in relation to moneys received, held, controlled or paid by him arising from his practice as a solicitor, including the lodgment to and withdrawal from a client account

of clients' moneys;

- (e) the accounting records to be maintained by a solicitor arising from his practice as a solicitor, including the minimum period or periods for which accounting records shall be retained by a solicitor during the period of, and following the conclusion of, the provision of legal services;
- (f) the keeping by a solicitor of accounting records containing particulars of and information as to moneys received, held, controlled or paid by him arising from his practice as a solicitor, for or on account of a client or any other person or himself;
- (g) the enforcement by the Society of compliance with the regulations;
- (h) imposing fees on solicitors in cases of non-compliance where the Society has to conduct further enquiries (being fees not exceeding the cost of making such enquiries);
- (i) the appointment by the Society of persons to carry out, on behalf of the Society, functions relating to securing compliance with and enforcing such regulations;
- (j) the circumstances and manner in which a solicitor engaged in practice as a solicitor (or a duly qualified accountant on his behalf) verifies compliance with such regulations, including the frequency of doing so;
- (k) the examination, by or on behalf of the Society, of the financial circumstances of a solicitor engaged in practice as a solicitor insofar as such circumstances could affect his capacity to carry on such practice.

(2) Regulations made pursuant to subsection (1) of this section shall not apply to—

(a) a solicitor in the full-time service of the State within the meaning of section 54 (3) (as substituted by the *Solicitors (Amendment) Act, 1994*) of the Principal Act, or

(b) a solicitor who is in the part-time service of the State, in respect of moneys received, held, controlled or paid by him in the course of such service.

(3) A solicitor who knowingly lodges clients' moneys (or who knowingly causes clients' moneys to be lodged) to a client account at a bank other than a bank within the meaning of *section 75 (1)* of the *Solicitors (Amendment) Act, 1994*, shall be guilty of an offence.

(4) A solicitor who, having received any clients' moneys, fails, without reasonable cause, to lodge (or to cause to be lodged) in the prescribed manner such clients' moneys to the appropriate client account (or client accounts) shall be guilty of an offence.

(5) A solicitor who fails, without reasonable cause, to maintain and keep (or to cause to be maintained and kept) accounting records in the prescribed manner shall be guilty of an offence.

(6) A solicitor who, having received clients' moneys, fails, without reasonable cause, to record (or to cause to be recorded) in the prescribed manner such receipt in accounting records shall be guilty of an offence.

(7) A solicitor who, having received any clients' moneys and having duly lodged (or caused to be lodged) in the prescribed manner such clients' moneys to the appropriate client account (or client accounts) fails, without reasonable cause, to record (or to cause to be recorded) in the prescribed manner such lodgment in accounting records, shall be guilty of an offence.

(8) A solicitor who makes knowingly (or causes so to be made) a false or misleading entry or record in accounting records shall be guilty of an offence.

(9) It shall not be a defence to a charge under subsection (6) or (7) of this section to show that an entry or record of a receipt or lodgment of clients'

moneys was recorded in accounting records, if it is established that such entry or record is false or misleading.

(10) Where it appears to the Society that it is necessary for the purpose of exercising any of the Society's functions prescribed under subsection (1) of this section for an authorised person to attend, with or without prior notice, at a place of business of a solicitor, an authorised person may so attend at such place for that purpose.

Subsection (11)  
substituted by  
section 3, 2002  
Act. See [page  
200](#).

~~(11) Where an authorised person attends pursuant to subsection (10) of this section at a place of business of a solicitor, he shall inform the solicitor or any clerk or servant of the solicitor of the purpose of his attendance as specified in subsection (10) of this section and may thereupon or thereafter, in pursuance of that purpose, require the solicitor or any clerk or servant of the solicitor to do any one or more of the following things:~~

~~(a) to make available to him for inspection all or any part of the solicitor's accounting records;~~

~~(b) to furnish to him such copies of the solicitor's accounting records as the authorised person deems necessary to fulfil the purpose specified in subsection (10) of this section;~~

~~(c) to give such written authority addressed to such bank or banks as the authorised person requires to enable the authorised person to inspect any account or accounts opened, or caused to be opened, by the solicitor at such bank or banks (or any documents relating thereto) and to obtain from such bank or banks copies of such documents relating to such account or accounts for such period or periods as the authorised person deems necessary to fulfil the purpose specified in subsection (10) of this section.~~

(12) If a solicitor or clerk or servant of a solicitor who is required by an authorised person to do any one or more of the things specified in subsection (11) of this section, refuses, neglects or otherwise fails, without reasonable cause, to comply

with such requirement or requirements, the Society may, on notice to the solicitor, apply to the High Court for an order (which said order the Court is hereby empowered to make) requiring the solicitor to comply with such requirement or requirements (or any one or more of them) as the Society deem necessary in pursuance of the purpose specified in subsection (10) of this section or as the Court thinks fit.

(13) It shall be an offence for a solicitor—

- (a) to refuse, neglect or otherwise fail, without reasonable cause, to duly comply with any requirement of an authorised person under subsection (11) of this section;
- (b) to remove from his place or places of business, or to destroy, deface or mutilate, all or any part of his accounting records, with intent to prevent or interfere with an authorised person acting in pursuance of the purpose specified in subsection (10) of this section;
- (c) to provide knowingly false or misleading information to an authorised person acting in pursuance of the purpose specified in subsection (10) of this section.

(14) A summary offence under any of the provisions of this section may be prosecuted by the Society.

(15) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under any of the provisions of this section may be instituted within twelve months from the date the offence came to the knowledge of the Society.

(16) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction thereof to a fine not exceeding £1,500,

In paragraph (a),  
“£1,500”  
substituted with  
“€3,000” by  
section 22(1)(e),  
2002 Act. See  
[page 219](#).

In paragraph (b),  
“£10,000”  
substituted with  
“€30,000” by  
section 22(2)(c),  
2002 Act. See  
[pages 219-220](#).

(b) on conviction thereof on indictment to a  
fine not exceeding £10,000.

(17) Without prejudice to the generality of this section and any regulations made thereunder, a solicitor shall not, arising from his practice as a solicitor, lodge (or cause to be lodged) for collection through any bank account kept by him, or otherwise collect, an unendorsed cheque or other negotiable or non-negotiable instrument drawn in favour of a person other than himself, his firm, or a partner.

(18) In this section—

'accounting records' means the books of account and all other documents required to be maintained and kept by a solicitor arising from his practice as a solicitor in accordance with regulations made pursuant to subsection (1) of this section."

77.—Section 58 of the Principal Act is hereby amended—

Amendment of  
section 58 of  
Principal Act.

(a) by the insertion of the following subsection for subsection (2):

In paragraph (a),  
“£1,500”  
substituted with  
“€3,000” by  
section 22(1)(c),  
2002 Act. See  
[page 219](#).

"(2) An unqualified person who does any act to which this section applies shall, subject to subsection (3) of this section and without prejudice to any other liability or disability to which he may be subject, be guilty of an offence under this section and shall be liable—

In subsection  
(2)(b), “£10,000”  
substituted with  
“€30,000” by  
section 22(2)(b),  
2002 Act. See  
[pages 219-220](#).

(a) on summary conviction thereof, to a fine not  
exceeding £1,500, or

(b) on conviction thereof on indictment, to a fine not  
exceeding £10,000."

(b) by the insertion of the following paragraph in subsection (3):

"(h) an act done by a lawyer to whom Council Directive No. 77/249/EEC of 22 March, 1977<sup>1</sup> (as adapted by the Acts concerning the Conditions of Accession of Greece, Spain and Portugal, to the Treaties establishing the European Communities) and any instrument which may amend or replace that Directive applies by way of provision of legal services within the limits and under the conditions laid down in that Directive (or such instrument), other than the preparation of a formal document for obtaining title to administer the estate of a deceased person and the drafting of a formal document creating or transferring an interest in land."

(c) by the substitution of the following paragraph for paragraph (b) of subsection (3):

- "(b) (i) an act done by a barrister practising in the State,
- (ii) an act done by a barrister employed full-time in the State, in the provision of conveyancing services within the meaning of *section 56 (4)* of the *Solicitors (Amendment) Act, 1994*, for his employer, provided that such employer is not a solicitor,".

Minister for Finance substituted for Minister for Enterprise and Employment by Part 18, Schedule 1, of the Central Bank Act, with effect from 30th April, 2003.

**78.**—(1) Notwithstanding anything to the contrary in the Principal Act, the Minister may, after consultation with the Minister for Enterprise and Employment, make regulations authorising credit unions to provide services as follows—

Will making and probate services provided by credit unions.

- (a) to draw up or prepare a will or other testamentary instrument, or
- (b) to take instructions for a grant of probate or administration, or
- (c) to draw or prepare any papers on which to found or oppose any such grants.

(2) The services referred to in *subsection (1)* of this section may be provided by credit unions in accordance with the provisions of regulations made under this section and in compliance with the requirements of this section.

(3) Regulations under this section may include provision for all or any of the following, namely—

- (a) the protection of persons for whom services are provided under this section by credit unions from conflicts of interest that might otherwise arise in connection with the provision of the services,
- (b) securing that adequate compensation is available to such persons in respect of negligence, fraud or other dishonesty on the part of officers or employees of credit unions in connection with the provision of the services,
- (c) (i) the extent to which and the manner in which services provided under this section would require the involvement of persons qualified to practise as solicitors within the meaning of the Principal Act, and

(ii) the qualifications and experience of personnel generally engaged in the provision of the services,

(d) the class or classes of persons to whom the services may be provided,

(e) requirements relating to the approval by the Registrar of Friendly Societies of a credit union proposing to provide services,

(f) the restriction of the power to provide the services to credit unions of a specified class or classes,

(g) maximum rates or scales of fees, costs or expenses which may be charged by credit unions for the provision of the services,

(h) taxation by a Taxing Master of the High Court of fees, costs or expenses charged by credit unions for the services,

(i) such further conditions in relation to the provision of the services as the Minister may prescribe in accordance with this section.

(4) In this section "probate" and "administration" have the meanings assigned to them by section 3 of the Succession Act, 1965.

(5) Any communication made to or by a credit union (including a communication made to or by an officer or employee of a credit union) in the course of its acting as such for a person in connection with providing services under *subsection (1)* of this section shall in any legal proceedings be privileged from disclosure in like manner as if the credit union had at all material times been acting as that person's solicitor.

(6) (a) A credit union providing services under subsection (1) of this section shall not in relation to the provision of such services be an unqualified person within the meaning of the Principal Act.

(b) A credit union which provides any of the services mentioned in *subsection (1)* of this section otherwise than in accordance with the provisions of this section or of any regulations made under this section shall be guilty of an offence under section 58 (2) (as amended by this Act) of the Principal Act.

(7) Section 58 (as amended by this Act) of the Principal Act shall not apply to—

(a) a credit union,

(b) any officer or employee of a credit union by reason of any act done by him in the course of his office or employment on

Paragraph(e) amended by the substitution of "Central Bank" for "Registrar of Friendly Societies" by sections 1(2), 35(1) and Schedule 1 Part 18 of the Central Bank and Financial Standards Authority of Ireland Act 2003.

behalf of the credit union, where the credit union is providing services in accordance with *subsection (1)* of this section.

(8) Section 59 of the Principal Act shall not apply to any solicitor by reason of any act done by him as an officer or employee of a credit union where that credit union is providing services in accordance with *subsection (1)* of this section.

(9) Where a credit union provides services under *subsection (1)* of this section, it shall include in any document or advertisement issued to the public, which contains a reference to the provision of the services, a statement of the charges or the basis for the charges in respect of the services and a client shall be entitled to ask for and to be furnished with an itemised statement of that credit union's charges in respect of services provided by the credit union under *subsection (1)* of this section.

(10) On the taking of instructions to provide services under this section to a person, or as soon as is practicable thereafter, a credit union shall provide the person with particulars in writing of—

- (a) the actual charges, or
- (b) where the provision of particulars of the actual charges is not in the circumstances possible or practicable, an estimate (as near as may be) of the charges, or
- (c) where the provision of particulars of the actual charges or an estimate of such charges is not in the circumstances possible or practicable, the basis on which the charges are to be made, by that credit union for the provision of such services.

(11) Any information which comes into the possession of an officer or employee of a credit union by virtue of his involvement in the provision of services under *subsection (1)* of this section by a credit union shall not be used by him or by the credit union to promote the business of the credit union.

(12) (a) A credit union providing services under *subsection (1)* of this section shall maintain separate accounting records and prepare accounts in respect of each year showing—

- (i) the cost to the credit union of providing the services, and
- (ii) the income accruing to the credit union from the charges made for the services,

and, subject to *subsection (3) (g)* of this section, shall so provide and charge for the services that the income from the provision of the services is not less than sufficient to meet all costs properly attributable to the provision of the services taking one year with another.

- (b) A statement attesting the correctness of the accounts prepared in accordance with *paragraph (a)* of this subsection and confirming that such accounts have not been distorted as a result of any arrangement which would affect the apportionment of costs and income associated with the provision of the services and that such apportionments as have been made have been properly made shall be signed by the chairperson and treasurer of the credit union and attached to the annual accounts of the credit union.

(13) A credit union shall not provide services under the provisions of this section unless at least one of the following conditions is satisfied:

- (a) regulations have been made under *section 79* of this Act, or
- (b) the credit union is a member of a scheme (other than a scheme established under *section 79* of this Act) which has been established for the investigation of complaints against the credit union in relation to the provision of services under this section and which has been approved of by the Minister.

(14) If a person exercising any right under this section or a person acting on behalf of such a person applies for any grant of probate or letters of administration and—

- (a) makes a statement in the application, or supports the application with a document, which he knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement in the application, or supports the application with a document, which is false or misleading in a material particular,

he shall be guilty of an offence.

In paragraph (a), “£10,000” substituted with “€30,000” by section 22(2)(e), 2002 Act. See [page 220](#).

(15) Any person guilty of an offence under *subsection (14)* of this section shall be liable—

- (a) on conviction on indictment thereof, to a fine not exceeding £10,000,
- (b) on summary conviction thereof, to a fine not exceeding £1,500.

In paragraph (b), “£1,500” substituted with “€3,000” by section 22(1)(j), 2002 Act. See [page 219](#).

(16) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Subsection (17) substituted by sections 1(2), 35(1) and Schedule 1 Part 18 of the Central Bank and Financial Standards Authority of Ireland Act 2003 and further amended by sections 2, 15(14) and Schedule 2, Part 14 paragraph 13 of the Central Bank Reform Act 2010.

~~(17) In this section "credit union" means an industrial and provident society registered as a credit union under the Credit Union Act, 1966.~~

**79.**—(1) The Minister may, by regulations made after consultation with the Minister for Enterprise and Employment, require a credit union to establish, or join in establishing, and to maintain and fund a scheme or schemes for the investigation of complaints against a credit union in relation to any services provided or any act done by such a credit union under the provisions of *section 78* of this Act.

Investigation of complaints about credit unions.

(2) Without prejudice to the generality of *subsection (1)* of this section, regulations under this section may make provision in relation to any one or more of the following—

- (a) the establishment and administration of a scheme,
- (b) the manner of appointment of an independent adjudicator to conduct investigations,
- (c) the matters to be subject to investigation under the scheme,
- (d) the grounds on which a complaint must be based,
- (e) the powers of, and procedure to be followed in the conduct of investigations by, the adjudicator,
- (f) the circumstances in and the extent to which determinations are binding,
- (g) the procedures for the making of complaints,
- (h) the publication of the adjudicator's findings.

(3) Subject to *subsection (4)* of this section, the reference of a complaint under a scheme established under this section shall not affect the rights of any person to have a dispute determined in any other manner provided by law.

(4) Where, in relation to a complaint under a scheme established under this section the parties concerned agree that a determination in accordance with the scheme shall be binding on them and the scheme provides for such an agreement, then the determination shall be binding on the parties.

(5) Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**80.**—Section 24 (as substituted by this Act) of the Principal Act and regulations under section 40 (as amended by this Act) of that Act shall not apply to an applicant to whom paragraph (a) or (b) of regulation 4 of the European Communities (General System for the Recognition of Higher Education Diplomas) Regulations, 1991, or any provision which may amend or replace that regulation, applies.

Non-application to applicants under European Communities regulations.

**81.**—With effect from the 1st day of January, 1996, section 53 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

Amendment of section 53 of Principal Act.

"(1) A list purporting to be published by the authority of the Society and to contain the names of the solicitors who have obtained practising certificates for the current practice year before the 2nd day of February in that year shall, until the contrary is proved, be evidence that the persons named on the list are solicitors holding those certificates."

**82.**—Save as otherwise provided by this Act, every regulation made by the Society under this Act shall be laid by the Society before each House of the Oireachtas as soon as may be after it is made.

Laying of regulations.

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<sup>1</sup> O.J No. L78, 26.3.1977

**Extracts from the Investment Intermediaries Act,  
1995 and Investor Compensation Act, 1998**

**INVESTMENT INTERMEDIARIES ACT, 1995.**

[*Number 11 of 1995.*] (“Act of 1995”)

**INVESTOR COMPENSATION ACT, 1998.**

[*Number 37 of 1998.*] (“Act of 1998”)

These Acts have sections relating to solicitors which refer to provisions of the Solicitors Acts, 1954 to 2002. Specifically, sections 44, 45, 46 and 47 of the Act of 1998 relate to solicitors and are set out verbatim in Section A (below).

For ease of reference, the definitions of “authorised investment business firm”, “investment advice”, “investment business firm”, “investment business services”, “investment product intermediary”, and “restricted activity investment product intermediary”, as contained in the Act of 1995 and the Act of 1998, are set out verbatim in Section B; and subsections 2(7) & 2(8) of the Act of 1995, as amended by substitution by section 44 of the Act of 1998, is set out in Section A.

***Note:** A solicitor who may be considering engaging in the provision of investment business services in a manner that is not incidental to the provision of “legal services” (as now defined in section 45 (b) of the Act of 1998 and as set out verbatim in Section A) should have regard to the entirety of the Act of 1995 and the Act of 1998.*

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**Section A**

**(i) Subsections 2(7) & 2(8) of the Act of 1995:**

.....

Subsection 2(7)  
amended by  
substitution by  
section 44 of the  
Act of 1998.  
See [page 187](#).

~~(7) Notwithstanding *subsection (1)* of this section, or any provision of *Part VII* of this Act, a solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) is in force shall not be an investment business firm by virtue of the provision in an incidental manner of investment business services or investment advice.~~

(8) (a) Notwithstanding *subsection (7)* of this section, the Minister may prescribe that solicitors in respect of whom such practising certificates are in force shall be investment business firms for the purposes of this Act whenever they provide investment business services or investment advice.

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

- (b) The Minister may make a regulation under *subsection (8) (a)* of this section only where he has formed the view that—
- (i) the regulatory regime enforced by the Law Society of Ireland in respect of practising solicitors providing investment business services or investment advice in an incidental manner does not provide sufficiently for the proper and orderly regulation and supervision of such solicitors and the protection of investors, or that the powers of the Law Society of Ireland under its rules or otherwise, or its practice in relation to the supervision of solicitors, are inadequate for this purpose, and
  - (ii) that it is in the interests of the proper and orderly regulation and supervision of investment business services and investment advice in general and the protection of investors, that such an order be made.
- (c) The Minister shall not make a regulation under this subsection unless he has first consulted the Law Society of Ireland, the Bank, the Minister for Justice and the Minister for Enterprise and Employment.
- (d) A regulation under this subsection may prescribe that upon the coming into operation of such a regulation, the Law Society of Ireland shall be an approved professional body for the purposes of this Act, whether on an interim basis for such period as the Minister may prescribe or otherwise.
- (e) For the purposes of forming a view, under this section, the Minister may appoint any person who the Minister believes is suitably qualified for the purpose to carry out such inquiries or make such inspections as the Minister may request in relation to the operations of the Law Society of Ireland, and the Law Society of Ireland shall co-operate with any such inspection or inquiries, and disclose such information as the person appointed may request.
- (f) Where the Law Society of Ireland refuses to co-operate with an inspection or inquiry or to disclose information requested under *paragraph (e)* of this subsection, the person appointed by the Minister may apply to the Court for an order and the Law Society of Ireland shall comply with any such order which the Court may make.
- (g) The Bank may be a person appointed by the Minister for the purposes of *paragraph (e)* of this subsection.

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

**(ii) Section 44 of the Act of 1998:**

**44.**—Section 2 of the Act of 1995 is hereby amended by the substitution for subsection (7) of the following:

Amendment of  
section 2(7) of the  
Act of 1995.

"(7) Notwithstanding subsection (1) of this section, or any provision of Part VII of this Act, a solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) is in force shall not be an investment business firm by virtue of the provision in a manner incidental to the provision of legal services of investment business services or investment advice, where—

- (a) he does not hold himself out as being an investment business firm, and
- (b) when acting as an investment product intermediary he does not hold an appointment in writing other than from—

- (i) an investment firm authorised in accordance with Directive 93/22/EEC of 10 May 1993<sup>i</sup> by a competent authority of another Member State, or an authorised investment business firm (not being a restricted activity investment product intermediary or a certified person), or a member firm within the meaning of the Stock Exchange Act, 1995, or

- (ii) a credit institution authorised in accordance with Directives 77/780/EEC of 12 December, 1977<sup>ii</sup> and 89/646/EEC of 15 December, 1989<sup>iii</sup>, or

- (iii) a manager of a collective investment undertaking authorised to market units in collective investments to the public,

which is situate in the State or the relevant branch of which is situate in the State."

\*\*\*\*\*

- i. J. No. L 141, 11.06.1993.
- ii. O.J. No. L 322, 17.12.1977.
- iii. O.J. No. L 386, 30.12.1989.

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

**(iii) Section 45 of the Act of 1998:**

**45.**—Section 2 of the [Solicitors (Amendment) Act, 1994] is hereby amended by— Amendment of  
section 2 of the  
Solicitors  
(Amendment) Act,  
1994

(a) the insertion of the following definitions:

"authorised investment business firm' has the meaning assigned to it in *section 2* of the Investor Compensation Act, 1998;"

"investment business services' has the meaning assigned to it in *section 2* of the Investor Compensation Act, 1998;", and

(b) the substitution of the following definition for the definition of legal services:

"legal services' means services of a legal or financial nature provided by a solicitor arising from that solicitor's practice as a solicitor, and includes any part of such services; and, for the avoidance of doubt, includes any investment business services provided by a solicitor who is not an authorised investment business firm;"

\*\*\*\*\*

**(iv) Section 46 of the Act of 1998:**

**46.**—The [Solicitors (Amendment) Act, 1994] is hereby amended by the insertion of the following section after section 30: Insertion of new  
section in Solicitors  
(Amendment) Act,  
1994

"30A.—(1) Where it appears to the Society, after consultation with the Minister, that it is necessary to do so for the purpose of ensuring the fair and reasonable implementation in the public interest of the provisions of section 26 of the Act of 1994 and the provisions of section 21 and 22 (as substituted by the Act of 1994) of the Act of 1960 (or regulations made by the Society relating thereto), the Society may make regulations, with the consent of the Minister, providing that a solicitor who—

(a) is an authorised investment business firm, or

(b) is, or who holds himself out as being, an insurance intermediary,

shall, as a condition of being issued with a practising certificate, effect and maintain, in respect of—

(i) the provision of investment business services as an authorised investment business firm, or

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

- (ii) activities as an insurance intermediary,

such form or forms of indemnity against losses suffered by a client in consequence of the default, howsoever arising, of the solicitor or any employee, agent or independent contractor of the solicitor as shall be equivalent to the indemnity that would be provided to a client of a solicitor in the provision of legal services by means of the Compensation Fund or by means of the indemnity cover maintained pursuant to section 26 of this Act (or regulations made by the Society relating thereto).

(2) The Society shall not amend regulations made pursuant to subsection (1) of this section without the consent of the Minister.

(3) The Minister may—

(a) direct the Society to make regulations under subsection (1) of this section or to amend regulations made under subsection (1) or (2) of this section;

(b) by regulations vary upwards the maximum amount of indemnity against losses specified in regulations made by the Society pursuant to subsection (1) or (2) of this section having regard to changes in the value of money generally in the State since the said maximum amount was first specified.

(4) In this section, 'insurance intermediary' has the meaning assigned to it in section 2 of the *Investor Compensation Act, 1998*."

\*\*\*\*\*

**(v) Section 47 of the Act of 1998:**

**47.—(1) (a)** A solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) is in force shall be an investment business firm—

Provisions relating to solicitors.

(i) where the solicitor provides investment business services or investment advice in a manner which is not incidental to the provision of legal services, or

(ii) where the solicitor holds himself or herself out as being an investment business firm, or

(iii) where, when acting as an investment product intermediary in a manner incidental to the provision of legal services, the solicitor holds an appointment in writing other than from—

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

(I) an investment firm authorised in accordance with the Investment Services Directive by a competent authority of another Member State, or an authorised investment business firm (not being a restricted activity investment product intermediary or a certified person), or a member firm within the meaning of the Stock Exchange Act, 1995, or

(II) a credit institution authorised in accordance with Directives 77/780/EEC of 12 December, 1977, and 89/646/EEC of 15 December, 1989, or

(III) a manager of a collective investment undertaking authorised to market units in collective investments to the public,

which is situate in the State or the relevant branch of which is situate in the State,

and shall be required to be authorised as an authorised investment business firm pursuant to the provisions of the Act of 1995.

(b) A solicitor, in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) is in force, who is an insurance intermediary or who holds himself out to be an insurance intermediary shall be an investment firm for the purposes of this Act and shall inform the supervisory authority and the Company that he or she is an investment firm for the purposes of this Act.

(2) (a) Section 26 of the Act 1994 and sections 21 and 22 (as substituted by the Act of 1994) of the Act of 1960 (or regulations made by the Society relating thereto) shall not apply to a solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) is in force in relation to the provision by the solicitor of investment business services (whether or not including the activities of an insurance intermediary) as an authorised investment business firm, or in relation to a solicitor who is an insurance intermediary and who has informed the supervisory authority and the Company pursuant to *subsection (1)(b)* that he or she is an investment firm.

(b) No client of a solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

1994) is in force and who is an authorised investment business firm, or who is an insurance intermediary and has informed the supervisory authority and the Company pursuant to *subsection (1)(b)* that he or she is an investment firm, shall, in respect of any loss suffered in consequence of the default, howsoever arising, of the solicitor, or any employee, agent or independent contractor of the solicitor in relation to the provision of investment business services as an authorised investment business firm or in relation to the solicitor acting as an insurance intermediary, be entitled to make a claim against the Compensation Fund (within the meaning of the Act of 1994) or against the indemnity cover maintained pursuant to section 26 of the Act of 1994 and regulations made thereunder.

- (c) Nothing in this section shall otherwise affect the obligations of a solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) is in force or the rights of a client, arising under section 26 of the Act of 1994 or sections 21 of the Solicitors (Amendment) Act, 1960 (or regulations made by the Society relating thereto), in respect of the provision by the solicitor of legal services.

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**Section B**

- (i) **Definitions of “authorised investment business firm”, “investment advice”, “investment business firm”, “investment business services”, and “restricted activity investment product intermediary” as contained in section 2 of the Act of 1995:**

"authorised investment business firm" means an investment business firm which has been authorised by a supervisory authority under *section 10* or *13* of this Act or which is deemed to be authorised under *Part IV* or *Part VII* of this Act;

\*\*\*\*\*

"investment advice" means the giving, or offering or agreeing to give, to any person, advice on the purchasing, selling, subscribing for or underwriting of an investment instrument or on the making of a deposit or on the exercising of any right conferred by an investment instrument to acquire, dispose of, underwrite or convert an investment instrument or deposit or the giving, or offering or agreeing to give, to any person, advice on choice of a person providing investment business services, but does not include any of the following:

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

(a) advice given in a newspaper, journal, magazine or other publication, including electronic publications, where the principal purpose of the publication taken as a whole is not to lead persons to invest in any particular investment instrument or deposit or to deal with any particular provider of investment business services,

(b) advice given in a lecture, seminar or similar event or series of such events, where the principal purpose of the event or events taken as a whole is not to lead persons to invest in any particular investment instrument or deposit or to deal with any particular provider of investment business services and where persons engaged in the organisation or presentation of such events will earn no remuneration, commission, fee or other reward as a result of any particular decision, by a person attending such event and arising out of such attendance, in relation to investment instruments or deposits or in relation to the choice of a person providing investment business services,

(c) advice given in sound or television broadcasts where the principal purpose of such broadcasts taken as a whole is not to lead persons to invest in any particular investment instrument or deposit or to deal with any particular provider of investment business services,

(d) advice to undertakings on capital structure, industrial strategy and related matters and advice relating to mergers and the purchase of undertakings,

(e) advice given by persons in the course of the carrying on of any profession or business not otherwise constituting the business of an investment business firm, where the giving of such advice is a necessary part of other advice or services given in the course of carrying on that profession or business, and where the giving of investment advice is not remunerated or rewarded separately from such other advice or services;

\*\*\*\*\*

Section 2 (1) of the Investment Intermediaries Act, 1995 amended by Regulation 55 of European Union (Insurance Distribution) Regulations 2018 (S.I. No. 229/2018) "or an insurance undertaking" and "insurance undertaking" from the definition of "investment business firm".

"investment business firm" means any person, other than a member firm within the meaning of the Stock Exchange Act, 1995, who provides one or more investment business services or investment advice to third parties on a professional basis and for this purpose where an individual provides an investment business service and where that service is carried on solely for the account of and under the full and unconditional responsibility of an investment business firm or ~~an insurance undertaking~~ or a credit institution that activity shall be regarded as the activity of the investment business firm, ~~insurance undertaking~~ or credit institution itself;

\*\*\*\*\*

"investment business services" includes all or any of the following services:

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

- (a) receiving and transmitting, on behalf of investors, of orders in relation to one or more investment instrument;
- (b) execution of orders in relation to one or more investment instrument, other than for own account;
- (c) dealing in one or more investment instrument for own account;
- (d) managing portfolios of investment instruments or deposits in accordance with mandates given by investors on a discretionary client-by-client basis where such portfolios include one or more investment instrument or one or more deposit;
- (e) underwriting in respect of issues of one or more investment instrument or the placing of such issues or both;
- (f) acting as a deposit agent or deposit broker;
- (g) the administration of collective investment schemes, including the performance of valuation services or fund accounting services or acting as transfer agents or registration agents for such funds;
- (h) custodial operations involving the safekeeping and administration of investment instruments;
- (i) acting as a manager of a designated investment fund within the meaning of the Designated Investment Funds Act, 1985;

\*\*\*\*\*

"restricted activity investment product intermediary" has the meaning assigned to it by *section 26* of this Act;

.....

**26.—(1)** In this Act "restricted activity investment product intermediary" means a person whose only investment business service is receiving and transmitting orders in the instruments referred to in *section 4 (2) (a) to (c)* of this Act or receiving and transmitting—

- (a) orders in shares in a company which are listed on a stock exchange or bonds so listed, or
- (b) orders in prize bonds, or

***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

(c) acting as a deposit agent or as a deposit broker,

or engaging in any or all of these services and, in the course of engaging in any of these services transmits orders only to all or any of the following, namely—

(i) investment firms authorised in accordance with Directive 93/22/EEC of 10 May, 1993(1) by a competent authority of another Member State, or to an authorised investment business firm, not being a restricted activity investment product intermediary, or a certified person, or to a member firm, within the meaning of the Stock Exchange Act, 1995, in the State;

(ii) credit institutions authorised in accordance with Directives 77/780/EEC of 12 December, 1977(2) and 89/646/EEC of 15 December, 1989 ;

(iii) to such other branches of investment business firms or credit institutions authorised in a third country as the supervisory authority may approve from time to time;

(iv) collective investment undertakings authorised under the law of a Member State of the European Union to market units in collective investments to the public, and to the managers of such undertakings;

(v) investment companies with fixed capital as defined in Article 15 (4) of Council Directive 77/91/EEC of 13 December, 1976(4) the securities of which are listed or dealt in on a regulated market in a Member State;

(vi) the Prize Bond Company Ltd. or any successor to it as operator of the Prize Bond scheme,

and which does not hold clients' funds or securities, so that in its dealings with clients it does not become a debtor to its clients, but this shall not prevent it from—

(I) taking non-negotiable cheques or similar instruments made out to one of the undertakings mentioned at *subparagraphs (i) to (vi)* of this subsection, for the purposes of the receipt and transmission of orders, or

(II) when acting as a deposit agent, taking cash from a client for the client's account with a credit institution.

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***Extracts from the Investment Intermediaries Act, 1995 and  
Investor Compensation Act, 1998***

- (ii) **Definitions of “authorised investment business firm”, “investment business firm”, “investment business services”, “investment product intermediary”, and “restricted activity investment product intermediary” as contained in section 2 of the Act of 1998:**

"authorised investment business firm" has the meaning assigned to it by *subsection (4)*;

.....

(4) In this Act, "authorised investment business firm" has the meaning assigned to it by the Act of 1995 and, where the Minister has not made regulations under section 2(8)(a) of the Act of 1995, this definition excludes a restricted activity investment product intermediary who is a solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) is in force unless that restricted activity investment product intermediary has informed the supervisory authority and the Company that he or she is a restricted activity investment product intermediary.

\*\*\*\*\*

"investment business firm" has the meaning assigned to it by the Act of 1995;

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"investment business services" has the meaning assigned to it by the Act of 1995 and includes the activities of an insurance intermediary

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“investment product intermediary” has the meaning assigned to it by the Act of 1995;

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“restricted activity investment product intermediary” has the meaning assigned to it by the Act of 1995;

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*Number 19 of 2002*

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## **SOLICITORS (AMENDMENT) ACT, 2002**

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### **ARRANGEMENT OF SECTIONS**

#### Section

1. Interpretation.
2. Amendment of section 49(1) of Principal Act.
3. Amendment of section 66 of Principal Act.
4. Amendment of section 71 of Principal Act.
5. Prohibition of certain advertisements by unqualified persons.
6. Saver.
7. Amendment of section 3 of Act of 1960.
8. Amendment of section 6 of Act of 1960.
9. Amendment of section 7 of Act of 1960.
10. Amendment of section 8 of Act of 1960.
11. Amendment of section 15 of Act of 1960.
12. Amendment of section 2 of Act of 1994.
13. Amendment of Act of 1994.
14. Amendment of section 12 of Act of 1994.
15. Amendment of section 14 of Act of 1994.
16. Amendment of sections 21(6) and 22(2) of Act of 1960.
17. Publication of outcome of disciplinary inquiry.
18. Prohibition of contravention of *Solicitors Acts, 1954 to 2002*.
19. Inquiry into alleged misconduct by apprentice.
20. Implementation of Directive 98/5/EC and any corresponding measure.

[2002.]

*Solicitors (Amendment) Act, 2002.*

[No. 19.]

Section

21. Law Reports.

22. Amendment of maximum fines provided for in Solicitors Acts.

23. Short title, commencement, collective citation and construction.

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ACTS REFERRED TO

Criminal Law Act, 1997	1997, No. 14
European Communities Act, 1972	1972, No. 27
European Communities (Amendment) Act, 1993	1993, No. 25
Solicitors Act, 1954	1954, No. 36
Solicitors Acts, 1954 and 1960	
Solicitors Acts, 1954 to 1994	
Solicitors (Amendment) Act, 1960	1960, No. 37
Solicitors (Amendment) Act, 1994	1994, No. 27

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*Number 19 of 2002*

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**SOLICITORS (AMENDMENT) ACT, 2002**

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AN ACT TO AMEND THE SOLICITORS ACTS, 1954 TO 1994,  
AND TO PROVIDE FOR FACILITATING THE PRACTICE  
OF THE PROFESSION OF LAWYER THROUGHOUT THE  
EUROPEAN ECONOMIC AREA AND THE SWISS  
CONFEDERATION. [13th April, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Interpretation.

“Act of 1960” means the Solicitors (Amendment) Act, 1960;

“Act of 1994” means the Solicitors (Amendment) Act, 1994;

Definition of  
“Authority”  
inserted by section  
206, LSRA 2015.  
See [page 392](#).

“Disciplinary Tribunal” means the Solicitors Disciplinary Tribunal established by section 6(1) (as substituted by this Act) of the Act of 1960, and references to the Disciplinary Tribunal in the Acts of 1960 and 1994 shall be construed as references to the Solicitors Disciplinary Tribunal;

“Minister” means the Minister for Justice, Equality and Law Reform;

“Principal Act” means the Solicitors Act, 1954.

2.—Section 49(1) (as substituted by section 61 of the Act of 1994) of the Principal Act is hereby amended by the substitution of the following paragraph for paragraph (q):

Amendment of  
section 49(1) of  
Principal Act.

Paragraph (q)  
amended by  
the substitution  
of “years or”  
with “years”, in  
paragraph (ii) and  
the substitution  
of “clients” with  
“clients, or” in  
paragraph (iii) by  
section 181, LSRA  
2015. See [page  
383](#).

“(q) the solicitor has failed to satisfy the Society that he or she should be issued with a practising certificate or a practising certificate not subject to specified conditions, having regard to all the circumstances, including, where appropriate—

- (i) the financial state of the practice,
- (ii) the number and nature of complaints made to the Society, either alleging misconduct by the solicitor or under section 8 or 9 of the Solicitors (Amendment) Act, 1994, within the preceding two practice ~~years, or~~
- (iii) the need adequately to protect or secure the interests of the solicitor’s ~~clients.~~’.

New subparagraph  
(iv) inserted after  
subparagraph (iii)  
by section 181,  
LSRA 2015. See  
[page 383](#).

3.—The Principal Act is hereby amended in section 66 (as substituted by section 76 of the Act of 1994) by the substitution of the following for subsection (11):

Amendment of section 66 of Principal Act.

“(11) An authorised person who attends pursuant to subsection (10) of this section at a place of business of a solicitor shall inform the solicitor or any clerk or servant of the solicitor of the purpose of the attendance as specified in that subsection, except where the Society reasonably consider that to do so could prejudice the exercise of any of the Society’s functions as so specified, and may in pursuance of that purpose require the solicitor or any such clerk or servant to do one or more than one of the following:

- (a) to make available for inspection all or any part of the solicitor’s accounting records;
- (b) to furnish such copies of those records as the authorised person deems necessary to fulfil the said purpose;
- (c) to give such written authority addressed to such bank or banks as the authorised person requires to enable the authorised person to inspect any account or accounts opened, or caused to be opened, by the solicitor at such bank or banks (or any documents relating thereto) and to obtain from such bank or banks copies of such documents relating to such account or accounts for such period or periods as the authorised person deems necessary to fulfil the said purpose.’’.

4.—The Principal Act is hereby amended in section 71 (which relates to regulations with respect to the professional practice, conduct and discipline of solicitors) by the substitution, for subsections (2) to (7) (inserted by the Act of 1994), of the following subsections:

Amendment of section 71 of Principal Act.

~~“(2) A solicitor shall not publish or cause to be published an advertisement which—~~

- ~~(a) is likely to bring the solicitors’ profession into disrepute,~~
- ~~(b) is in bad taste,~~
- ~~(c) reflects unfavourably on other solicitors,~~
- ~~(d) without prejudice to any regulations under subsection (8) of this section, contains an express or implied assertion that the solicitor has specialist knowledge in any area of law or practice which is superior to that of other solicitors,~~
- ~~(e) is false or misleading in any respect,~~
- ~~(f) is published in an inappropriate location,~~
- ~~(g) does not comply with subsection (3), or regulations under subsection (5) or (6), of this section,~~
- ~~(h) expressly or impliedly refers to—~~

Subsections (2), (3), (4), (5), (6) and (10) repealed by the Second Schedule to the LSRA 2015. See [page 406](#).

Second Schedule to the LSRA 2015 (insofar as it relates to the repeal of section 71(2), (3), (4), (5), (6) and (10), Solicitors Act 1954) not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

- ~~(i) claims or possible claims for damages for personal injuries,~~
  - ~~(ii) the possible outcome of claims for damages for personal injuries, or~~
  - ~~(iii) the provision of legal services by the solicitor in connection with such claims,~~
  - ~~(i) expressly or impliedly solicits, encourages or offers any inducement to any person or group or class of persons to make the claims mentioned in paragraph (h) of this subsection or to contact the solicitor with a view to such claims being made, or~~
  - ~~(j) is contrary to public policy.~~
- ~~(3) An advertisement published or caused to be published by a solicitor shall not include more than —~~
- ~~(a) the name, address (including any electronic address), telephone number, facsimile number, place or places of business of the solicitor and any reference to the location of information provided by the solicitor that is accessible electronically,~~
  - ~~(b) particulars of the academic and professional qualifications and legal experience of the solicitor,~~
  - ~~(c) subject to subsection (2) of this section, factual information on the legal services provided by the solicitor and on any areas of law to which those services relate,~~
  - ~~(d) subject to any regulations under subsection (6) of this section, particulars of any charge or fee payable to the solicitor for the provision of any specified legal service, and~~
  - ~~(e) any other information specified in regulations under subsection (5) of this section.~~
- ~~(4) Without prejudice to paragraphs (h) and (i) of subsection (2) of this section, a solicitor may, where appropriate, include the words ‘personal injuries’ in any advertisement which contains factual information, pursuant to paragraph (c) of subsection (3) of this section, on the legal services provided by the solicitor or on any areas of law to which those services relate.~~
- ~~(5) Without prejudice to the generality of section 5 of this Act and subsection (1) of this section, the Society shall, with the consent of the Minister, make regulations to give effect to subsections (2), (3) and (4) of this section and, in particular —~~
- ~~(a) to make provision, having regard to those subsections, in relation to advertisements that may be published or caused to be published by a solicitor, including provision in respect of the manner of their publication and their form, content and size,~~
  - ~~(b) to specify advertisements which, having regard to the manner of~~

~~their publication or their form, content or size, would be in contravention of subsection (2) of this section,~~

~~(c) subject to subsection (2) of this section, to provide that an advertisement published or caused to be published by a solicitor may include specified information in addition and of a similar nature to the information provided for in paragraphs (a) to (d) of subsection (3) of this section,~~

~~(d) to provide for restrictions on a solicitor making, or causing to be made, unsolicited approaches to any person or group or class of persons with a view to being instructed to provide legal services, and~~

~~(e) to provide for the manner in which the Society is to determine whether any particular advertisement published or caused to be published by a solicitor is in contravention of any provision of, or regulations under, this section.~~

~~(6) The Society, where they consider it appropriate, may make regulations prohibiting the advertisement of any charge or fee payable to a solicitor for the provision of any specified legal service, provided that such regulations may be made only with the consent of the Minister and where the Minister is satisfied that such regulations are in the public interest.~~

(7) Without prejudice to the generality of section 5 of this Act and subsection (1) of this section, the Society shall not prohibit a solicitor from charging less for a legal service than any charge or fee specified for that legal service by or under any enactment for the time being in force.

Subsection (8) amended by section 183, LSRA 2015. See [page 384](#).

~~(8) Notwithstanding paragraph (d) of subsection (2) and subsection (3) of this section, the Society may by regulations provide that a solicitor who in the prescribed manner satisfies the Society of having specialist knowledge in a prescribed area of law or practice may be permitted by the Society to be designated, whether in an advertisement or otherwise, as having specialist knowledge in that area.~~

(9) Regulations under section 5 and this section and in force immediately before the commencement of the *Solicitors (Amendment) Act, 2002*, shall, save in so far as they may be inconsistent with this section or regulations made thereunder after such commencement, continue in force until revoked as if they had been duly made under those sections.

~~(10) In this section —~~

~~‘advertisement’ means any communication (whether oral or in written or other visual form and whether produced by electronic or other means) which is intended to publicise or otherwise promote a solicitor in relation to the solicitor’s practice, including —~~

~~(a) any brochure, notice, circular, leaflet, poster, placard, photograph, illustration, emblem, display, stationery, directory entry, article or statement for general publication;~~

~~(b) any electronic address or any information provided by the solicitor that is accessible electronically;~~

~~(c) any audio or video recording, or~~

~~(d) any presentation, lecture, seminar or interview;~~

~~which is so intended but excluding a communication which is primarily intended to give information on the law;~~

~~‘claims for damages for personal injuries’ means claims, whether made in court proceedings or otherwise, for damages or compensation for personal injuries suffered, or alleged to have been suffered, by a person or persons owing to an act or omission, or alleged act or omission, of another person or persons;~~

~~‘inappropriate location’ means a hospital, clinic, doctor’s surgery, funeral home, cemetery, crematorium or other location of a similar character;~~

~~‘the Minister’ means the Minister for Justice, Equality and Law Reform;~~

~~‘personal injuries’ includes any disease and any impairment of a person’s physical or mental condition or death.’’.~~

5.—(1) Without prejudice to sections 55 and 56 (which prohibit an unqualified person from acting as or pretending to be a solicitor) of the Principal Act, a person who is not a solicitor shall not publish or cause to be published an advertisement—

Prohibition of certain advertisements by unqualified persons.

(a) which expressly or impliedly undertakes to provide a specified service, being a service of a legal nature that could otherwise be provided by a solicitor, for or in expectation of a fee, gain or reward that is directly related to the provision of that service, and

~~(b) which, if published or caused to be published by a solicitor, would not be in compliance with paragraph (h) or (i) of subsection (2) or subsection (4) of section 71 (as amended by section 4 of this Act) of the Principal Act.~~

~~(2) In subsection (1) of this section “advertisement” has the meaning assigned to it by subsection (10) of section 71 (as so amended) of the Principal Act, with the substitution, where appropriate, of “a person who is not a solicitor” for “a solicitor in relation to that solicitor’s practice”.~~

6.—Sections 4 and 5 of this Act shall not apply to advertisements that are published not more than 3 months after the commencement of those provisions.

Saver.

7.—The Act of 1960 is hereby amended in section 3 (as amended by section 24 of the Act of 1994) by the substitution, for paragraphs (c) and (d) of the definition of “misconduct”, of the following paragraphs:

Amendment of section 3 of Act of 1960.

Section 207(a) and (b), LSRA 2015 not commenced at publication (Feb 2020). Go to [eLSB](#) to confirm current status.

Paragraph (b) substituted by section 207(a), LSRA 2015. See [page 392](#).

Subsection (2) substituted by section 207(b), LSRA 2015. See [page 392](#).

“(c) the contravention of a provision of the *Solicitors Acts, 1954 to 2002*, or any order or regulation made thereunder,

(d) in the course of practice as a solicitor—

(i) having any direct or indirect connection, association or arrangement with any person (other than a client) whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of section 55 or 56 or section 58 (which prohibits an unqualified person from drawing or preparing certain documents), as amended by the Act of 1994, of the Principal Act, or *section 5* of the *Solicitors (Amendment) Act, 2002*, or

(ii) accepting instructions to provide legal services to a person from another person whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of those enactments,

(e) any other conduct tending to bring the solicitors’ profession into disrepute.”.

Further amended  
by the insertion of  
a new subsection  
(1B) by section  
35, 2008 Act.  
See [page 230](#).

**8.**—The Act of 1960 is hereby amended in section 6 (as substituted by section 16 of the Act of 1994)—

Amendment of  
section 6 of Act of  
1960.

(a) by the substitution of the following subsection for subsection (1):

“(1) The President of the High Court shall, from time to time as occasion requires, appoint a tribunal which shall be known as the Solicitors Disciplinary Tribunal (in this Act referred to as the ‘Disciplinary Tribunal’) consisting of—

(a) not more than twenty persons from among practising solicitors of not less than 10 years standing (to be known and referred to in this section as ‘solicitor members’), one of whom shall be appointed by the President of the High Court to be chairperson of the Disciplinary Tribunal and each of whom shall be appointed after consultation with the Society, and

(b) not more than ten persons, who are not solicitors or barristers (to be known and referred to in this section as ‘lay members’), who shall be nominated by the Minister to represent the interests of the general public,

for such a period, not exceeding five years, as the President of the High Court may determine, and any such person so appointed shall be eligible for reappointment to the Disciplinary Tribunal for not more than one such period.”.

(b) by the insertion of the following subsection after subsection (1):

“(1A) At least 40 per cent of the solicitor members and of the lay members of the Disciplinary Tribunal, calculated by rounding to the nearest whole number, shall be men and at least 40 per cent, as so calculated, shall be women.”,

and

(c) by the substitution of the following subsection for subsection (6):

“(6) The Society shall pay to each member of the Disciplinary Tribunal, out of funds at the disposal of the Society, either—

(a) the reasonable travelling and subsistence expenses incurred by the member in connection with attendance at meetings of the Disciplinary Tribunal, or

(b) with the consent of the member concerned, an annual sum (the amount of which shall be determined by the Society from time to time and which shall be payable in arrear at the end of each year) in respect of those expenses.”.

9.—The Act of 1960 is hereby amended in section 7 (as substituted by section 17 of the Act of 1994) in the following respects:

Amendment of section 7 of Act of 1960.

(a) by the substitution of the following subsections for subsections (2) and (3):

“(2) (a) Where an application in relation to a solicitor (in this section referred to as the ‘respondent solicitor’) is duly made under this section, the Disciplinary Tribunal shall—

(i) where the Society is not the applicant, inform the Society as soon as practicable of the receipt of the application, and

(ii) before deciding whether there is a *prima facie* case for inquiry:

(I) send a copy of the application and of any accompanying documents to the respondent solicitor, and

(II) request that any observations which he or she may wish to make on the application be supplied to the Disciplinary Tribunal within a specified period.

(b) If, after receipt of the respondent solicitor's observations or on the expiration of the specified period, the Disciplinary Tribunal find that there is no *prima facie* case for inquiry, they shall so inform the applicant, the Society (where the Society is not the applicant) and the respondent solicitor and take no further action in relation to the application.

(3) If the Disciplinary Tribunal find that there is a *prima facie* case for inquiry, the following provisions shall have effect:

(a) they shall proceed to hold an inquiry and notify the respondent solicitor and the applicant (and, where the Society is not the applicant, the Society) of the date on which it is to be held;

(b) when holding the inquiry the Disciplinary Tribunal shall—

(i) consider each allegation of misconduct made against the respondent solicitor, and

(ii) make a separate finding in respect of each such allegation;

(c) on completion of the inquiry the Disciplinary Tribunal shall specify in a report (which shall include a verbatim note of the evidence given and submissions made) to the High Court—

(i) the nature of the application and the evidence laid before them,

(ii) the finding made on each allegation of misconduct and the reasons therefor,

(iii) any other matters in relation to the respondent solicitor which they may think fit to report,

(iv) in case they find that there has been misconduct on the part of the respondent solicitor and they have not made, and do not intend to make, an order under subsection (9) of this section—

(I) their opinion as to the fitness or otherwise of the respondent solicitor to be a member of the solicitor's profession, having regard to their findings, and

(II) their recommendations as to the sanction which in their opinion should be imposed, having regard to their findings, to any finding of misconduct

on the part of the respondent solicitor previously made by them (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court, and to any order made by the Court under the *Solicitors Acts, 1954 to 2002*, in respect of the respondent solicitor,

and in that case the Society shall bring the report before the Court.”,

(b) by the substitution of the following subsection for subsection (5):

“(5) The Disciplinary Tribunal shall, as soon as possible and not later than 21 days after their report has been prepared, serve a copy of it on—

(a) the respondent solicitor either personally or by sending it by registered post to the respondent solicitor’s last-known residence or place of business,

(b) the Society by sending it to the Society by registered post, and

(c) any person other than the Society who has made an application under subsection (1) of this section either personally or by sending it by registered post to the person’s last-known residence or place of business.”,

(c) by the substitution of the following subsection for subsection (6):

“(6) Where, on completion of an inquiry under subsection (3) of this section, the Disciplinary Tribunal find that there has been no misconduct on the part of the respondent solicitor, they shall inform the respondent solicitor and the applicant (and, where the Society is not the applicant, the Society) of their finding and the reasons therefor and take no further action in relation to the matter.”,

(d) in subsection (9)—

(i) by the substitution of “€15,000” for “£5,000” in paragraphs (b) and (c), and

(ii) by the substitution of the following for “solicitor.” in paragraph (d):

“solicitor,

and, in making any such order, the Disciplinary Tribunal shall take account of any finding of misconduct on the part of the respondent solicitor previously made by them (or by their

predecessor, the Disciplinary Committee) and not rescinded by the Court, and of any order made by the Court under the *Solicitors Acts, 1954 to 2002*, in respect of the respondent solicitor.”,

(e) by the substitution of the following subsection for subsection (10):

“(10) On the making of an order under subsection (9) of this section, the Disciplinary Tribunal shall as soon as possible and not later than 28 days thereafter serve, in the manner provided for in subsection (5) (as substituted by the *Solicitors (Amendment) Act, 2002*) of this section in relation to service of their report, a copy of the order on the respondent solicitor, the Society and any person other than the Society who has made an application under subsection (1) of this section.”,

(f) by the substitution of the following subsection for subsection (11):

“(11) (a) A respondent solicitor in respect of whom an order has been made by the Disciplinary Tribunal under subsection (9) of this section, or

(b) without prejudice to subsection (12) of this section, the Society or any person other than the Society who has made an application under subsection (1) of this section,

may, within the period of 21 days beginning on the date of the service of a copy of the order or of the report, whichever date is the later, appeal to the High Court to rescind or vary the order in whole or in part, and the Court, on hearing the appeal, may—

(i) rescind or vary the order, or

(ii) confirm that it was proper for the Disciplinary Tribunal to make the order.”,

and

(g) by the insertion of the following subsections after subsection (12):

“(12A) The Society or any person who has made an application under subsection (1) of this section may appeal to the High Court within the period specified in subsection (12B) of this section—

(a) against a finding of the Disciplinary Tribunal that there is no *prima facie* case for inquiry into the conduct of the respondent solicitor, or

(b) against a finding of the Disciplinary Tribunal that there has been no misconduct on the part of the

respondent solicitor in relation to an allegation of misconduct (whether or not there has been a finding by the Disciplinary Tribunal of misconduct in relation to any other such allegation), and the Court may—

- (i) confirm the finding concerned,
- (ii) where the appeal is under paragraph (a) of this subsection, make a finding that there is a *prima facie* case in relation to the allegation of misconduct concerned or, as the case may be, one or more than one of such allegations and require the Disciplinary Tribunal to proceed to hold an inquiry under subsection (3) of this section in relation to such allegation or allegations, or
- (iii) where the appeal is under paragraph (b) of this subsection, rescind or vary any finding of the Disciplinary Tribunal that there has been no misconduct on the part of the respondent solicitor in relation to an allegation of misconduct and, in relation to that solicitor, by order do one or more than one of the things specified in section 8(1)(a) (as substituted by the Act of 1994) of this Act.

(12B) An appeal against a finding of the Disciplinary Tribunal under subsection (12A) of this section shall be made within 21 days of the receipt by the appellant of notification in writing of the finding.’’.

**10.**—The Act of 1960 is hereby amended in section 8 (as substituted by section 18 of the Act of 1994)—

Amendment of section 8 of Act of 1960.

(a) by the substitution of the following for ‘‘penalty;’’ in subsection (1)(a)(i)(V):

‘‘penalty;

and, in making any such order, the Court shall take account of any finding of misconduct on the part of the respondent solicitor previously made by the Disciplinary Tribunal (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court, and of any order made by the Court under the *Solicitors Acts, 1954 to 2002*, in respect of the respondent solicitor;’’,

and

(b) by the substitution of the following for ‘‘Court.’’ in subsection (1)(c)(viii):

“Court;

and, in making any such order, the Court shall take account of any finding of misconduct on the part of the respondent solicitor previously made by the Disciplinary Tribunal (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court and of any order made by the Court under the *Solicitors Acts, 1954 to 2002*, in respect of the respondent solicitor.”.

**11.**—The Act of 1960 is hereby amended in section 15 (as substituted by section 25 of the Act of 1994) by the insertion of the following subsections after subsection (1):

Amendment of  
section 15 of Act of  
1960.

“(1A) The Disciplinary Tribunal may require the applicant and the respondent solicitor to submit in writing an outline of the evidence expected to be given by each of the witnesses whom they propose to have summoned to attend the inquiry.

(1B) The Disciplinary Tribunal may, if of opinion that the evidence expected to be given by any such witness is irrelevant or does not add materially to that proposed to be given by other witnesses and that accordingly the attendance of the witness at the inquiry is likely to give rise to unnecessary delay or expense, so inform the applicant or respondent solicitor, as the case may be, and draw his or her attention to the provisions of subsection (1C) of this section.

(1C) On the completion of the inquiry the Disciplinary Tribunal, whether or not they have acted in accordance with subsection (1B) of this section, may, if of opinion that the attendance of any witness summoned at the request of the applicant or respondent solicitor was unnecessary and thereby involved the witness in avoidable expense, by order direct that the applicant or respondent solicitor, as the case may be, shall pay a sum or sums not exceeding €10,000 to the witness in respect of the expense, and the witness may recover the sum or sums from the applicant or respondent as a liquidated debt.

(1D) Before making an order under subsection (1C) of this section, the Disciplinary Tribunal shall notify the applicant or respondent solicitor that they propose to do so and to consider any representations that may be made to them in writing by the person affected within 14 days after the notification.

(1E) The applicant or respondent solicitor in respect of whom an order has been made under subsection (1C) of this section may appeal to the High Court against the order within 21 days of the receipt by him or her of notification in writing of it, and the Court may make such order on the appeal as it thinks fit.”.

**12.**—Section 2 of the Act of 1994 is hereby amended by the insertion of the following subsection:

Amendment of  
section 2 of Act of  
1994.

Subsection (2) substituted by section 38, 2008 Act, as amended by section 58, Civil Law (Miscellaneous Provisions) Act 2011.

“(2) References in sections 10, 10A (as inserted by *section 13* of the *Solicitors (Amendment) Act, 2002*), 12 (as substituted by *section 14* of that Act) and 22 of this Act to complaints made to or received by the Society include references to any complaints made to the Society by the registrar alleging a breach of any provision of the *Solicitors Acts, 1954 to 2002*, or any order or regulation made thereunder, and those provisions of this Act shall have effect accordingly.”.

**13.**—The Act of 1994 is hereby amended by the insertion of the following section after section 10:

Amendment of Act of 1994.

“10A.—(1) Where, in relation to a complaint made to the Society alleging misconduct by a solicitor or a complaint under section 8(1) or 9(1) of this Act, it appears to the Society that the solicitor concerned is obstructing the investigation of the complaint by the Society by refusing, neglecting or otherwise failing, without reasonable cause—

(a) to respond appropriately in a timely manner, or at all, to correspondence from the Society in relation to the complaint, or

(b) to attend a meeting convened by the Society at which the complaint would be considered, the Society may apply to the High Court for an order compelling the solicitor to respond appropriately within a specified time to such correspondence or to attend such a meeting.

(2) An order under subsection (1) of this section may provide for censuring the solicitor and requiring the solicitor to pay a money penalty and for such matters of a consequential nature as the Court considers appropriate.

(3) Where an order under subsection (1) of this section requires a solicitor to pay a money penalty, the order shall operate as a judgment against the solicitor in favour of the Society, and the money penalty, when recovered, shall be paid into the Compensation Fund.

(4) In subsection (1) of this section, ‘meeting convened by the Society’ includes a meeting convened by a committee to which functions of the Society which may be performed by the Council have been delegated pursuant to section 73 (as amended by the Act of 1960 and this Act) of the Principal Act.”.

**14.**—The Act of 1994 is hereby amended by the substitution of the following section for section 12:

Amendment of section 12 of Act of 1994.

“Contribution by solicitor.

12.—(1) (a) Following an investigation of a complaint made to the Society against a solicitor under section 8(1) or 9(1) of this Act,

the Society may—

(i) in case the Society have made a determination or given a direction under either of those sections, require payment by the solicitor of a sum not exceeding €3,000 to the Society by way of contribution towards the costs incurred by the Society in investigating the complaint, or

(ii) in any other case, if the Society have made a determination that the solicitor has in the course of the investigation refused, neglected or otherwise failed, without reasonable cause, to respond appropriately in a timely manner, or at all, to a written request from the Society and that the Society have incurred costs in consequence of the refusal, neglect or failure, require payment by the solicitor to the Society of a sum not exceeding €3,000 by way of contribution towards those costs,

and the solicitor shall comply with any such requirement.

(b) Paragraph (a) (other than subparagraph (i)) of this subsection shall apply in relation to a complaint made to the Society alleging misconduct by a solicitor as it applies in relation to a complaint referred to in that paragraph.

(c) Where, in relation to a complaint made to the Society alleging misconduct by a solicitor or a complaint under section 8(1) or 9(1) of this Act, the Society—

(i) are of opinion that the complaint is justified but is not of sufficient seriousness to warrant an application being made to the Disciplinary Tribunal under subsection (1) of section 7 (as substituted by section 17 of this Act) of the Act of 1960, or

(ii) have made a determination that the

solicitor has in the course of the investigation refused, neglected or otherwise failed, without reasonable cause, to respond appropriately in a timely manner, or at all, to a written request from the Society and that the Society have incurred costs in consequence of such refusal, neglect or failure,

the Society may, in addition to or in substitution (in whole or in part) for requiring payment by way of contribution towards the costs incurred by the Society as provided for in subparagraph (i) or (ii) of paragraph (a) of this subsection, issue to the solicitor a reprimand in writing in such terms as the Society deem appropriate and reasonable and so notify the person from whom the complaint was received.

(2) Subject to any order made under section 11(1) of this Act, the Society may recover any sum the payment of which has been required by the Society by way of contribution under subsection (1) of this section as a liquidated debt payable to the Society.”.

15.—The Act of 1994 is hereby amended in section 14 by the substitution of the following subsections for subsections (1) and (2):

Amendment of section 14 of Act of 1994.

Subsection (1) amended by the deletion of “whether as a result of a complaint or otherwise” and the insertion of a new paragraph (aa) after paragraph (a), by section 197, LSRA 2015. See [page 387](#).

“(1) Where it appears to the Society, ~~whether as a result of a complaint or otherwise~~, that it is necessary for the purpose of investigating—

- (a) alleged misconduct by a solicitor,
- (b) a complaint against a solicitor under section 8(1) or 9(1) of this Act, or
- (c) the capacity of a solicitor engaged in the provision of legal services adequately to protect or secure the interests of the solicitor’s clients,

for an authorised person to attend with or without prior notice at the place or places of business of the solicitor, an authorised person may so attend at that place or places.

(2) An authorised person who attends under subsection (1) of this section at the place or places of business of a solicitor—

- (a) shall inform the solicitor or any clerk or servant of the solicitor of the purpose of the attendance as specified in

that subsection, except where the Society reasonably consider that to do so could prejudice the investigation, and

- (b) may in pursuance of that purpose require the solicitor or any such clerk or servant to make available to the authorised person for inspection such specified documents or categories of documents in the possession or under the control or within the procurement of the solicitor as the authorised person deems necessary to fulfil that purpose (whether or not such documents or any of them relate also to other matters).”.

**16.**—The Act of 1960 is hereby amended—

Amendment of sections 21(6) and 22(2) of Act of 1960.

- (a) in subsection (6) of section 21 (as substituted by section 29 of the Act of 1994) of the Act of 1960 by the substitution of “€700,000” for “£350,000”, and

- (b) in subsection (2) of section 22 (as substituted by section 30 of the Act of 1994) of the Act of 1960 by the substitution of “€2,000,000” for “£1,000,000”.

**17.**—The Act of 1994 is hereby amended in section 23—

Publication of outcome of disciplinary inquiry.

- (a) by the substitution of the following subsection for subsection (1):

“(1) Where, on the completion of an inquiry by the Disciplinary Tribunal held under section 7(3) of the Act of 1960, the Disciplinary Tribunal have—

- (a) made an order under section 7(9),
- (b) served on the Society a copy of the order pursuant to section 7(10), and
- (c) sent to the Society a copy of their report pursuant to section 7(5),

of that Act, then, subject to subsection (2) of this section, the Society may arrange to publish the order or notice of the making of the order and its effect, together with a summary of the report, in such a manner as the Society thinks fit.”,

- (b) by the substitution of the following subsection for subsection (2):

“(2) Where, on the completion of an inquiry by the Disciplinary Tribunal held under section 7(3) of the Act of 1960, the Disciplinary Tribunal have made an order under section 7(9) of that Act, the order, or notice of the making of the order and its effect, or any part of the report of the Disciplinary Tribunal or other detail of the inquiry, shall not be published by the Society until a period of at least 21 days

beginning on the date of the service of a copy of the order or of the report, whichever date is the later, shall have elapsed or until any application made under subsection (11) or (12) of section 7 of the Act of 1960 has been determined by the High Court, and thereafter the notice of the making of the order shall not be published if the Court rescinds the order of the Disciplinary Tribunal or, in the case of an application made under the said subsection (12), the Court orders that one or more of the aforementioned documents shall not be published.”,

and

(c) by the insertion of the following subsection after subsection (3):

“(4) References in subsections (1) and (2) of this section to provisions of section 7 of the Act of 1960 are to those provisions as substituted by this Act and, where appropriate, by the *Solicitors (Amendment) Act, 2002.*”.

**18.—**(1) Where, on the application of the Society, it is shown to the satisfaction of the High Court—

Prohibition of contravention of *Solicitors Acts, 1954 to 2002.*

- (a) that a solicitor or any other person has contravened, is contravening or is likely to contravene any provision of the *Solicitors Acts, 1954 to 2002*, or
- (b) that a solicitor has contravened, is contravening or is likely to contravene any provision of regulations under those Acts,

the Court may by order prohibit the solicitor or other person concerned from contravening that provision, notwithstanding that any such contravention may constitute an offence and notwithstanding section 77 of the Principal Act.

(2) An order under *subsection (1)* of this section may contain such provisions of a consequential nature as the Court considers appropriate.

**19.—**(1) The Society may make an application to the ~~Disciplinary Tribunal~~ to hold an inquiry into alleged misconduct by an apprentice.

Inquiry into alleged misconduct by apprentice.

(2) (a) On such an application the ~~Disciplinary Tribunal~~, before deciding whether there is a *prima facie* case for inquiry, shall—

- (i) send a copy of the application and of any accompanying documents to the apprentice, and
- (ii) request that any observations which he or she may wish to make on the application be supplied within a specified period.

(b) If, after receipt of the apprentice’s observations or on the expiration of the specified period, the ~~Disciplinary Tribunal~~

Section 19 amended by the substitution of “Disciplinary Tribunal” with “Legal Practitioners Disciplinary Tribunal” in each place that it occurs by section 208(a), LSRA 2015. See [page 392](#).

find that there is no *prima facie* case for inquiry, they shall so inform the apprentice and the Society and take no further action in relation to the application.

(3) If the ~~Disciplinary Tribunal~~ find that there is a *prima facie* case for inquiry, the following provisions shall have effect:

- (a) they shall proceed to hold an inquiry and notify the apprentice and the Society of the date on which it is to be held;
- (b) when holding the inquiry under this section the ~~Disciplinary Tribunal~~ shall—
  - (i) consider each allegation of misconduct made against the apprentice, and
  - (ii) make a separate finding in respect of each such allegation;
- (c) if the ~~Disciplinary Tribunal~~ find that there has been no misconduct on the part of the apprentice, they shall take no further action in relation to the matter and so inform the apprentice and the Society;
- (d) if the ~~Disciplinary Tribunal~~ find that there has been such misconduct, they shall notify the apprentice and the Society of their finding and shall specify in a report (which shall include a verbatim note of the evidence given and submissions made) to the High Court—
  - (i) the nature of the application and the evidence laid before them,
  - (ii) the finding made on each allegation of misconduct and the reasons therefor,
  - (iii) any other matters in relation to the apprentice which they may think fit to report,
  - (iv) ~~their opinion as to the fitness of the apprentice, having regard to their finding or findings, to be admitted as a solicitor either at any time or until the apprentice has satisfied the Society or the President of the High Court as to such fitness.~~

Sub-paragraph  
(iv) substituted  
by section  
45(a), 2008  
Act. See  
[pages 235-236](#).

(4) (a) The apprentice may appeal to the High Court against a finding of the ~~Disciplinary Tribunal~~ that there has been misconduct on his or her part within 21 days of the receipt by him or her of written notification of the finding.

(b) The Society may appeal to the High Court—

- (i) against a finding of the ~~Disciplinary Tribunal~~ that there is no *prima facie* case for inquiry into the conduct of the apprentice, or

- (ii) against a finding of the ~~Disciplinary Tribunal~~ that there has been no misconduct on the part of the apprentice in relation to an allegation of misconduct (whether or not there has been a finding of misconduct by the Disciplinary Tribunal in relation to any other such allegation),

within 21 days of the receipt by the Society of written notification of the finding.

- (c) The High Court may make such order on an appeal under this subsection as it thinks fit.

In subsection (5) “The High Court, on consideration of the report of the Disciplinary Tribunal, may by order” substituted by section 45(b), 2008 Act. See [page 236](#).

- (5) ~~The High Court, on consideration of the report of the Disciplinary Tribunal, may by order—~~

- (a) declare that the apprentice is or is not a fit and proper person to be admitted as a solicitor, and
- (b) make such other provision in relation to the matter as it may think just, including provision for review of its order on application to the President of the High Court by the Society or the apprentice.

New subsection (5A) inserted by section 45(c), 2008 Act. See [page 236](#).

- (6) ~~The Disciplinary Tribunal~~ shall have such of the powers given to them under the *Solicitors Acts, 1954 to 2002*, as are necessary to enable them to perform the functions conferred on them by this section.

Subsection (7) substituted by section 208(b), LSRA 2015. See [page 392-393](#).

- ~~(7) In this section, “misconduct” means—~~

- ~~(a) the commission of an offence under section 55, 56 or 58 of the Principal Act or of an arrestable offence (within the meaning of the Criminal Law Act, 1997);~~
- ~~(b) conduct outside the State which constitutes an offence under the law of the jurisdiction concerned and which, if that conduct took place within the State, would constitute an arrestable offence (within that meaning); or~~

- ~~(c) any other conduct which, if engaged in by a solicitor, would tend to bring the solicitors’ profession into disrepute.~~

New section 19A inserted by section 46(1), 2008 Act. See [page 236](#).

- 20.—(1) In this section, unless the context otherwise requires—

“Compensation Fund” means the fund maintained by the Law Society of Ireland under sections 21 and 22 (as substituted by sections 29 and 30 of the Act of 1994) of the Act of 1960;

“corresponding EEA measure” means any measure or decision taken by the Joint Committee under the EEA Agreement and having an effect corresponding to that of the Directive;

“Directive” means Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of

Implementation of Directive 98/5/EC and any corresponding measure.

lawyer on a permanent basis in a member state other than that in which the qualification was obtained and includes any corresponding EEA measure and a measure which is in force by virtue of the entry into force of the Swiss Confederation Agreement;

“EEA Agreement” means the Agreement on the European Economic Area signed in Oporto on 2 May 1992, as adjusted by the Protocol to that Agreement done at Brussels on 17 March 1993;

“member state” means a member state of the European Union (other than the State) and—

(a) on the State being required to implement a corresponding EEA measure, includes a state (other than a member state of the European Union) which is a contracting party to the EEA Agreement, and

(b) on the entry into force of the Swiss Confederation Agreement, includes the Swiss Confederation;

“member state lawyers” means individuals who—

(a) have the right to pursue professional activities in a member state, and

(b) are pursuing, or proposing to pursue, professional activities by virtue of the Directive in the State under their home-country professional title;

“Swiss Confederation Agreement” means the Agreement between the European Community and its member states, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, done at Luxembourg on 21 June 1999.

(2) Regulations under section 3 of the European Communities Act, 1972, may—

(a) authorise, subject to the Directive, a competent authority to require member state lawyers to take out professional indemnity insurance in accordance with its rules and, where their professional activities are those of a solicitor, to contribute also to the Compensation Fund, and

(b) provide that the rules of a competent authority governing professional practice, conduct and discipline, including any of those rules containing sanctions for breaches thereof, shall have effect, with any necessary modifications, in relation to—

(i) member state lawyers who are pursuing their professional activities by virtue of the Directive in the State under their home-country professional title, and

(ii) lawyers (other than member state lawyers) who have acquired the right to practise the profession of lawyer in the State and are pursuing their professional activities in a

member state by virtue of the Directive.

- (3) (a) The reference in *subsection (2)* to regulations under section 3 of the European Communities Act, 1972, is to regulations under that section, as amended by section 4 of the European Communities (Amendment) Act, 1993, or any subsequent enactment, and as extended by that subsection.
- (b) The reference in *subsection (2)(b)* to “rules”, in so far as it relates to solicitors or to member state lawyers pursuing the professional activities of a solicitor in the State, includes a reference to the provisions of enactments and regulations thereunder relating to solicitors.
- (c) A word or expression used in both this section and the Directive has the same meaning in this section as it has in the Directive.

**21.**—For the removal of doubt, a report of a case made by a solicitor shall have the same authority as if it had been made by a barrister. Law Reports.

**22.**—(1) The following provisions of the *Solicitors Acts, 1954 to 2002*, are hereby amended by the substitution of “€3,000” for “£1,500”: Amendment of maximum fines provided for in Solicitors Acts.

- (a) paragraph (b) of section 55(2) (as amended by section 63 of the Act of 1994) of the Principal Act;
- (b) section 56(2) (as amended by section 64 of the Act of 1994) of the Principal Act;
- (c) paragraph (a) of section 58(2) (as substituted by section 77(a) of the Act of 1994) of the Principal Act;
- (d) subsection (3) of section 63 (as substituted by section 21 of the Act of 1994) of the Principal Act;
- (e) subsection (16)(a) of section 66 (as substituted by section 76 of the Act of 1994) of the Principal Act;
- (f) subsection (4) of section 8 (as substituted by section 18 of the Act of 1994) of the Act of 1960;
- (g) subsection (4)(a)(ii) of section 15 (as substituted by section 25 of the Act of 1994) of the Act of 1960;
- (h) subsection (2)(a) of section 19 (as substituted by section 27 of the Act of 1994) of the Act of 1960;
- (i) subsections (4) and (7) of section 20 (as substituted by section 28 of the Act of 1994) of the Act of 1960; and
- (j) sections 11(5), 15(14) and 78(15)(b) of the Act of 1994.

(2) The following provisions of those Acts are hereby amended by the

substitution of “€30,000” for “£10,000”:

- (a) paragraph (a) of section 55(2) (as amended by section 63 of the Act of 1994) of the Principal Act;
- (b) paragraph (b) of section 58(2) (as substituted by section 77(a) of the Act of 1994) of the Principal Act;
- (c) subsection (16)(b) of section 66 (as substituted by section 76 of the Act of 1994) of the Principal Act;
- (d) subsection (4)(a)(i) of section 15 (as substituted by section 25 of the Act of 1994) of the Act of 1960; and
- (e) section 78(15)(a) of the Act of 1994.

(3) Section 64(2) of the Principal Act is hereby amended by the substitution of “€3,000” for “one hundred pounds” and for “twenty-five pounds”.

**23.**—(1) This Act may be cited as the Solicitors (Amendment) Act, 2002.

(2) *Section 20* shall come into operation on the passing of this Act and the remaining provisions shall come into operation on such day or days as may be appointed by order or orders made by the Minister, either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions of this Act.

(3) The Solicitors Acts, 1954 to 1994, and this Act may be cited together as the Solicitors Acts, 1954 to 2002, and shall be construed together as one, and references in any enactment, whether passed before or after this Act, to the Solicitors Acts, 1954 and 1960, the Solicitors Acts, 1954 to 1994, or the Solicitors Acts, 1954 to 2002, or to any of them shall be construed as references to those Acts, or as the case may be that Act, as amended or extended by or under any enactment, including this Act.

Short title,  
commencement,  
collective citation  
and construction.

**LEGAL PRACTITIONERS (IRISH LANGUAGE) ACT 2008**

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AN ACT TO PROMOTE THE BETTER USE OF THE IRISH LANGUAGE BY LEGAL PRACTITIONERS AND THE PROVISION OF LEGAL SERVICES THROUGH IRISH AND FOR THAT PURPOSE TO PROVIDE FOR COURSES OF STUDY AND THE ESTABLISHMENT OF REGISTERS BY THE HONORABLE SOCIETY OF KING'S INNS AND THE LAW SOCIETY OF IRELAND, TO REPEAL THE LEGAL PRACTITIONERS (QUALIFICATION) ACT 1929, TO AMEND THE SOLICITORS ACT 1954 AND TO PROVIDE FOR RELATED MATTERS.

[9th July, 2008]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Establishment of  
Irish Language  
Register (King's  
Inns).

1.—(1) In this section—

“advanced course” means the course provided by the Council under *subsection (4)*;

“Council” means Council of the Honorable Society of King's Inns;

“Minister” means Minister for Justice, Equality and Law Reform;

“Register” means Register established under *subsection (9)*.

(2) The Council shall have regard to the status of the Irish language as the first official language and, in particular, shall in so far as it is reasonable for it to do so, seek to ensure that an adequate number of barristers-at-law are competent in the Irish language so as to be able to practise law through the Irish language as well as through the English language.

(3) (a) The Council shall provide a course of instruction in Irish legal terminology and the understanding of legal texts in the Irish language to all persons attending the degree course of barrister-at-law. Such course shall not be subject to examination and shall be undertaken by all such persons (other than those who have undertaken or are undertaking the course referred to in *subsection (4)*) with the aim of enabling the identification through the medium of Irish of a legal service that is required and,

[No. 12.] *Legal Practitioners (Irish Language) [2008.] Act 2008.*

where appropriate, facilitating the referral to a practitioner who is competent to conduct the case through the Irish language.

(b) Any person attending the degree course of barrister-at-law who, before the repeal by this Act of the Legal Practitioners (Qualification) Act 1929, had complied with section 3 of that Act shall be deemed to have attended the course referred to in *paragraph (a)*.

(c) Any person who completed the degree course of barrister-at-law before the repeal by this Act of the Legal Practitioners (Qualification) Act 1929, who had not complied with section 3 of that Act, shall be deemed to have complied with that section.

(4) The Council shall provide an advanced course for the practice of law through the Irish language as an optional subject for those attending the degree course of barrister-at-law.

(5) The advanced course may, in addition to being an optional subject in the barrister-at-law degree course, be made available to such other persons as the Council shall determine from time to time, including but not limited to practising barristers who wish to develop or retain a level of competence to practise through the Irish language.

(6) Before being admitted to the advanced course, an applicant for that course may be required by the Council to establish that he or she has reached a general level of competence and proficiency in the Irish language.

(7) The Council shall, at least once a year, hold an examination in the practice of law through the Irish language.

(8) A person shall not be eligible to sit an examination under *subsection (7)*, unless he or she has undertaken the advanced course.

(9) The Council shall establish and maintain a Register, to be known in the Irish language as *Clár na Gaeilge (Óstáí an Rí)* and in the English language as the Irish Language Register (King's Inns).

(10) The Council shall enter on the Register the name and contact details of a barrister-at-law who has passed an examination under—

(a) *subsection (7)*, or

(b) under section 40(2A)(g) (inserted by *section 2* of this Act) of the Solicitors Act 1954.

(11) The Council shall ensure that—

(a) the Register is kept up to date, and is amended from time to time for that purpose, and

(b) a copy of the Register (as so amended) is made available to the Law Society of Ireland.

(12) The Council shall, at all reasonable times, make available for public inspection without charge at the offices of the Honorable Society of King's Inns—

[No. 12.] *Legal Practitioners (Irish Language) [2008.] Act 2008.*

- (a) a copy of the Register, and
- (b) a copy of the Irish Language Register (Law Society),

and that duty may be complied with by making those copies available on the website of the Honorable Society of King's Inns.

- (13) (a) Not later than 31 March in each year, the Council shall furnish a report in writing in both the Irish language and the English language to the Minister on the operation of this section during the preceding year.
- (b) A report under *paragraph (a)* shall contain details of—
- (i) the number of persons taking the advanced course,
  - (ii) the number of persons who sat the examination under *subsection (7)*,
  - (iii) the number of persons who passed the examination under *subsection (7)*, and
  - (iv) such other information as the Minister may from time to time request.
- (c) As soon as practicable after the Council furnishes a report under *paragraph (a)*, the Minister shall lay a copy of it before each House of the Oireachtas.

Establishment of Irish Language Register (Law Society).

2.—Section 40 of the Solicitors Act 1954 is amended—

- (a) by inserting the following subsection after subsection (2)—

“(2A) (a) In this subsection—

‘advanced course’ means the course provided by the Society under *paragraph (d)*;

‘Minister’ means Minister for Justice, Equality and Law Reform;

‘Professional Practice Course’ means a vocational course for the education or training of persons seeking to be admitted as solicitors;

‘Register’ means Register established under *paragraph (i)*.

- (b) The Society shall have regard to the status of the Irish language as the first official language and, in particular, shall in so far as it is reasonable for it to do so, seek to ensure that an adequate number of solicitors are competent in the Irish language so as to be able to practise law through the Irish language as well as through the English language.
- (c) (i) The Society shall provide a course of instruction in Irish legal terminology and the understanding of legal texts in the Irish language to all persons undertaking

the Professional Practice Course. Such course shall not be subject to examination and shall be undertaken by all such persons (other than those who have undertaken or are undertaking the course referred to in paragraph (d)) with the aim of enabling the identification through the medium of Irish of a legal service that is required and, where appropriate, facilitating the referral to a practitioner who is competent to conduct the case through the Irish language.

- (ii) Any person undertaking the Professional Practice Course who, before the commencement of *section 2* of the *Legal Practitioners (Irish Language) Act 2008*, had passed both of the examinations in the Irish language provided for by regulations made under subsection (3) of this section shall be deemed to have attended the course referred to in subparagraph (i).
- (d) The Society shall provide an advanced course for the practice of law through the Irish language as an optional subject for those pursuing the Professional Practice Course.
- (e) The advanced course may, in addition to being an optional subject in the Professional Practice Course, be made available to such other persons as the Society shall determine from time to time, including but not limited to solicitors who wish to develop or retain a level of competence to practise through the Irish language.
- (f) Before being admitted to the advanced course, an applicant for that course may be required by the Society to establish that he or she has reached a general level of competence and proficiency in the Irish language.
- (g) The Society shall, at least once a year, hold an examination in the practice of law through the Irish language.
- (h) A person shall not be eligible to sit an examination under paragraph (g), unless he or she has undertaken the advanced course.
- (i) The Society shall establish and maintain a Register, to be known in the Irish language as *Clár na Gaeilge (An Dlí-Chumann)* and in the English language as the Irish Language Register (Law Society).
- (j) The Society shall enter on the Register the name and contact details of a solicitor who has passed an examination under—
  - (i) paragraph (g), or

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(ii) *section 1(7) of the Legal Practitioners (Irish Language) Act 2008.*

(k) The Society shall ensure that—

- (i) the Register is kept up to date, and is amended from time to time for that purpose, and
- (ii) a copy of the Register (as so amended) is made available to the Honorable Society of King's Inns.

(l) The Society shall, at all reasonable times, make available for public inspection without charge at its offices—

- (i) a copy of the Register, and
- (ii) a copy of the Irish Language Register (King's Inns),

and that duty may be complied with by making those copies available on its website.

(m) (i) Not later than 31 March in each year, the Society shall furnish a report in writing in both the Irish language and the English language to the Minister on the operation of this subsection during the preceding year.

(ii) A report under subparagraph (i) shall contain details of—

- (I) the number of persons taking the advanced course,
- (II) the number of persons who sat the examination under paragraph (g),
- (III) the number of persons who passed the examination under paragraph (g), and
- (IV) such other information as the Minister may from time to time request.

(n) As soon as practicable after the Society furnishes a report under paragraph (m)(i), the Minister shall lay a copy of it before each House of the Oireachtas.”,

and

(b) by deleting subsection (3).

Amendment of section 43 (exemptions for practising barristers) of Solicitors Act 1954.

**3.**—Section 43 (inserted by section 51 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954, is amended by substituting the following subsection for subsection (4):

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“(4) A person to whom this section applies shall not be required to undertake a course of instruction under section 40(2A)(c)(i) (inserted by *section 2* of the *Legal Practitioners (Irish Language) Act 2008*), if he or she—

- (a) has undertaken a course of instruction provided for under *section 1* of the *Legal Practitioners (Irish Language) Act 2008*, or
- (b) has passed, or was, immediately before the commencement of the *Legal Practitioners (Irish Language) Act 2008*, exempted from passing any examination in the Irish language prescribed by the Chief Justice under section 3 of the *Legal Practitioners (Qualification) Act 1929*.”.

Repeals.

**4.**—The following are repealed:

- (a) the *Legal Practitioners (Qualification) Act 1929*,
- (b) section 40(6) of the *Solicitors Act 1954*, and
- (c) in so far as it is not already repealed, section 43(2) of the *Solicitors Act 1954* (inserted by section 51 of the *Solicitors (Amendment) Act 1994*).

Short title and collective citation.

**5.**—(1) This Act may be cited as the *Legal Practitioners (Irish Language) Act 2008*.

(2) The *Solicitors Acts 1954 to 2002*, *section 2* of this Act and this subsection may be cited together as the *Solicitors Acts 1954 to 2008* and shall be read together as one.

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RELEVANT EXTRACTS FROM THE CIVIL LAW  
(MISCELLANEOUS PROVISIONS) ACT 2008

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ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

1. Short title, commencement, collective citation and construction.
2. Definition of “Minister”.

PART 3

SOLICITORS

33. Amendment of section 29 of Solicitors Act 1954.
34. Amendment of section 73 of Solicitors Act 1954.
35. Amendment of section 6 of Solicitors (Amendment) Act 1960.
36. Insertion of new section 6A into Solicitors (Amendment) Act 1960.
37. Amendment of section 8 of Solicitors (Amendment) Act 1960.
38. Amendment of section 2 of Solicitors (Amendment) Act 1994.
39. Amendment of section 8 of Solicitors (Amendment) Act 1994.
40. Insertion of new section 14A into Solicitors (Amendment) Act 1994.
41. Insertion of new section 14B into Solicitors (Amendment) Act 1994.
42. Insertion of new section 14C into Solicitors (Amendment) Act 1994.
43. Insertion of new section 18A into Solicitors (Amendment) Act 1994.

[No. 14]

*Civil Law (Miscellaneous Provisions) Act 2008.*

[2008.]

44. Insertion of new section 26A into Solicitors (Amendment) Act 1994.
45. Amendment of section 19 of Solicitors (Amendment) Act 2002.
46. Insertion of new section 19A into Solicitors (Amendment) Act 2002.

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CIVIL LAW (MISCELLANEOUS PROVISIONS) ACT 2008

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AN ACT...TO AMEND...THE SOLICITORS ACT 1954, THE SOLICITORS (AMENDMENT) ACT 1960, THE SOLICITORS (AMENDMENT) ACT 1994, THE SOLICITORS (AMENDMENT) ACT 2002...

[14th July, 2008]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY

1.—(1) This Act may be cited as the Civil Law (Miscellaneous Provisions) Act 2008.

Short title, commencement, collective citation and construction.

(2) The Minister may, by order or orders, appoint such day or days on which this Act shall come into operation, and different days may be so appointed for different purposes and for different provisions.

.....

(5) The Solicitors Acts 1954 to 2002 and *Part 3* may be cited together as the Solicitors Acts 1954 to 2008.

2.—In this Act, “Minister” means Minister for Justice, Equality and Law Reform.

Definition of “Minister”.

.....

## PART 3

## SOLICITORS

**33.**—Section 29 (inserted by section 44 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954 is amended in subsection (2) by substituting “four” for “five”. Amendment of section 29 of Solicitors Act 1954.

**34.**—Section 73 (as amended by section 7 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954 is amended by substituting the following for subsections (3) and (4): Amendment of section 73 of Solicitors Act 1954.

“(3) Subject to subsections (4) and (4A), the membership and quorum of a committee under this section shall be as specified by the Council and any such membership may include—

(a) solicitors who are not members of the Council,

(b) persons who are not solicitors.

(4) Where functions of the Society which are performable by the Council are delegated to a committee under this section, that committee, in the performance of all or any of its delegated functions, may sit in one or more divisions, provided that the quorum of such a division shall be three.

(4A) Where functions of the Society under section 8 (as amended by *section 39* of the *Civil Law (Miscellaneous Provisions) Act 2008*) or 9 of the Solicitors (Amendment) Act 1994 are delegated to a committee under this section, then—

(a) a majority of the members of the committee, any quorum of the committee, any division of the committee or quorum of such division, shall be persons who are not solicitors, and

(b) that committee or any division of that committee shall be chaired by a person who is a solicitor.”.

**35.**— Section 6 (inserted by section 16 of the Solicitors (Amendment) Act 1994 and amended by section 8 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act 1960 is amended by inserting the following after subsection (1A): Amendment of section 6 of Solicitors (Amendment) Act 1960.

“(1B) Where a solicitor member of the Disciplinary Tribunal, during the course of his or her membership of the Disciplinary Tribunal, ceases to be a practising solicitor by virtue of not making an application for a practising certificate, that cesser shall not of itself—

- (a) cause the solicitor member to cease to be a solicitor member of the Disciplinary Tribunal, or
- (b) prevent the solicitor member from continuing to serve as a solicitor member of the Disciplinary Tribunal for the remainder of his or her appointment or reappointment as a solicitor member of the Disciplinary Tribunal.”.

**36.**— The Solicitors (Amendment) Act 1960 is amended by the insertion of the following section after section 6:

Insertion of new section 6A into Solicitors (Amendment) Act 1960.

“Power of Society to investigate alleged misconduct by solicitor.

6A.—(1) For the avoidance of doubt it is hereby declared that the Society have, and always have had, a power to investigate alleged misconduct by a solicitor.

(2) If subsection (1) would, but for this subsection, conflict with a constitutional right of any person, the operation of that subsection shall be subject to such limitation as is necessary to secure that it does not so conflict but shall otherwise be of full force and effect.”.

**37.**— Section 8 (inserted by section 18 of the Solicitors (Amendment) Act 1994 and amended by section 10 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act 1960 is amended—

Amendment of section 8 of Solicitors (Amendment) Act 1960.

- (a) in subsection (1)(a), by the substitution of “the High Court, after consideration of the report and the submissions (if any) made to it by the Society under subsection (1A) of this section” for “the High Court, after consideration of the report”, and
- (b) by the insertion of the following subsection after subsection (1):

“(1A) The Society may make submissions to the High Court in relation to—

- (a) the opinion of the Disciplinary Tribunal as to the fitness or otherwise of the solicitor to be a member of the solicitors’ profession, having regard to the findings of the Disciplinary Tribunal, and

- (b) the recommendations of the Disciplinary Tribunal

as to the sanction which in the opinion of the Disciplinary Tribunal should be imposed, having regard to their findings, to any finding of misconduct on the part of the solicitor previously made by them (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court, and to any order made by the Court under the *Solicitors Acts 1954 to 2008* in respect of the solicitor.”.

Section 38 amended by section 58, Civil Law (Miscellaneous Provisions) Act 2011 so that the reference to “section 14B” reads as a reference to “section 14C”.

**38.**— Section 2 of the Solicitors (Amendment) Act 1994 is amended by the substitution of the following subsection for subsection (2) (inserted by section 12 of the Solicitors (Amendment) Act 2002 ):

Amendment of section 2 of Solicitors (Amendment) Act 1994.

“(2) References in sections 10, 10A (inserted by section 13 of the Solicitors (Amendment) Act 2002), 12 (inserted by section 14 of that Act) and 22 of this Act to complaints made to or received by the Society include references ~~to any complaints made to the Society by the registrar under section 14B of this Act,~~ and those provisions of this Act shall have effect accordingly.”.

**39.**— Section 8 of the Solicitors (Amendment) Act 1994 is amended—

Amendment of section 8 of Solicitors (Amendment) Act 1994.

(a) in subsection (1), by inserting the following after paragraph (d):

“(da) direct the solicitor to pay to the client a sum not exceeding €3,000 or the prescribed amount, whichever is the greater, as compensation for any financial or other loss suffered by the client in consequence of any such inadequacy in the legal services provided or purported to have been provided by the solicitor, provided that any such payment made in compliance with the direction shall be without prejudice to any legal right of the client;”,

and

(b) by inserting the following after subsection (8):

“(9) (a) Subject to paragraphs (b) and (c), the Minister may by order prescribe an amount in respect of subsection (1)(da).

(b) The Minister shall only exercise the power under paragraph (a) to prescribe an amount referred to in that subsection such that the amount prescribed reflects the rate of inflation in the State.

(c) No order under paragraph (a) shall come into operation—

(i) before the second anniversary of the commencement of that paragraph,

(ii) thereafter at intervals of less than 2 years between orders made and not annulled under that paragraph.

(d) Every order made under this subsection shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled, but without prejudice to the validity of anything done under the order.”.

40.— The Solicitors (Amendment) Act 1994 is amended by the insertion of the following section after section 14:

Insertion of new section 14A into Solicitors (Amendment) Act 1994.

Section 14A subsequently substituted by section 198, LSRA 2015. See page 388.

“Investigation of alleged misconduct by solicitor.

~~14A.—For the avoidance of doubt it is hereby declared that the power of the Society to investigate alleged misconduct by a solicitor may be exercised whether or not the Society receive a complaint in relation to the solicitor.”.~~

41.— The Solicitors (Amendment) Act 1994 is amended by the insertion of the following section after section 14A:

Insertion of new section 14B into Solicitors (Amendment) Act 1994.

“Charging excessive fees may constitute misconduct by solicitor.

14B.—Notwithstanding anything in this Part the issue by a solicitor of a bill of costs that is excessive may constitute misconduct.”.

42.— The Solicitors (Amendment) Act 1994 is amended by the insertion of the following section after section 14B:

Insertion of new section 14C into Solicitors (Amendment) Act 1994.

“Complaints by registrar.

14C.—The registrar may make a complaint to the Society in relation to a solicitor alleging—

(a) a contravention by the solicitor of any provision of the *Solicitors Acts 1954 to 2008* or any order or regulation made thereunder, or

(b) any conduct by the solicitor

tending to bring the solicitors' profession into disrepute.”.

**43.**— The Solicitors (Amendment) Act 1994 is amended by inserting the following after section 18:

Insertion of new section 18A into Solicitors (Amendment) Act 1994.

“Enforcement of order of Solicitors Disciplinary Tribunal.

18A.— (1) Where, on application by the Society in circumstances where the matter is not otherwise before the High Court, it is shown that a solicitor or any other person has refused, neglected or otherwise failed, without reasonable cause, to comply in whole or in part with an order made by the Solicitors Disciplinary Tribunal, the Court may by order direct the solicitor or other person, as the case may be, to comply in whole or in part with the order of the Solicitors Disciplinary Tribunal.

(2) An application by the Society pursuant to subsection (1) shall be on notice to the solicitor or other person concerned unless the High Court otherwise orders.

(3) An order of the High Court under subsection (1) may contain such provisions of a consequential nature as the Court considers appropriate.”.

**44.**— The Solicitors (Amendment) Act 1994 is amended by inserting the following after section 26:

Insertion of new section 26A into Solicitors (Amendment) Act 1994.

“Limitation of solicitors’, etc. liability by contract.

26A.— (1) Subject to subsections (2) and (3), a contract between a solicitor and a client of the solicitor that any description of civil liability incurred—

(a) by the solicitor arising from his or her practice as a solicitor in respect of the provision of legal services to the client be limited to an amount specified or referred to in the contract, or

(b) by a partner, clerk or servant or former partner, clerk or servant of the solicitor arising from that solicitor’s practice as a solicitor in respect of the provision of legal services to the client be limited to an amount specified or referred to

in the contract,

shall be binding on and enforceable by—

(i) if paragraph (a) is applicable, the solicitor and the client, and

(ii) if paragraph (b) is applicable, the partner, clerk or servant or former partner, clerk or servant of the solicitor and the client.

(2) Nothing in subsection (1) shall affect the operation of—

(a) section 40 (as amended by section 31 of the Restrictive Practices (Amendment) Act 1987) of the Sale of Goods and Supply of Services Act 1980, or

(b) Regulation 6 of the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 (S.I. No. 27 of 1995).

(3) The amount referred to in subsection (1) in respect of a description of civil liability the subject of the contract concerned shall be not less than the minimum level of cover, as specified from time to time in regulations under paragraph (b) of section 26(4), for indemnity against losses arising from those classes of claims which fall within that description of civil liability and, accordingly, any such amount which is less than such minimum level of cover shall, by virtue of this subsection, be deemed to be increased to such minimum level of cover, and such contract shall be binding and enforceable accordingly.

(4) Section 7 of the Attorneys and Solicitors Act 1870 is repealed on the commencement of *section 44 of the Civil Law (Miscellaneous Provisions) Act 2008*.

**45.**— Section 19 of the Solicitors (Amendment) Act 2002 is amended—

Amendment of section 19 of Solicitors (Amendment) Act 2002.

(a) in subsection (3)(d), by the substitution of the following for subparagraph (iv):

“(iv) their opinion as to the fitness of the apprentice, having regard to their finding or findings, to be

admitted as a solicitor either at any time or until the apprentice has satisfied the Society or the President of the High Court as to such fitness,

and the Society shall bring the report before the Court.”,

(b) in subsection (5), by the substitution of “The High Court, after consideration of the report of the Disciplinary Tribunal and the submissions (if any) made to it by the Society under subsection (5A) of this section” for “The High Court, on consideration of the report of the Disciplinary Tribunal”, and

(c) by the insertion of the following subsection after subsection (5):

“(5A) The Society may make submissions to the High Court in relation to the opinion of the Disciplinary Tribunal as to the fitness of the apprentice, having regard to the finding or findings of the Disciplinary Tribunal, to be admitted as a solicitor either at any time or until the apprentice has satisfied the Society or the President of the High Court as to such fitness.”.

46.— (1) The Solicitors (Amendment) Act 2002 is amended by the insertion of the following section after section 19:

Insertion of new section 19A into Solicitors (Amendment) Act 2002.

“Power of Society to investigate alleged misconduct by apprentice.

19A.— (1) For the avoidance of doubt it is hereby declared that the Society have a power to investigate alleged misconduct by an apprentice.

(2) The power of the Society referred to in subsection (1) of this section may be exercised whether or not the Society receive a complaint in relation to the apprentice.

(3) If subsection (1) of this section would, but for this subsection, conflict with a constitutional right of any person, the operation of that subsection shall be subject to such limitation as is necessary to secure that it does not so conflict but shall otherwise be of full force and effect.

(4) In this section ‘misconduct’ has the same meaning as it has in section 19 of this Act.”.

(2) This section shall be deemed to have come into operation on 1 January 2003.

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*Number 65 of 2015*

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**LEGAL SERVICES REGULATION ACT 2015**

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[2015.]

*Legal Services Regulation Act 2015.*

[No. 65.]

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Solicitors Acts 1954 to 1994

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Statute of Limitations (Amendment) Act 1991 (No. 18)

Taxes Consolidation Act 1997 (No. 39)

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*Number 65 of 2015*

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## LEGAL SERVICES REGULATION ACT 2015

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An Act to provide for the regulation of the provision of legal services, to provide for the establishment of the legal services regulatory authority, to provide for the establishment of the legal practitioners disciplinary tribunal to make determinations as to misconduct by legal practitioners, to provide for new structures in which legal practitioners may provide services together or with others, to provide for the establishment of a roll of practising barristers, to provide for reform of the law relating to the charging of costs by legal practitioners and the system of the assessment of costs relating to the provision of legal services, to provide for the manner of appointment of persons to be Senior Counsel, to provide for matters relating to clinical negligence actions, and to provide for related matters. [30th December, 2015]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

#### **Short title, commencement and collective citation**

1. (1) This Act may be cited as the Legal Services Regulation Act 2015.
- (2) This Act, other than *section 100*, shall come into operation on such day or days as may be fixed by order or orders made by the Minister, either generally or by reference to any particular purpose or provision, and different days may be so fixed for different purposes or different provisions.
- (3) *Section 100* shall come into operation on such day, not later than 6 months after the laying before each House of the Oireachtas under *subsection (4)* of *section 118* of a report referred to in *subsection (2)* of that section, as the Minister shall appoint by order.
- (4) The Solicitors Acts 1954 to 2011 and *Part 13* may be cited together as the Solicitors Acts 1954 to 2015.

#### **Interpretation and construction**

2. (1) In this Act—

- “Act of 1954” means the Solicitors Act 1954;
- “Act of 1960” means the Solicitors (Amendment) Act 1960;
- “Act of 1994” means the Solicitors (Amendment) Act 1994;
- “Act of 2002” means the Solicitors (Amendment) Act 2002;
- “Authority” means the Legal Services Regulatory Authority established by *section 8*;
- “Bar Council” means the General Council of the Bar of Ireland;
- “chief executive”, in relation to the Authority, has the meaning assigned to it by *section 24*;
- “code of practice” means a code of practice issued under *section 22*, and includes part of such a code;
- “committee” in relation to the Authority, means a committee of the Authority established under *section 16*;
- “Compensation Fund” means the fund maintained by the Law Society under *section 21* of the Solicitors (Amendment) Act 1960;
- “complainant” means a person who has made a complaint in accordance with *Part 6*;
- “complaint” means a complaint made under *subsection (1) or (2) of section 51*;
- “Complaints Committee” means the Committee established pursuant to *section 69* and includes a division of that Committee (referred to as a Divisional Committee);
- “Disciplinary Tribunal” means the Legal Practitioners Disciplinary Tribunal established under *section 74*;
- “enactment” means a statute or an instrument under a power conferred by statute;
- “establishment day” means the day appointed under *section 7*;
- “inspector” means a person appointed under *section 37* to be an inspector;
- “Law Society” means the Law Society of Ireland;
- “lay member” means a lay person who is a member of the Authority;
- “lay person” shall be construed in accordance with *subsection (3)*;
- “legal advice” means any oral or written advice—
- (a) on the application of the law (whether the law of the State, another state or the European Union, international law, or a combination of these) to any particular circumstances that have arisen or may arise in relation to a person, and
  - (b) as to any actions that might appropriately be taken by or on behalf of a person (whether the person referred to in *paragraph (a)* or another person) having regard to the application of the law to those circumstances,
- but does not include an opinion on the application of the law provided by a person to another person in the course of—

- (i) lecturing in or teaching an area of the law, as part of a course of education or training,
- (ii) writing or editing a book, report or article, or
- (iii) carrying out research in an area of the law, for the purpose of enhancing the other person's knowledge of the area concerned;

“legal costs accountant” means a person who has regularly participated in the preparation and presentation of bills of costs for taxation or, as the case may be, adjudication of legal costs and has regularly attended before a Taxing-Master on the taxation or, as the case may be, a Legal Costs Adjudicator on an adjudication, of such bills of costs;

“legal partnership” means a partnership formed under the law of the State by written agreement, by two or more legal practitioners, at least one of whom is a practising barrister, for the purpose of providing legal services;

“legal practitioner”, subject to *subsection (2)*, means a person who is a practising solicitor or a practising barrister and a reference to a solicitor includes a reference to a firm of solicitors;

“legal services” means legal services provided by a person, whether as a solicitor or as a barrister;

“limited liability partnership” has the same meaning as it has in *Part 8*;

“local authority” has the meaning assigned to it by the Local Government Act 2001;

“Minister” means the Minister for Justice and Equality;

“multi-disciplinary practice” means a partnership formed under the law of the State by written agreement, by two or more individuals, at least one of whom is a legal practitioner, for the purpose of providing legal services and services other than legal services;

“practising barrister” means a person who—

- (a) is a qualified barrister, and
- (b) provides, or holds himself or herself out as providing, legal services as a barrister—
  - (i) whether or not for a fee,
  - (ii) whether or not under a contract of service or a contract for services, and
  - (iii) whether or not, in so doing, he or she describes himself or herself as a, or otherwise uses the title of, “barrister”, “barrister-at-law” or “counsel”;

“practising solicitor” means a person who has been admitted as a solicitor, whose name is on the roll of solicitors, who provides legal services and who—

- (a) is, by reason of section 56 of the Solicitors (Amendment) Act 1994, required to hold a practising certificate, or

(b) is, by reason of that section, exempted from the requirement to hold a practising certificate;

“prescribed” means prescribed by regulations under this Act;

“professional body” means the Bar Council, the Law Society, the Honorable Society of King’s Inns or such other body of legal practitioners as the Authority may prescribe;

“professional code” means any code of conduct, code of practice, rule, regulation, practice note, guideline or other code, including any part thereof, relating to the provision of legal services by its members—

(a) that has been adopted by or on behalf of a professional body, or

(b) to which members of a professional body, as a condition of their membership of that body, are otherwise subject;

“professional indemnity insurance” means a policy of indemnity insurance to cover claims in respect of any description of civil liability incurred in the provision of legal services by—

(a) a legal practitioner,

(b) a legal partnership, multi-disciplinary practice or limited liability partnership, or

(c) a partner, employee or agent or former partner of a person referred to in *paragraph (a) or (b)*;

“qualified barrister” means a person who—

(a) has been admitted by the Honorable Society of King’s Inns to the degree of Barrister-at-Law or has been called to the Bar of Ireland, other than where, subsequent to his or her being admitted to that degree or being so called—

(i) he or she has been admitted as a solicitor,

(ii) he or she, before the date on which *Part 6* comes into operation, has been disbarred by the Benchers of the Honorable Society of King’s Inns, where that disbarment remains in effect, or

(iii) his or her name has been struck off the roll of practising barristers or the roll of solicitors by the High Court, which order remains in effect,

or

(b) is a registered lawyer, having the same right of audience as a practising barrister or a solicitor qualified to practise by virtue of Regulation 10 of the European Communities (Lawyers’ Establishment) Regulations 2003 (S.I. No. 732 of 2003);

“roll of practising barristers” means the roll of practising barristers maintained under *section 133*;

“roll of solicitors” has the meaning assigned to it by section 9 (as amended by section 65 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954;

“Solicitors Accounts Regulations” means—

- (a) the Solicitors Accounts Regulations 2001 to 2013,
  - (b) the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014), and
  - (c) any other regulations made by the Law Society under section 66 of the Act of 1954 or section 73 of the Act of 1994.
- (2) In this Act a reference to a legal practitioner shall be construed as including references to a person who formerly practised as a solicitor or as a barrister.
- (3) For the purposes of this Act, a person is a lay person on a particular date if, on that date, he or she—
- (a) is not a practising solicitor or a practising barrister, and
  - (b) where he or she has previously been a practising solicitor or a practising barrister, he or she—
    - (i) has not been such in the period of 5 years immediately preceding that date, and
    - (ii) did not cease to be such as a result of a sanction imposed on him or her by a body that was authorised to require him or her to cease such practice.
- (4) For the purposes of this Act—
- (a) a person provides legal services as a solicitor where he or she acts as a solicitor, as that term is construed under the Solicitors Acts 1954 to 2011, and
  - (b) a person provides legal services as a barrister where he or she does one or more than one of the following:
    - (i) in relation to proceedings before a court, tribunal or forum for arbitration, whether in the State or in another jurisdiction, or the Personal Injuries Assessment Board—
      - (I) represents another person before that court, tribunal, forum or Board in those proceedings,
      - (II) prosecutes or defends such proceedings on behalf of another person,
      - (III) advises another person in relation to the conduct of the proceedings,
      - (IV) represents and advises another person for the purposes of arriving at or giving effect to any settlement in the proceedings, or
      - (V) draws or drafts documents for another person in contemplation of, ancillary to or in connection with, those proceedings;
    - (ii) provides legal advice to another person;
    - (iii) draws or drafts legal documents for another person that have the purpose of securing or transferring for a person a legal right or entitlement;
    - (iv) represents or acts for another person in a situation where legal rights or

obligations of a person are being, or are likely to be, created or such rights or obligations are, or are likely to be, in dispute.

### Regulations and orders

3. (1) A regulation or order made under this Act may contain such incidental, supplementary and consequential provisions as the Minister or the Authority considers necessary or expedient.
- (2) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which the House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

### Expenses

4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

### Repeals

5. The enactments specified in *Schedule 2* are repealed to the extent specified in the third column of that schedule.

### Review of Act

6. (1) The Authority shall—
  - (a) not later than 18 months after the establishment day, and not later than the end of each subsequent 3 year period, commence a review of the operation of this Act, and
  - (b) not later than 12 months after the commencement of a review under *paragraph (a)*, make a report to each House of the Oireachtas of its findings and conclusions, including such recommendations (if any) to the Minister resulting from that review as it considers appropriate.
- (2) Recommendations under *subsection (1)(b)* shall include such recommendations (if any) for amendments to this Act (including amendments to *Part 7*), the *Solicitors Acts 1954 to 2015* or any instrument made under those Acts, as the Authority considers appropriate arising from its findings and conclusions.
- (3) In conducting a review under this section, the Authority shall consult with the Competition and Consumer Protection Commission, professional bodies and such other persons as the Authority considers appropriate for such purpose.

Section 5 commenced at publication (Feb 2020) other than insofar as it relates to the repeal of section 71(2), (3), (4), (5), (6) and (10), Solicitors Act 1954. See Schedule 2, page 406. Go to eLSB to confirm current status.

## PART 2

## LEGAL SERVICES REGULATORY AUTHORITY

**Establishment day**

7. The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

**Establishment of Legal Services Regulatory Authority**

8. (1) On the establishment day there shall stand established a body to be known, in the English language, as the Legal Services Regulatory Authority or, in the Irish language, as An tÚdarás Rialála Seirbhísí Dlí, to perform the functions conferred on it by or under this Act.
- (2) The Authority—
- (a) is a body corporate with perpetual succession and a seal, and
- (b) may sue, and be sued, in its corporate name.
- (3) The Authority may, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, acquire, hold and dispose of land or an interest in land, and may acquire, hold and dispose of any other property.
- (4) The seal of the Authority shall be authenticated by—
- (a) the signature of the chief executive or another member of the Authority authorised by the Authority to act in that behalf, and
- (b) the signature of a member of the staff of the Authority authorised by the Authority to act in that behalf.
- (5) Judicial notice shall be taken of the seal of the Authority and, accordingly, every instrument—
- (a) purporting to be an instrument made by the Authority, and
- (b) purporting to be sealed with the seal of the Authority authenticated in accordance with *subsection (4)*,
- shall be received in evidence and be deemed to be such instrument without further proof, until the contrary is proved.
- (6) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority to act in that behalf.

**Membership of Authority and terms of membership**

9. (1) The Authority shall consist of 11 members.

- (2) (a) The members of the Authority shall be appointed by the Government, a resolution approving such appointment having been passed by Dáil Éireann and by Seanad Éireann.
- (b) The Government shall appoint one of the lay members of the Authority to be chairperson of the Authority (in this Part referred to as the “Chairperson”).
- (3) In appointing a person to be a member of the Authority, the Government shall satisfy themselves that he or she has knowledge of, and expertise in relation to, one or more of the following:
- (a) the provision of legal services;
  - (b) legal education and legal training;
  - (c) competition law and policy;
  - (d) the maintenance of standards in professions regulated by a statutory body;
  - (e) dealing with complaints against members of professions regulated by a statutory body;
  - (f) business and commercial matters;
  - (g) the needs of consumers of legal services.
- (4) Of the persons appointed to be members of the Authority—
- (a) a majority shall be lay persons of whom—
    - (i) 1 shall be nominated for appointment by the Citizens Information Board,
    - (ii) 1 shall be nominated for appointment by An tÚdarás um Ard-Oideachas,
    - (iii) 1 shall be nominated for appointment by the Competition and Consumer Protection Commission,
    - (iv) 1 shall be nominated for appointment by the Irish Human Rights and Equality Commission,
    - (v) 1 shall be nominated for appointment by the Institute of Legal Costs Accountants, being the body of that name that is engaged in the representation and regulation of legal costs accountants in the State,
    - (vi) 1 shall be nominated for appointment by the Consumers’ Association of Ireland, being the association of that name whose purpose is to promote and protect the interests of consumers,
  - (b) 1 shall be nominated for appointment by the Bar Council,
  - (c) 1 shall be a solicitor nominated for appointment by the Legal Aid Board,
  - (d) 1 shall be nominated for appointment by the Honorable Society of King’s Inns, and
  - (e) 2 shall be nominated for appointment by the Law Society.
- (5) In nominating persons for appointment under this section, a nominating body referred

to in *subsection (4)*—

(a) shall—

(i) subject to *subparagraph (ii)*, nominate a primary nominee of one sex and a substitute nominee of the other sex, and

(ii) in the case of the Law Society, where both members of the Authority to be nominated by it under *subsection (4)(e)* are nominated at the same time, nominate one man and one woman,

and

(b) shall satisfy itself that its nominees meet the criteria specified in *subsection (3)*.

(6) In appointing members of the Authority, the Government shall—

(a) have regard to the objective of there being no fewer than 4 members who are women and no fewer than 4 members who are men, and

(b) appoint a substitute nominee referred to in *subsection (5)(a)(i)* rather than a primary nominee of the nominating body concerned, but only where necessary in order to achieve that objective.

#### **Term of appointment of members of Authority**

10. (1) Subject to *subsection (2)*, a member of the Authority shall hold office for such period, not exceeding 4 years from the date of his or her appointment, as the Government shall determine.

(2) (a) Of the members of the Authority that is first constituted under this Act, 5 (who shall not include the Chairperson), selected in accordance with *paragraph (b)*, shall hold office for a period of 3 years from the date of their appointment as members.

(b) The members of the Authority referred to in *paragraph (a)* shall consist of—

(i) one of the two members of the Authority nominated for appointment by the Law Society under *section 9(4)*, and

(ii) 4 other members of the Authority,

who shall be selected by the drawing of lots, conducted in such manner as the Chairperson of the Authority thinks proper, at the first meeting of the Authority referred to in *section 14(3)*.

(c) A member of the Authority may be selected in accordance with *paragraph (b)* notwithstanding the fact that he or she is not present at the first meeting of the Authority.

- (d) The quorum for the first meeting of the Authority, in so far as that meeting relates to selecting the members of the Authority referred to in *paragraph (a)*, shall be 7 members of the Authority.
- (3) Each member of the Authority—
- (a) shall act on a part-time basis and on such other terms and conditions (other than the payment of remuneration and allowances for expenses) as the Government may determine, and
- (b) shall be paid by the Authority such remuneration (if any) and allowances for expenses (if any) as the Minister with the consent of the Minister for Public Expenditure and Reform may from time to time determine.
- (4) Subject to *subsection (5)*, a member of the Authority (including the Chairperson) whose term of office expires by the effluxion of time shall be eligible for reappointment as a member of the Authority.
- (5) A person who is reappointed to the Authority in accordance with *subsection (4)* shall not hold office for periods the aggregate of which exceeds 8 years.
- (6) A member of the Authority may resign from office by notice in writing addressed to the Minister and the resignation shall take effect on the date the Minister receives the notice or, if a date is specified in the notice and the Minister agrees to that date, on that date.
- (7) The Chairperson may resign from office as Chairperson by notice in writing addressed to the Minister, but shall, unless otherwise stated in the notice, continue to hold office as a member of the Authority for the remainder of his or her term of office, and the resignation takes effect on the date the Minister receives the notice or, if a date is specified in the notice and the Minister agrees to that date, on that date.
- (8) Subject to *section 14(2)*, the Authority may act notwithstanding one or more vacancies in its membership.
- (9) Where a member of the Authority dies, becomes disqualified for office, resigns, is removed from office or otherwise ceases to be a member, the Government may appoint a person to be a member of the Authority to fill the resultant casual vacancy, and such person shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy.

#### **Disqualification for office of member of Authority**

11. (1) A person shall be disqualified from and shall cease to hold office as a member of the Authority if—
- (a) he or she is convicted on indictment of an offence,
- (b) he or she is convicted of an offence involving fraud or dishonesty,

- (c) in the case of a member who is a legal practitioner, his or her name is struck off the roll of solicitors or the roll of practising barristers, as the case may be, or, following the investigation of a complaint under *Part 6*, he or she is the subject of—
    - (i) a determination under *section 82(1)* and the member concerned has not brought an appeal in accordance with *section 83(2)(a)*, or
    - (ii) a decision of the High Court under *subsection (2)(a)* or *(3)* of *section 85*, or
  - (d) he or she—
    - (i) has a declaration under *section 819* of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
    - (ii) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provisions of that Act,
 or
  - (e) he or she has a declaration under *section 150* of the Companies Act 1990 made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act.
- (2) A person who is appointed to the Authority as a lay member shall cease to hold office where he or she ceases to be a lay person.

### Removal of member of Authority

12. (1) The Government may, subject to this section, remove a member of the Authority from office, but only—
- (a) where one or more of the grounds referred to in *subsection (2)* apply,
  - (b) *subsections (3) to (6)* have been complied with, and
  - (c) no appeal against the decision of the Government under *subsection (6)* has been made under *subsection (7)* within the period specified in that subsection or, where such an appeal has been made, the High Court has affirmed the decision,
- and then, and only then, where a resolution is passed by both Houses of the Oireachtas calling for the member's removal from office.
- (2) The grounds referred to in *subsection (1)* are that, in the opinion of the Government, the member—
- (a) has become incapable through ill health of effectively performing the functions of the office,
  - (b) has committed stated misbehaviour,
  - (c) has a conflict of interest of such significance that he or she should cease to hold the office, or

- (d) is otherwise unfit to hold the office or unable to discharge its functions.
- (3) Where the Government proposes to remove a member pursuant to *subsection (1)*, they shall notify the following in writing of their proposal—
  - (a) the member concerned, and
  - (b) the body referred to in *section 9(4)* that nominated that member for appointment as a member of the Authority.
- (4) A notification under *subsection (3)* shall include—
  - (a) a statement of the reasons for the proposal,
  - (b) a statement that the member concerned, and the body referred to in *subsection (3)(b)*, may, within 30 working days of the sending of the notification or such other period as the Government, having regard to the requirements of natural justice, may specify, make representations in the prescribed manner to the Government as to why the member should not be removed from office, and
  - (c) a statement that, where no representations are received within the period specified under *paragraph (b)*, the Government will, without further notice, proceed with the removal of the member from office in accordance with this section.
- (5) In considering whether to remove a member from office, the Government shall take into account—
  - (a) any representations made pursuant to *subsection (4)(b)*, and
  - (b) any other matter that the Government consider relevant for the purpose of their decision.
- (6) Where, having taken into account the matters referred to in *subsection (5)*, the Government decide to remove the member from office, they shall notify the member, and the body referred to in *subsection (3)(b)*, in writing of their decision and of the reasons for it.
- (7) The member or, as the case may be, the body referred to in *subsection (3)(b)*, may, within 30 working days of the sending of the notification under that subsection, appeal to the High Court against the decision of the Government.
- (8) On hearing an appeal under *subsection (7)*, the High Court may, as it thinks proper, either affirm or overturn the decision concerned.

### **Functions of Authority**

- 13.** (1) Subject to this Act, the Authority shall regulate the provision of legal services by legal practitioners and shall ensure the maintenance and improvement of standards in the provision of such services in the State.
- (2) Without prejudice to the generality of *subsection (1)*, the Authority may, and where required by this Act, shall—
- (a) keep under review, and make recommendations to the Minister in respect of, the

following:

- (i) the admission requirements of the Law Society relating to the solicitors' profession and of the Bar Council and the Honorable Society of King's Inns relating to the barristers' profession;
  - (ii) the availability and quality of the education and training (including on-going training) for the solicitors' and barristers' professions, including—
    - (I) the curriculum arrangements for the provision of clinical legal education and the teaching of legal ethics, negotiation skills, alternative dispute resolution and advocacy, and
    - (II) the methods by which, and the persons by whom, such education and training is provided;
  - (iii) the policies of the Law Society in relation to the admission of persons as solicitors in the State, and of the Bar Council and the Honorable Society of King's Inns in relation to persons becoming entitled to practise as barristers in the State, including the arrangements for—
    - (I) accreditation of foreign legal practitioners, and
    - (II) movement by legal practitioners between the professions of solicitor and barrister;
  - (iv) professional codes;
  - (v) the organisation of the provision of legal services in the State,
- (b) disseminate information in respect of the education and accreditation requirements and other matters referred to in *paragraph (a)* to such extent and in such manner as it thinks fit,
  - (c) specify the nature and minimum levels of professional indemnity insurance in accordance with *sections 46 and 47*,
  - (d) establish and administer a system of inspection of legal practitioners for such purposes as are provided for in this Act,
  - (e) receive and investigate complaints under *Part 6*,
  - (f) maintain the roll of practising barristers in accordance with *Part 9*,
  - (g) promote public awareness and disseminate information to the public in respect of legal services, including the cost of such services,
  - (h) keep the Minister informed of developments in respect of the provision of legal services by legal practitioners and make recommendations to assist the Minister in co-ordinating and developing policy in that regard,
  - (i) undertake, commission or assist in research projects and other activities in respect of the provision of legal services, which in the opinion of the Authority may promote an improvement in standards for the provision of those services and public awareness of them, and make recommendations to the Minister arising

- from those projects or activities, and
- (j) perform any other functions conferred on it by this Act or by regulations made under it.
- (3) Subject to this Act, the Authority shall be independent in the performance of its functions.
- (4) The Authority shall, in performing its functions of the regulation of the provision of legal services under this Act, have regard to the objectives of—
- (a) protecting and promoting the public interest,
  - (b) supporting the proper and effective administration of justice,
  - (c) protecting and promoting the interests of consumers relating to the provision of legal services,
  - (d) promoting competition in the provision of legal services in the State,
  - (e) encouraging an independent, strong and effective legal profession, and
  - (f) promoting and maintaining adherence to the professional principles specified in *subsection (5)*.
- (5) The professional principles referred to in *subsection (4)(f)* are—
- (a) that legal practitioners shall—
    - (i) act with independence and integrity,
    - (ii) act in the best interests of their clients, and
    - (iii) maintain proper standards of work,
  - (b) that legal practitioners who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court by virtue of being legal practitioners, shall comply with such duties as are rightfully owed to the court, and
  - (c) that, subject to any professional obligation of a legal practitioner, including any obligation as an officer of the court, the affairs of clients shall be kept confidential.
- (6) Subject to this Act, the Authority may do anything which it considers necessary or expedient to enable it to perform its functions, including liaising and co-operating with other statutory bodies and with other relevant professional and consumer bodies.
- (7) Any function of the Authority may be performed through or by the chief executive or any member of its staff duly authorised in that behalf by the Authority.
- (8) The chief executive or member of staff of the Authority who performs any of its functions is presumed in any proceedings to have been authorised by it to do so on its behalf, until the contrary is proved.
- (9) The Authority may provide for the performance, under the general direction of the Authority, of one or more of its functions by a committee.

**Meetings and business**

- 14.** (1) (a) The Authority shall hold such and so many meetings as may be necessary for the due performance of its functions, but in each year shall hold not less than one meeting in each period of three months.
- (b) In addition to a meeting with all participants physically present, the Authority may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time.
- (2) The quorum for a meeting of the Authority shall be 5, of whom not fewer than 2 shall be lay members, and not fewer than 2 shall be members other than lay members.
- (3) The Chairperson shall fix the date, time and place of the first meeting of the Authority.
- (4) At a meeting of the Authority—
- (a) the Chairperson shall, if present, be the chairperson of the meeting, and
- (b) if and so long as the Chairperson is not present or if the office of Chairperson is vacant, the members of the Authority who are present shall choose one of their number who is a lay member to act as the chairperson of the meeting.
- (5) Each member of the Authority (including the Chairperson) present at a meeting of the Authority shall have a vote.
- (6) At a meeting of the Authority, a question on which a vote is required shall be determined by a majority of the votes of the members of the Authority present and voting on the question and, in the case of an equal division of votes, the Chairperson of the meeting shall have a second or casting vote.
- (7) Subject to this Act, the Authority may determine its own procedures.

**Membership of either House of the Oireachtas, European Parliament, etc.**

- 15.** (1) Where a member of the Authority, a member of a committee, the chief executive or a member of the staff of the Authority is—
- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
- (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament,
- (d) elected or co-opted as a member of a local authority,
- (e) appointed to be a judge, or
- (f) appointed to be the Attorney General,
- he or she shall thereupon—

- (i) in the case of a member of the Authority, a member of a committee established under *section 16* or the chief executive cease to be a member of the Authority or the committee, or the chief executive, as the case may be, and
  - (ii) in the case of a member of the staff of the Authority, stand seconded from employment by the Authority and shall not be paid by, or be entitled to receive from, the Authority any remuneration or allowances for expenses in respect of the period commencing on such nomination or election or appointment, or when he or she is regarded as having been so elected or on such election or co-option, as the case may be, and ending when he or she ceases to be a member of either such House, a member of such Parliament or a member of the local authority or ceases to be a judge or the Attorney General, as the case may be.
- (2) Without prejudice to the generality of *subsection (1)*, that subsection shall be construed as prohibiting the reckoning of a period mentioned in *subparagraph (ii)* of that subsection as service with the Authority for the purposes of any superannuation benefits payable under *section 27*.
- (3) A person who is for the time being—
- (a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,
  - (b) a member of the European Parliament, or
  - (c) entitled under the standing orders of a local authority to sit as a member thereof,
- shall, while he or she is so entitled under *paragraph (a)* or *(c)* or is such a member under *paragraph (b)*, be disqualified from holding and shall cease to hold office as a member of the Authority, a member of a committee, the chief executive or a member of the staff of the Authority.

### **Committees of Authority**

- 16.** (1) The Authority may establish committees to—
- (a) assist and advise it in relation to the performance of all or any of its functions, and
  - (b) perform such functions of the Authority as may stand delegated to them under *section 13*.
- (2) In appointing members of a committee, the Authority shall—
- (a) have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee, and
  - (b) have regard to the desirability of there being such balance between men and women on the committee as is appropriate.
- (3) A committee shall consist of such number of members as the Authority may determine, provided that a majority of the members shall be lay persons.
- (4) A committee may include persons who are not members of the Authority or its staff.

- (5) There may be paid by the Authority, out of the resources at its disposal, to members of a committee such fees (if any) or allowances for expenses (if any) incurred by them as the Authority, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform may from time to time determine.
- (6) A member of a committee may at any time be removed from office by the Authority for stated reasons.
- (7) The acts of a committee shall be subject to confirmation by the Authority, unless the Authority otherwise determines.
- (8) The Authority may determine the terms of reference and regulate the procedures of a committee but, subject to any such regulation, the committee may regulate its own procedures and business.
- (9) The Authority may appoint a person to be chairperson of a committee.
- (10) A committee shall provide the Authority with such information as the Authority may from time to time require, in respect of its activities and operations, for the purposes of the performance of the functions of the Authority.
- (11) The Authority may at any time dissolve a committee.
- (12) A committee may act notwithstanding one or more vacancies in its membership.

#### **Power to appoint consultants and advisers and to enter into contracts**

- 17.** (1) The Authority may, with the approval of the Minister for Public Expenditure and Reform, from time to time and as it may consider necessary to assist it in the performance of its functions—
- (a) enter into contracts with persons or bodies, and
  - (b) appoint consultants or advisers.
- (2) There may be paid by the Authority, out of the resources at its disposal, to persons, bodies, consultants or advisers referred to in *subsection (1)*, such fees (if any) or allowances for expenses (if any) incurred by them as the Authority may determine.
- (3) Any fees or allowances for expenses due to a consultant or advisor appointed under this section shall form part of the expenses of the Authority.
- (4) The appointment of a person as a consultant or adviser shall be for such period and subject to such terms and conditions as the Authority considers appropriate.

#### **Legal privilege**

- 18.** (1) Nothing in this Act shall compel a person, other than a person to whom *subsection (2)* applies, to disclose any information or documentation that the person would be entitled to refuse to produce on the grounds of legal professional privilege.
- (2) Notwithstanding the relationship between, or rights and privileges of, a legal practitioner and his or her client, a legal practitioner shall, if so requested by a person authorised in that behalf by the Authority, provide the person with any information (in

such form as that person may specify) or documentation which is required by the Authority for the purpose of enabling the Authority to discharge its functions under this Act.

- (2) Information or documentation provided by a legal practitioner in accordance with *subsection (2)* may only be used for the purpose of enabling the Authority to discharge its functions under this Act in relation to legal practitioners.

### **Non-disclosure of confidential information**

- 19.** (1) Save as otherwise provided by law, and subject to *subsection (3)*, a person shall not, without the consent in writing of the Authority, disclose confidential information obtained by that person while performing, or as a result of having performed, functions as—
- (a) a member of the Authority or a committee,
  - (b) the chief executive,
  - (c) a member of the staff of the Authority,
  - (d) a consultant or adviser or an employee of a consultant or adviser appointed by the Authority under *section 17*, or
  - (e) an inspector appointed under *section 37*.
- (2) A person who contravenes *subsection (1)* is guilty of an offence and liable on summary conviction to a class A fine.
- (3) Nothing in *subsection (1)* shall prevent the disclosure of information—
- (a) to the Authority,
  - (b) which, in the opinion of a person referred to in that subsection, may relate to the commission of an indictable offence to—
    - (i) the Director of Corporate Enforcement,
    - (ii) the Competition Authority,
    - (iii) a member of the Garda Síochána,
    - (iv) an officer of the Revenue Commissioners,
    - (v) the Central Bank of Ireland, or
    - (vi) such other person as may be prescribed after consultation by the Minister with any other Minister of the Government appearing to the Minister to be concerned.
- (4) If information disclosed in accordance with this section is subject to legal professional privilege, that information may not be used by the persons to whom the information is disclosed as against the client in respect of whom the privilege is vested.
- (5) Where any question arises as to whether information is or is not subject to legal

professional privilege, or the use to which such information may be put, the client of the legal practitioner asserting such privilege may apply to the High Court for the determination of any matter relating to such information and the use to which such information may be put and the Court may make such orders as it considers appropriate in determining the matter before it.

- (6) Nothing in *subsection (1)* shall prevent the disclosure of information by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995.
- (7) In this section, “confidential information” includes information that is expressed by the Authority or a committee to be confidential either as regards particular information or as regards information of a particular class or description.

### **Strategic plans**

20. (1) The Authority shall, as soon as practicable after the establishment day and thereafter within 6 months before each third anniversary of the establishment day, prepare and submit to the Minister a strategic plan for the ensuing 3 year period.
- (2) A strategic plan shall—
  - (a) set out the key objectives, outputs and related strategies of the Authority, including the use of its resources, and
  - (b) have regard to the need to ensure the most beneficial and efficient use of the Authority’s resources.
- (3) The Minister shall cause a copy of a strategic plan prepared pursuant to this section to be laid before each House of the Oireachtas as soon as practicable after the plan has been received by him or her.

### **Reports to Minister**

21. (1) The Authority shall, not later than 30 April in each year, make a report (in this section referred to as the “annual report”) to the Minister and to the Oireachtas Joint Committee on Justice, Defence and Equality, or any Oireachtas Joint Committee that may replace that Committee, on the performance of its functions during the preceding year.
- (2) The annual report shall be in such form and shall include information in respect of such matters as the Authority considers appropriate.
- (3) The Authority may make such other reports to the Minister relating to its functions as it considers appropriate.
- (4) The Authority shall give to the Oireachtas Joint Committee on Justice, Defence and Equality, or any Oireachtas Joint Committee that may replace that committee such other information it may require in respect of—
  - (a) the performance by the Authority of its functions and its policies in respect of such performance,
  - (b) any specific document or account prepared by it, or

- (c) the annual report or any report referred to in *subsection (3)*.
- (5) For the purposes of *subsection (1)*, the period between the establishment day and the following 31 December shall be deemed to be a preceding year.
- (6) The Minister shall, as soon as is practicable, cause copies of the annual report or, as the case may be, a report referred to in *subsection (3)*, to be laid before each House of the Oireachtas.
- (7) The Authority shall publish its annual report in such form and manner as it considers appropriate as soon as is practicable after *subsection (4)* has been complied with in respect of the report.

### **Powers of Authority in relation to codes of practice**

- 22.** (1) The Authority may, having regard to the objectives specified in *section 13(1)* and (4) and in accordance with this section, issue a code of practice where it considers it necessary to do so for the purpose of setting and improving standards for the provision of a legal service in the State.
- (2) A code of practice issued under *subsection (1)* may relate to the provision of legal services by—
- (a) legal practitioners generally, or
  - (b) legal practitioners of such class or classes as may be specified in the code.
- (3) Before exercising its power under *subsection (1)*, the Authority shall consult, in such manner as it considers appropriate, with—
- (a) a professional body, the members of which will be subject to the proposed code of practice, and
  - (b) such other interested parties, including legal practitioners who are not members of a body referred to in *paragraph (a)* who will be subject to the proposed code of practice, as the Authority considers appropriate.
- (4) Where the Authority consults under *subsection (3)*, it shall, before issuing the code of practice concerned, consider representations (if any) made by the bodies or parties so consulted.
- (5) Where a professional code conflicts with a code of practice, the code of practice shall, for the purposes of this Act, prevail.
- (6) The High Court, on application to it by a legal practitioner who is affected by a code of practice, made within 28 days of the issuing by the Authority of that code, may, where it considers that the code of conduct is oppressive, unreasonable or unnecessary, revoke or vary the code.
- (7) Where the Authority, under this section, issues, amends or revokes a code of practice, it shall without delay cause a notice to that effect to be published in *Iris Oifigiúil*, which notice shall—
- (a) specify the code concerned,

- (b) specify the legal service to which the code relates or the class of legal practitioner to which the code relates, and
  - (c) specify the date from which the code, or the amendment to or the revocation of the code, as the case may be, shall have effect.
- (8) (a) The Authority shall make available for inspection free of charge to members of the public in an appropriate format a copy of every code of practice issued by it under *subsection (1)*.
- (b) A copy of a code of practice made available under *paragraph (a)* shall state the date on which the code has effect and, where applicable, the date on which the revocation of the code has effect.
  - (c) Where a code of practice referred to in *paragraph (a)* has been amended in accordance with this section, a reference in that paragraph to a code of practice is to that code as amended.

### **Powers of Authority in relation to professional codes**

- 23.** (1) The Authority, having reviewed a professional code, may issue a notice under *subsection (2)* to the relevant professional body where it is of the opinion that—
- (a) the professional code operates or is likely to operate to hinder a legal practitioner in complying with his or her obligations under this Act,
  - (b) the professional code is frustrating or is likely to frustrate an objective specified in *subsection (1)* or *(4)* of *section 13*, or
  - (c) the amendment of the professional code is otherwise necessary in order to maintain or improve standards in the provision of a legal service.
- (2) A notice under this subsection may direct the relevant professional body concerned to amend, in the manner specified in the notice, the professional code concerned.
- (3) Where the Authority proposes to issue a notice under *subsection (2)* it shall—
- (a) notify the relevant professional body, and such other professional body it considers appropriate, of its proposal and the reasons for it,
  - (b) invite the professional bodies referred to in *paragraph (a)* to make representations in writing to the Authority in relation to the proposal, and
  - (c) before deciding whether to issue the notice, consider any representations received under *paragraph (b)*.
- (4) Where a relevant professional body has not, within 28 days of the sending to it of a notice under *subsection (2)*, complied with that notice, the Authority may apply to the High Court for an order directing the professional body concerned to comply with the notice.
- (5) The High Court, on application to it by the professional body concerned made within 28 days of the sending to that body of a notice under *subsection (2)*, may, where it considers that the notice is oppressive, unreasonable or unnecessary, revoke or vary

the notice.

- (6) A professional body shall—
- (a) within one month of the establishment day, furnish to the Authority a copy of all professional codes in relation to which it is a relevant professional body,
  - (b) within 28 days of it becoming a relevant professional body in relation to a professional code, furnish to the Authority a copy of that professional code, and
  - (c) within 28 days of the amendment or revocation concerned—
    - (i) notify the Authority of the amendment of a relevant professional code and furnish it with a copy of the code as amended, and
    - (ii) notify the Authority of the revocation of a relevant professional code.
- (7) (a) The Authority shall make available for inspection free of charge to members of the public in an appropriate format a copy of every professional code furnished to it under *subsection (6)*, other than a code which the Authority has been informed, under *subsection (6)(c)(ii)*, has been revoked.
- (b) A copy of a professional code made available under *paragraph (a)* shall state the date on which the code has effect and, where applicable, the date on which the revocation of the code has effect.
- (c) Where the Authority has been informed under *subsection (6)(c)(i)* of the amendment of a professional code, a reference in *paragraph (a)* to a professional code is a reference to that code as amended.
- (8) This section is without prejudice to any other power of the Authority under this Act.
- (9) In this section, “relevant professional body”, in relation to a professional code, means a professional body—
- (a) that has adopted that code,
  - (b) on whose behalf the code has been adopted, or
  - (c) whose members are, as a condition of their membership of that body, otherwise subject to the code.

#### **Chief executive**

- 24.** (1) There shall be a chief executive officer of the Authority who shall be appointed by the Authority and who shall be known, and is referred to in this Act, as the “chief executive”.
- (2) The chief executive shall hold office under a written contract of service (which contract may, at the discretion of the Authority, be renewed) for such period as is specified in the contract, and subject to such terms and conditions (including terms and conditions relating to remuneration) as are determined by the Authority with the approval of the Minister for Public Expenditure and Reform.
- (3) The chief executive shall—

- (a) implement the policies and decisions of the Authority,
  - (b) manage and control generally the Authority's staff, administration and business,
  - (c) be responsible to the Authority for the performance of his or her functions, and
  - (d) perform such other functions (if any) as may be required by the Authority or as may be authorised under this Act.
- (4) The chief executive may be removed or suspended from office by the Authority for stated reasons.
  - (5) The chief executive shall not be a member of the Authority or a committee but may, in accordance with procedures established by the Authority or such a committee, as the case may be, attend meetings of the Authority or the committee, as the case may be, and shall be entitled to speak at and give advice at such meetings.
  - (6) The chief executive shall provide the Authority with such information, including financial information, in respect of the performance of the chief executive's functions as the Authority may require.
  - (7) The chief executive shall not hold any other office or position in respect of which remuneration is payable, or carry on any business, trade or profession without the consent of the Authority.
  - (8) Such of the functions of the chief executive as the chief executive may specify may, with the consent of the Authority, be performed by such member or members of the staff of the Authority as the chief executive may authorise for that purpose, and that member or those members of staff shall be accountable to the chief executive for the performance of the functions so delegated.
  - (9) The chief executive shall be accountable to the Authority for the performance of functions delegated by him or her in accordance with *subsection (8)*.
  - (10) The chief executive may, with the consent of the Authority in writing, revoke a delegation made in accordance with this section.
  - (11) The functions referred to in *subsection (8)* do not include a function delegated by the Authority to the chief executive subject to a condition that the function shall not be delegated by the chief executive to anyone else.
  - (12) If the chief executive—
    - (a) dies, resigns, becomes disqualified for or is removed from office, or
    - (b) is for any reason temporarily unable to continue to perform his or her functions,the Authority may designate such member or members of the staff of the Authority as it considers appropriate to perform the functions of the chief executive until—
    - (i) in the circumstances mentioned in *paragraph (a)*, a new chief executive is appointed in accordance with this section,
    - (ii) in the circumstances mentioned in *paragraph (b)*, the chief executive is able to resume the performance of his or her functions, or

- (iii) the Authority decides to revoke or alter a designation made under this subsection.

### **Staff of Authority**

- 25.** (1) The Authority may appoint persons to be the staff of the Authority and may determine their duties.
- (2) The Authority, with the approval of the Minister for Public Expenditure and Reform, shall determine—
- (a) the terms and conditions of employment (including terms and conditions relating to remuneration and allowances) of staff appointed under this section, and
- (b) the grades of the staff of the Authority and the numbers of staff in each grade.
- (3) The remuneration and allowances of the Authority's staff are payable by the Authority to the staff out of funds at the Authority's disposal.
- (4) A member of staff of the Authority shall be a public servant.

### **Transfer of staff of Law Society or Bar Council**

- 26.** (1) Subject to this section, the Authority may, for the purposes of discharging its functions under *Part 6*, give appropriately qualified staff of the Law Society or the Bar Council an option to transfer to the Authority.
- (2) Where a member of staff referred to in *subsection (1)* exercises an option under that subsection, the Authority shall request the Minister, with the consent of the Minister for Public Expenditure and Reform, to designate in writing such member to be transferred to the staff of the Authority from such date as may be specified in the designation (in this section referred to as "the effective date").
- (3) A member of staff of the Law Society or the Bar Council designated in accordance with *subsection (2)* shall become and be a member of staff of the Authority from the effective date and shall become a member of the Single Public Service Pension Scheme from that date.
- (4) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, persons transferred by virtue of a designation under *subsection (2)* shall not be brought to less favourable terms and conditions than the terms and conditions of service relating to basic remuneration to which the person was subject immediately before the effective date.
- (5) Subject to *subsection (4)*, the Authority shall determine, in accordance with *section 25(2)*, the terms and conditions of service and the grade of a person transferred by virtue of a designation under *subsection (2)*.

### **Superannuation**

- 27.** (1) The Authority may, with the approval of the Minister for Public Expenditure and Reform, make a scheme or schemes for the granting of superannuation benefits to or in respect of any person appointed chief executive or any person who, on becoming a

member of staff of the Authority, does not become a member of the Single Public Service Pension Scheme.

- (2) A scheme under this section shall fix the time and conditions of retirement of all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.
- (3) The Authority may, with the approval of the Minister for Public Expenditure and Reform, make a scheme amending a scheme under this section including a scheme under this subsection.
- (4) A scheme under this section shall, if approved by the Minister for Public Expenditure and Reform, be carried out by the Authority in accordance with its terms.
- (5) A scheme under this section shall include a provision for appeals from a decision relating to a superannuation benefit under the scheme.
- (6) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable pursuant to a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure and Reform, whose decision shall be final.
- (7) No superannuation benefits shall be granted by the Authority to or in respect of a person on ceasing to be the chief executive or a member of the staff of the Authority otherwise than—
  - (a) in accordance with a scheme or schemes under this section, or
  - (b) with the approval of the Minister for Public Expenditure and Reform.
- (8) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- (9) *Subsection (8)* shall, with all necessary modifications, apply to an amendment to a scheme under this section as it applies to a scheme under this section.
- (10) In this section—

“amending”, in relation to a scheme under this section, includes revoking the scheme;

“superannuation benefit” means any pension, gratuity or other allowance payable to or in respect of a person ceasing to be the chief executive or a member of the staff of the Authority.

### **Accounts and audit**

- 28.** (1) The chief executive, with the agreement of the Authority, shall—
- (a) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and

- (b) provide to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Authority in respect of a period specified by the Minister,

and the Minister shall, as soon as practicable, cause copies of the information so submitted by the Authority to be laid before each House of the Oireachtas.

- (2) The chief executive, under the direction of the Authority, shall keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of moneys received and spent by the Authority, including an income and expenditure account and a balance sheet.
- (3) (a) The accounts of the Authority shall be approved by it as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.
  - (b) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the members of the Authority and the Minister as soon as is practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.
- (4) (a) The Authority, the chief executive and any relevant member of the staff shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the accounts of the Authority in respect of any financial year or other period and shall facilitate any such examination, and the Authority shall pay to the Minister such fee for the examination as may be fixed by the Minister.
  - (b) In this subsection, “relevant member of the staff” means a member of the staff of the Authority to whom duties relating to those accounts have been duly assigned.

**Accountability of chief executive to Oireachtas Committee established to examine, etc., appropriation accounts etc.**

**29.** The chief executive shall, whenever required in writing by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the “Committee”), give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any account kept under *section 28(2)*,
- (b) the economy and efficiency of the Authority in the use of its resources,
- (c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Authority referred to in a special report of the Comptroller and Auditor General under *section 11(2)* of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a)*,

(b) or (c) that is laid before Dáil Éireann.

### Accountability of chief executive to Oireachtas Committees

- 30.** (1) Subject to *subsection (2)*, the chief executive shall, at the request in writing of the Committee attend before it to give account for the general administration of the Authority as is required by the Committee.
- (2) The chief executive shall not be required to give account before the Committee for any matter which is or has been or may at a future time be the subject of—
- (a) proceedings before a court or tribunal in the State, or
  - (b) a decision or determination by the Authority in respect of a particular legal practitioner.
- (3) Where the chief executive is of the opinion that a matter, the subject of a request under *subsection (1)*, is a matter to which *subsection (2)* applies, he or she shall inform the Committee concerned of that opinion and the reasons for that opinion and, unless the information is conveyed to the Committee at a time when the chief executive is before it, the information shall be so conveyed in writing.
- (4) Where the chief executive has informed the Committee of his or her opinion in accordance with *subsection (3)* and the Committee does not withdraw the request referred to in *subsection (1)* in so far as it relates to a matter the subject of that opinion—
- (a) the chief executive may, not later than 21 days after being informed by the Committee of its decision not to withdraw the request, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (2)* applies, or
  - (b) the chairperson of the Committee may, on behalf of the Committee, make such an application,
- and the High Court shall determine the matter.
- (5) Pending the determination of an application under *subsection (4)*, the chief executive shall not attend before the Committee to give account for the matter the subject of the application.
- (6) If the High Court determines that the matter concerned is one to which *subsection (2)* applies, the Committee shall withdraw the request referred to in *subsection (1)*, but if the High Court determines that *subsection (2)* does not apply, the chief executive shall attend before the Committee to give account for the matter.
- (7) In this section “Committee” means the Committee established jointly by Dáil Éireann and Seanad Éireann known as the Committee on Justice, Defence and Equality, or any Committee established to replace that Committee.

### Power to charge and recover fees

- 31.** (1) Subject to *subsection (5)*, the Authority may prescribe by regulations the fees to be

paid to it and when they fall due in respect of—

- (a) the performance of functions,
- (b) the provision of services, and
- (c) the carrying on of activities,

by the Authority under this Act.

- (2) Without prejudice to the generality of *subsection (1)*, the Authority's power under that subsection to prescribe fees includes the power to provide for exemptions from the payment of fees, or waiving, remitting or refunding fees (in whole or in part), in different circumstances or classes of circumstances or in different cases or classes of cases.
- (3) Fees prescribed under *Part 8* and paid to the Authority may be used by the Authority to meet the costs it incurs in carrying out its functions under that Part.
- (4) The Authority may recover as a simple contract debt in any court of competent jurisdiction, from a person by whom the fee is payable, any amount due and owing to the Authority in respect of a fee charged under this section.
- (5) *Subsection (1)* shall not apply in respect of a function, service or activity referred to in that subsection where the cost to the authority of performing that function, providing that service or carrying out that activity is included in the approved expenses of the Authority referred to in *section 95*.

#### **Advances by Minister to Authority**

- 32.** The Minister shall advance to the Authority out of moneys provided by the Oireachtas such amount or amounts as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine for the purposes of expenditure by the Authority in the performance of its functions.

#### **Annual report on admission policies of legal professions**

- 33.** (1) Not later than 4 months after the end of each financial year, the Authority shall prepare and submit to the Minister a report—
- (a) specifying the number of persons admitted to practise as solicitors during that year,
  - (b) specifying the number of persons admitted to practise as barristers during that year, and
  - (c) containing an assessment as to whether or not, having regard to the demand for the services of practising barristers and solicitors and the need to ensure an adequate standard of education and training for persons admitted to practise, the number of persons admitted to practise as barristers and solicitors in that year is consistent with the public interest in ensuring the availability of such services at a reasonable cost.

- (2) The Authority shall consult—
  - (a) the Law Society,
  - (b) the Bar Council,
  - (c) the Honorable Society of King’s Inns, and
  - (d) such persons as the Authority considers appropriate,for the purpose of preparing the report referred to in *subsection (1)*.
- (3) The Law Society, the Bar Council and the Honorable Society of King’s Inns shall provide the Authority with such information in their possession as is reasonably requested of them by the Authority for the purpose of preparing the report referred to in *subsection (1)*.
- (4) As soon as practicable after receiving a report under this section, the Minister shall cause a copy of the report to be laid before each House of the Oireachtas.
- (5) Following compliance with *subsection (4)*, the Authority shall arrange for the publication of the report in such form and manner as it considers appropriate and for it to be sent to the Law Society, the Bar Council and the Honorable Society of King’s Inns.

#### **Reports on specified matters to Minister**

- 34.** (1) Without prejudice to the functions of the Authority referred to in *section 13(2)(h)* and *(i)*, the Authority shall, following appropriate public consultation processes, prepare and furnish reports to the Minister in relation to the following:
- (a) the education and training (including on-going training) arrangements in the State for legal practitioners, including the manner in which such education and training is provided;
  - (b) unification of the solicitors’ profession and the barristers’ profession;
  - (c) the creation of a new profession of conveyancer;
  - (d) such other matters as the Minister may, from time to time, request the Authority to report on to him or her.
- (2) The fact that the Authority has provided a report under *subsection (1)* in respect of a matter referred to in that subsection shall not, of itself, preclude the Minister from requiring another report in respect of that matter or the Authority from providing that report.
  - (3) A report in respect of a matter referred to in *subsection (1)(a)*—
    - (a) shall be provided to the Minister within 2 years of the establishment day,
    - (b) shall contain a review of the existing arrangements relating to the education and training of legal practitioners and make such recommendations as it considers appropriate in relation to the arrangements that in the opinion of the Authority should be in place for the provision of the education and training referred to in

that subsection, including the accreditation of bodies to provide such education and training, and the reforms or amendments, whether administrative or legislative, that are required to facilitate those arrangements,

- (c) without prejudice to the generality of *paragraph (b)*, shall include recommendations in relation to—
    - (i) appropriate standards of education and training for legal professional qualifications,
    - (ii) arrangements necessary to monitor adherence to the standards referred to in *subparagraph (i)*,
    - (iii) the scope and content of the curriculum forming part of courses of legal professional education and training, including the teaching methodology of legal education, legal ethics, negotiation, alternative dispute resolution and advocacy,
    - (iv) arrangements that would facilitate the minimisation of duplication, and consequent expense incurred, in the taking of examinations in legal subjects on the part of a person—
      - (I) who wishes to undertake a course of legal professional education and who has obtained a third level law degree that includes one or more of the subjects that form part of that course,
      - (II) who, being a solicitor, wishes to become a barrister, or who, being a barrister, wishes to be admitted as a solicitor,
    - (v) standards required for the award of legal professional qualifications pursuant to courses of legal professional education and training,
    - (vi) the need for, and, if such need is identified, the manner of and requirements relating to the accreditation of bodies or institutions to—
      - (I) provide, or procure the provision of, courses of legal professional education and training,
      - (II) hold or procure the holding of examinations, and
      - (III) award, or procure the awarding of, diplomas, certificates or other awards of merit,
  - and
  - (vii) any other matters that the Authority considers relevant and appropriate.
- (4) A report in respect of the matter referred to in *subsection (1)(b)*—
- (a) shall be provided to the Minister within 4 years of the establishment day,
  - (b) shall contain details of arrangements in operation in other jurisdictions in which the professions have been unified,
  - (c) shall contain recommendations as to—

- (i) whether the solicitors' profession and the barristers' profession in the State should be unified having regard to, among other things—
    - (I) the public interest,
    - (II) the need for competition in the provision of legal services in the State,
    - (III) the proper administration of justice,
    - (IV) the interest of consumers of legal services including access by such consumers to experienced legal practitioners, and
    - (V) any other matters that the Authority considers appropriate or necessary,
  - (ii) if the recommendation in *subparagraph (i)* is in favour of unification of the solicitors' profession and the barristers' profession—
    - (I) how the professions can be unified, and
    - (II) the reforms or amendments, whether administrative, legislative, or to existing professional codes, that are required to facilitate such unification,and
  - (iii) any other matters that the Authority considers appropriate or necessary.
- (5) A report in respect of the matters referred to in *subsection (1)(c)* and *(d)* shall—
- (a) be provided to the Minister within a period specified by the Minister in a written notice to the Authority requesting the report,
  - (b) contain such details and make recommendations as to such matters as may be specified by the Minister in the notice referred to in *paragraph (a)*.
- (6) (a) The Authority shall, either at the request of the Minister or on its own initiative, prepare an interim report for the Minister in relation to any of the matters in respect of a report being prepared under this section.
- (b) An interim report referred to in *paragraph (a)* may refer generally to the progress of the public consultation process concerned or it may refer to—
- (i) where the Minister has requested the interim report, to such matters as the Minister requests, or
  - (ii) where the interim report is prepared on the initiative of the Authority, to such matters as the Authority considers appropriate,
- and may contain recommendations in respect of such matters.
- (7) The Minister shall cause copies of any report referred to in this section to be laid before each House of the Oireachtas within 30 days of having received it.

#### **Order to prohibit contravention of Act**

35. (1) Where, on the application of the Authority, it is shown to the satisfaction of the High Court—

- (a) that a legal practitioner or any other person has contravened, is contravening or is likely to contravene any provision of this Act or regulations made under it, or
- (b) that a legal practitioner who is a solicitor, or any other person has contravened, is contravening or is likely to contravene any provision of the *Solicitors Acts 1954 to 2015* or regulations made under those Acts,

the Court may by order prohibit the legal practitioner or other person concerned from contravening that provision, notwithstanding that any such contravention may constitute an offence.

- (2) An order under *subsection (1)* may contain such provisions of a consequential nature as the Court considers appropriate.

### Prosecution of offences

36. An offence under this Act may be prosecuted summarily by the Authority.

## PART 3

### INSPECTIONS - LEGAL PRACTITIONERS

#### Inspectors

37. (1) For the purposes of this Act, the Authority may appoint such and so many—
- (a) members of its staff as it thinks fit to be inspectors for such period and subject to such terms as the Authority may determine,
  - (b) other persons as it thinks fit to be inspectors for such period and subject to such terms (including terms as to remuneration and allowances for expenses) as the Authority, with the approval of the Minister and consent of the Minister for Public Expenditure and Reform, may determine.
- (2) A person appointed to be an inspector under this section shall on his or her appointment be furnished with a warrant of appointment by the Authority and when exercising a power conferred by this Act shall, when requested by any person affected, produce such warrant or a copy thereof, together with a form of personal identification, to that person.
- (3) The Authority may revoke any appointment made by it under *subsection (1)*.
- (4) An appointment or revocation under this section shall be in writing.
- (5) The appointment of a person as an inspector under *subsection (1)* ceases—
- (a) on the revocation of the appointment by the Authority,
  - (b) in a case where the appointment is for a specified period, on the expiration of that period,
  - (c) on the resignation of that person from the appointment, or

- (d) where the person was appointed under *subsection (1)(a)*, where that person ceases to be a member of staff of the Authority.

### **Inspection on direction of Authority**

**38.** An inspector shall, upon the direction of the Authority, have power to carry out an inspection in accordance with *section 39*—

- (a) for the purpose of an investigation of any complaint made or deemed to be made under this Act, or
- (b) to ensure compliance by a legal practitioner with—
  - (i) any requirements imposed by this Act on the practitioner,
  - (ii) any regulations made under this Act applicable to the practitioner, or
  - (iii) any code of practice issued under *section 22*,and
- (c) for the purpose of the Authority exercising its power under *section 51(8)*.

### **Powers of Inspectors**

**39.** (1) For the purposes set out in *section 38*, an inspector may—

- (a) subject to *subsections (3) and (5)*, enter and inspect any place—
  - (i) which he or she reasonably believes is being used to carry on the business of a legal practitioner,
  - (ii) at which he or she has reasonable grounds for believing records or documents relating to the business of a legal practitioner are being kept,
- (b) at such place inspect and take copies of any books, records, accounts or other documents (including books, records, accounts or documents stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection,
- (c) require—
  - (i) any legal practitioner who carries on the business of a legal practitioner in the place concerned, or
  - (ii) any person at the place concerned, including the owner or person in charge of that place,

to produce to the inspector such books, records, accounts or other documents (and in the case of documents stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as that inspector may reasonably require for the purposes of his or her functions under this Act,

- (d) subject to an order being obtained for such purpose from the High Court under

*section 40*, seize and retain any such books, records, accounts or other documents from such premises and take any other steps which appear to the inspector to be necessary for preserving or preventing interference with such books, records, accounts or other documents,

(e) where there is data equipment on the premises which the inspector reasonably believes is or has been used in connection with the business of the legal practitioner, require any person—

(i) who uses the data equipment or on whose behalf the data equipment is used, or

(ii) having charge of, or who is otherwise concerned with the operation of, such equipment,

to afford the inspector all reasonable assistance in relation to the operation of such equipment and any associated apparatus or material,

(f) subject to an order being obtained for such purpose from the High Court under *section 40*, to secure for later inspection such data equipment and any associated apparatus or material,

(g) subject to an order being obtained for such purpose from the High Court under *section 40*, secure for later inspection the place or any part of the place, for such period as may reasonably be necessary for the purpose of exercising his or her powers under this section,

(h) require—

(i) any legal practitioner who carries on the business of a legal practitioner in the place concerned, or

(ii) any person at the place concerned, including the owner or person in charge of that place,

to give the inspector such information and assistance as the inspector may reasonably require for the purposes of his or her functions under this Act,

(i) examine with regard to any matter under this Act any person whom the inspector has reasonable grounds for believing to be—

(i) a legal practitioner who carries on the business of a legal practitioner in the place concerned, or

(ii) employed by a person referred to in *subparagraph (i)*,

and require the person to answer such questions as the inspector may ask relative to those matters and to make a declaration of the truth of the answers to those questions, and

(j) require a legal practitioner who carries on the business of a legal practitioner in the place concerned, or any person duly authorised by the legal practitioner in that behalf, to give such authority in writing addressed to such bank or banks as an inspector requires for the purpose of enabling the inspector to inspect any

accounts held by that practitioner at such bank or banks and obtain copies of any documents relating to such accounts.

- (2) Subject to *subsection (5)*, an inspector may use reasonable force, if necessary, to enter any place referred to in *subsection (1)(a)*, to exercise his or her powers under this section.
- (3) An inspector may enter and inspect a place under *subsection (1)*—
  - (a) at any time during normal business hours with or without prior notice to the practitioner where an inspector reasonably believes that the business of a legal practitioner is carried on at that place or records or documents relating to the business of a legal practitioner are being kept at that place, and
  - (b) at any other time on reasonable notice to the practitioner.
- (4) When performing a function under this Act, an inspector may, subject to any warrant under *subsection (6)*, be accompanied by such number of other inspectors or members of the Garda Síochána as he or she considers appropriate.
- (5) An inspector shall not enter a dwelling other than—
  - (a) with the consent of the occupier, or
  - (b) pursuant to a warrant under *subsection (6)*.
- (6) Upon the sworn information of an inspector, a judge of the District Court may—
  - (a) for the purposes of enabling an inspector to carry out an inspection of a place that the inspector has reasonable grounds for believing is being used for the carrying on of the business of a legal practitioner, or
  - (b) if satisfied that there are reasonable grounds for believing that information, books, records, accounts or other documents (including information, books, records, accounts or other documents stored in non-legible form) required by an inspector under this section relating to the business of a legal practitioner is or are held in any place,  
  
issue a warrant authorising a named inspector accompanied by such other inspectors or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter the dwelling (if necessary by using reasonable force) and exercise the powers of an inspector under *subsection (1)*.
- (7) In this Part, “place” shall be construed in accordance with section 29 (inserted by section 1 of the Criminal Justice (Search Warrants) Act 2012) of the Offences Against the State Act 1939.

#### **High Court order to exercise certain powers under *section 39***

- 40.** The High Court may, on application to it in that behalf by the inspector concerned, make an order authorising that inspector, accompanied by such other inspectors or members of the Garda Síochána as may be necessary, to exercise his or her powers under *paragraphs (d), (f) or (g) of section 39(1)* where the Court is satisfied it is necessary for the purposes

of *section 38*.

#### High Court direction to comply with inspection

41. (1) Where a person, without reasonable cause, fails, refuses or neglects to comply with a requirement of an inspector in the exercise of his or her powers under any of *paragraphs (c), (e), (h), (i) or (j) of section 39(1)*, the Authority may, on notice to the person concerned, apply to the High Court for an order directing a person to comply with such requirement or requirements as the Authority considers necessary for the purposes of an inspection referred to in *section 39*.
- (2) Where the person referred to in *subsection (1)* is not the legal practitioner in respect of whose business the inspection is concerned, the Authority shall, at the same time as notifying that person, notify that legal practitioner of the application.
- (3) The High Court may make an order in the terms sought by the Authority under *subsection (1)* or such other order as the Court considers necessary for the purpose of such inspection.

#### Offences

42. (1) A person commits an offence if he or she—
- (a) obstructs or interferes with an inspector or a member of the Garda Síochána in the course of exercising a power conferred on him or her by *section 39* or a warrant under *section 39(6)* or impedes the exercise by the person or member, as the case may be, of such power,
  - (b) removes from a place referred to in *paragraph (a) of section 39(1)*, or deletes, destroys, defaces or conceals, all or any part of his or her books, records, accounts or other documents (including books, records, accounts or other documents stored in non-legible form) with intent to prevent, or interfere with, the exercise of a power of an inspector or member conferred on him or her by *section 39*, or
  - (c) fails or refuses to comply with a request or requirement of, or to answer a question asked by, the inspector or member pursuant to *section 39*, or in purported compliance with such request or requirement or in answer to such question gives information to the inspector or member that he or she knows to be false or misleading in any material respect.
- (2) Where an inspector believes, upon reasonable grounds, that a person has committed an offence under this Part, he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.
- (3) A statement or admission made by a person pursuant to a requirement under *paragraph (h) or (i) of section 39(1)* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (1)*).
- (4) A person who commits an offence under this section is liable on summary conviction

to a class A fine or imprisonment for a term not exceeding 12 months or both.

#### **Report to Authority in certain circumstances following inspection**

43. (1) An inspector shall, where an inspection relates to *paragraph (b) or (c) of section 38*, prepare and furnish a report in writing to the Authority of the inspection within 21 days of completion of the inspection.
- (2) A report prepared under *subsection (1)* shall, where an inspection relates to *paragraph (b) of section 38*, include a statement by the inspector as to whether he or she has found evidence of failure to comply with any of the matters set out in *subparagraphs (i), (ii) or (iii) of that paragraph*.
- (3) A report prepared under *subsection (1)* shall, where an inspection relates to *paragraph (c) of section 38*, include a statement by the inspector as to whether he or she has found evidence of an act or omission that may constitute misconduct (within the meaning of *section 42(1)*) on the part of a legal practitioner.
- (4) The Authority shall refer the report of an inspector under this section to the officer of the Authority referred to in *subsection (4) of section 51* for his or her consideration in accordance with that subsection.
- (5) An inspector may, if he or she considers it necessary to do so, make an interim report to the Authority in respect of any matter arising in the course of the inspection being carried out by him or her.
- (6) The Authority shall refer an interim report of an inspector under this section to the officer of the Authority referred to in *subsection (4) of section 51* for his or her consideration in accordance with that subsection.

#### **Admissibility of evidence obtained in course of inspection**

44. Any report or interim report prepared under *section 43* and any information or documents obtained in the course of an inspection under this Part may be admitted in evidence in any—
- (a) proceedings in respect of a legal practitioner under *Part 6*, and
- (b) investigation, inquiry or proceedings under the *Solicitors Acts 1954 to 2015* in respect of a legal practitioner who is a solicitor.

### PART 4

#### HOLDING OF CLIENTS' MONEYS BY LEGAL PRACTITIONERS

#### **Legal practitioners authorised to hold moneys of clients**

45. (1) Subject to *subsection (2)*, a legal practitioner shall not hold moneys of clients unless that legal practitioner is a solicitor.
- (2) Notwithstanding *subsection (1)* the Minister may by regulations prescribe a class or

classes of solicitors who may not hold the moneys of clients, or who may hold such moneys subject to such conditions as may be provided for in such regulations.

- (3) *Subsection (1)* shall not be construed as permitting a solicitor to hold the moneys of clients where a condition or restriction is placed on a solicitor's practising certificate pursuant to the *Solicitors Acts 1954 to 2015* or this Act.

## PART 5

### MATTERS RELATING TO PROTECTION OF CLIENTS OF LEGAL PRACTITIONERS

#### Legal practitioners to have professional indemnity insurance

- 46.** (1) A legal practitioner shall not provide legal services unless there is in force, in respect of such practitioner, at the time of the provision of such services, a policy of professional indemnity insurance which complies with—
- (a) where a legal practitioner is a practising barrister, regulations made under *section 47*, or
  - (b) where a legal practitioner is a practising solicitor, regulations made under section 26 of the Act of 1994.
- (2) A legal practitioner who provides legal services as a partner or employee of a legal partnership, a multi-disciplinary practice or a limited liability partnership shall be taken to comply with *subsection (1)* where at the time of provision of such services by the legal practitioner there is in place a policy of professional indemnity insurance in respect of that partnership or practice concerned which—
- (a) in the case of a partnership or practice which is comprised of practising barristers only, complies with regulations made under *section 47* in respect of such partnership or practice,
  - (b) in the case of a partnership or practice which is comprised of practising solicitors only, complies with regulations made under section 26 of the Act of 1994 relating to practising solicitors in such partnerships or practices, or
  - (c) in the case of a partnership or practice which is comprised of both practising barristers and practising solicitors—
    - (i) complies with regulations made under section 26 of the Act of 1994 relating to practising solicitors in such partnerships or practices, and
    - (ii) complies with regulations made under *section 47* in respect of practising barristers in such partnerships or practices.
- (3) The Authority may approve a group scheme of professional indemnity insurance for legal practitioners who are practising barristers where the scheme is provided under the aegis of a professional body and it is satisfied that the scheme complies with regulations made under *section 47* in respect of practising barristers.
- (4) Where at the time of provision of legal services, a legal practitioner who is a

Section 46 commenced at publication (Feb 2020) other than insofar as it relates to LPs and MDPs. Go to [eISB](#) to confirm current status.

practising barrister is covered by a scheme approved by the Authority under *subsection (3)*, he or she shall be taken to comply with *subsection (1)*.

- (5) A legal practitioner shall not knowingly make a false or misleading declaration of a material nature for the purpose of obtaining professional indemnity insurance.

### Regulations regarding professional indemnity insurance

Section 47(1) and (3) to (7) commenced at publication (Feb 2020) other than insofar as they relate to LPs and MDPs. Go to [eISB](#) to confirm current status.

47. (1) The Authority shall make regulations in relation to the professional indemnity insurance required to be maintained by—
- (a) practising barristers,
  - (b) legal partnerships, multi-disciplinary practices and limited liability partnerships (in this section referred to as “legal practices”) other than in relation to practising solicitors in such partnerships or practices.
- (2) The Authority shall consult with professional bodies before making regulations under this section.
- (3) Regulations made under *subsection (1)* shall specify the practising barristers or legal practice to whom or to which the regulations apply and may specify circumstances in which practising barristers may be exempted from any requirements in relation to professional indemnity insurance in regulations made under this section.
- (4) In making regulations under *subsection (1)* the Authority shall have due regard to the following objectives:
- (a) ensuring that the interests of clients of practising barristers and legal practices are protected;
  - (b) encouraging the provision of legal services of a high standard by practising barristers and legal practices at a reasonable cost;
  - (c) ensuring that there is adequate consideration given, in setting professional indemnity insurance requirements, to any different levels of risk which may apply in respect of practising barristers or different legal practices;
  - (d) ensuring, in setting professional indemnity insurance requirements in relation to legal practices, that there is adequate cover in place in respect of each practising barrister and other person in the legal practice concerned in respect of whom such insurance is required to be in place.
- (5) Without prejudice to the generality of *subsection (1)*, regulations made under that subsection may—
- (a) specify the matters or risks in respect of which insurance is to be maintained by practising barristers or legal practices to whom the regulations apply, and the Authority may specify different matters or risks in respect of which insurance is to be maintained in respect of practising barristers or different legal practices or both,
  - (b) by reference to a monetary amount, specify minimum levels of insurance which are to be maintained by a practising barrister or legal practice to whom the

regulations apply and such amount may be specified by reference to—

- (i) a type or category of claim, or
  - (ii) practising barristers or different legal practices,
- (c) by reference to a monetary amount, specify the maximum excess amount which shall apply in respect of the insurance maintained by a practising barrister or legal practice as the case may be, and such amount may be specified by reference to—
- (i) a type or category of claim, or
  - (ii) practising barristers or different legal practices, as the case may be,
- and
- (d) specify criteria to be met by persons offering such insurance as is required to be maintained and as respects the terms and conditions of such cover.
- (6) Regulations made under *subsection (1)* may provide that the insurance required to be in place shall be considered as meeting the requirement if—
- (a) the insurance is provided by an insurer or mutual fund approved by the Authority,
  - (b) the terms of the policy or other documentation effecting the insurance meet criteria specified in the regulations, and
  - (c) the wording of terms and conditions of the policy or insurance documentation is in a specified form.
- (7) Regulations made under *subsection (1)* may include such incidental or supplementary provisions as appear to the Authority to be necessary.

#### **Limitation of legal practitioner's liability by contract**

- 48.** (1) Subject to *subsections (2)* and *(3)*, a contract between a legal practitioner and a client of the legal practitioner that any description of civil liability incurred—
- (a) by the legal practitioner arising from his or her practice as a legal practitioner in respect of the provision of legal services to the client be limited to an amount specified or referred to in the contract, or
  - (b) by a partner, employee, former partner or former employee of the legal practitioner arising from that legal practitioner's practice as a legal practitioner in respect of the provision of legal services to the client be limited to an amount specified or referred to in the contract,
- shall be binding on and enforceable by—
- (i) if *paragraph (a)* is applicable, the legal practitioner and the client, and
  - (ii) if *paragraph (b)* is applicable, the partner, employee, former partner or former employee of the legal practitioner and the client.
- (2) Nothing in *subsection (1)* shall affect the operation of—

- (a) section 40 of the Sale of Goods and Supply of Services Act 1980, or
  - (b) Regulation 6 of the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 (S.I. No. 27 of 1995).
- (3) The amount referred to in *subsection (1)* in respect of a description of civil liability the subject of the contract concerned shall be not less than the minimum level of cover, as specified from time to time in regulations made under *section 47* or section 26 of the Act of 1994, as the case may be, for indemnity against losses arising from those classes of claims which come within that description of civil liability and which relate to the legal practitioner concerned and the class of legal service concerned, and accordingly any such amount which is less than such minimum level of cover shall, by virtue of this subsection, be deemed to be increased to such minimum level of cover, and such contract shall be binding and enforceable accordingly.

## PART 6

### COMPLAINTS AND DISCIPLINARY HEARINGS IN RESPECT OF LEGAL PRACTITIONERS

#### **Construction (*Part 6*)**

**49.** (1) In this Part—

“barrister” means, in relation to a person who is the subject of a complaint under this Part—

- (a) a practising barrister, or
- (b) a person who, at the time of the act or omission to which the complaint relates, was a practising barrister;

“solicitor” means, in relation to a person who is the subject of a complaint under this Part—

- (a) a practising solicitor, or
- (b) a person who, at the time of the act or omission to which the complaint relates, was a practising solicitor.

(2) For the purposes of this Part—

- (a) the legal services provided to a person by a legal practitioner shall be considered as being of an inadequate standard where, by act or omission of the legal practitioner, the legal services actually provided by him or her—
  - (i) where the legal practitioner is a barrister, were inadequate in any material respect and were not of the quality that could reasonably be expected of him as a barrister, and
  - (ii) where the legal practitioner is a solicitor, were inadequate in any material respect and were not of the quality that could reasonably be expected of him or her as a solicitor,

- (b) a reference to an amount of costs sought by a legal practitioner in respect of the provision of legal services means an amount of costs specified in a bill of costs issued by the legal practitioner concerned, and
- (c) a reference to the resolution of a matter in an informal manner includes a reference to the referral of the dispute concerned to mediation or other appropriate form of dispute resolution.

### **Misconduct by legal practitioners**

- 50.** (1) For the purposes of this Act, an act or omission of a legal practitioner may be considered as constituting misconduct where the act or omission—
- (a) involves fraud or dishonesty,
  - (b) is connected with the provision by the legal practitioner of legal services, which were, to a substantial degree, of an inadequate standard,
  - (c) where occurring otherwise than in connection with the provision of legal services, would justify a finding that the legal practitioner concerned is not a fit and proper person to engage in the provision of legal services,
  - (d) consists of an offence under this Act,
  - (e) in the case of a solicitor, consists of a breach of the *Solicitors Acts 1954 to 2015* or any regulations made under those Acts,
  - (f) in the case of a solicitor, consists of an offence under the *Solicitors Acts 1954 to 2015*,
  - (g) in the case of a barrister, is likely to bring the barristers' profession into disrepute,
  - (h) in the case of a solicitor, is likely to bring the solicitors' profession into disrepute,
  - (i) in the case of a legal practitioner who is a managing legal practitioner of a multi-disciplinary practice, consists of a failure by him or her to comply with his or her obligations under this Act as a managing legal practitioner (within the meaning of *Part 8*),
  - (j) consists of the commission of an arrestable offence,
  - (k) consists of the commission of a crime or offence outside the State which, if committed within the State, would be an arrestable offence,
  - (l) consists of seeking an amount of costs in respect of the provision of legal services, that is grossly excessive,
  - (m) consists of a breach of this Act or regulations made under it, or
  - (n) consists of a contravention of *section 215(1)*.
- (2) In determining whether an act or omission referred to in *paragraph (l)* of *subsection (1)* should be considered as constituting misconduct, the Authority, the Complaints Committee, the Disciplinary Tribunal or, as the case may be, the High Court may have regard to—

- (a) the amount by which or the extent to which the amount claimed in the bill of costs was found to be excessive,
  - (b) whether in the particular circumstances of the legal services performed the amount of the bill of costs appears to be unconscionable, and
  - (c) whether or not a Legal Costs Adjudicator has found the costs charged to be grossly excessive.
- (3) In this section “arrestable offence” has the same meaning as it has in the Criminal Law Act 1997.

### Complaints under *Part 6*

- 51.** (1) A client of a legal practitioner, or person acting on behalf of such a client, may make a complaint to the Authority in respect of a legal practitioner where the client considers that—
- (a) the legal services provided to the client by the legal practitioner were or are of an inadequate standard, or
  - (b) an amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive.
- (2) A person may make a complaint to the Authority in respect of a legal practitioner where the person considers that an act or omission of the legal practitioner constitutes misconduct.
- (3) Subject to *section 52*, on or after the coming into operation of this Part, a complaint may be made to the Authority only.
- (4) An officer of the Authority, having considered an interim report or a report of an inspector under *Part 3*, may make a complaint under *subsection (2)* in respect of the legal practitioner concerned.
- (5) Subject to *subsection (6)*, where the Law Society, in the performance by it of its functions under the *Solicitors Acts 1954 to 2015*, forms the opinion that an act or omission of a solicitor constitutes misconduct, it shall, in such manner as may be prescribed, notify the Authority of its opinion, and such notification shall be deemed to be a complaint made by the Law Society under *subsection (2)*.
- (6) *Subsection (5)* shall not apply where—
- (a) the opinion of the Law Society is that the act or omission concerned constitutes a breach of the Solicitors Accounts Regulations, or
  - (b) the Law Society is investigating, or proposes to investigate, a suspected breach of the Solicitors Accounts Regulations and is of the opinion that the circumstances of the act or omission means that it should be investigated by it as part of the investigation of the suspected breach.
- (7) The Authority, on receipt of a complaint that is made in respect of a solicitor (other than a complaint made by the Law Society), shall notify the Law Society of the complaint, which notification shall be accompanied by any documents relating to the

complaint that are submitted by the complainant.

- (8) Nothing in this section shall be construed as affecting the power of the Authority to investigate an act or omission of a legal practitioner where no complaint has been received by it in relation to that legal practitioner.
- (9) This section and *section 52* shall not operate to prevent the Authority or a person who is aggrieved by an act or omission of a legal practitioner seeking assistance from another person with a view to resolving the matter to which a complaint relates.
- (10) A complaint shall be made in writing and in accordance with this Part and regulations under *section 55*.
- (11) This section is subject to *section 58*.

### **Referral of complaints by Bar Council, Honorable Society of King's Inns, Law Society**

- 52.** (1) The Bar Council or the Honorable Society of King's Inns shall refer to the Authority a complaint that is made to the body concerned—
- (a) by a client, or a person acting on behalf of such a client, of a barrister, and
  - (b) in respect of an act or omission of the barrister to which *subsection (1)* or *(2)* of *section 51* applies, that occurred on or after the date on which this subsection comes into operation.
- (2) The Law Society shall refer to the Authority a complaint that is made to it—
- (a) by a client, or a person acting on behalf of such a client, of a solicitor, and
  - (b) in respect of an act or omission of the solicitor to which *subsection (1)* or *(2)* of *section 51* applies, on or after the date on which this subsection comes into operation.
- (3) Where a complaint is referred to the Society under *subsection (1)* or *(2)*, the Authority shall invite the person who made the complaint to make a complaint under *section 51*.
- (4) Nothing in this section shall be construed as preventing the Bar Council, the Honorable Society of King's Inns or the Law Society from making a complaint under *section 51* in respect of a legal practitioner.

### **Limitation period**

- 53.** In reckoning any period of time for the purposes of any limitation period in relation to the making of an application for adjudication of a bill of costs under *Part 10* which bill of costs is or has been the subject of a complaint under this Part, the period beginning on the making of a complaint to the Authority or, where the complaint is made on the invitation of the Authority under *section 52(3)*, on the making of the complaint referred to in *subsection (1)* or *(2)* of *section 52*, and ending—
- (a) on the date on which the complaint is withdrawn by the complainant, or
  - (b) where the complaint is not withdrawn by the complainant, on the date that is 2 months after the date on which the complaint is determined under this Part,

shall be disregarded.

#### **Withdrawal of complaint under Part**

- 54.** (1) Where a complaint made in accordance with this Part is withdrawn, the Authority may, notwithstanding the withdrawal, where it considers it to be in the public interest to do so, proceed or, as the case may be, continue to deal with the complaint in accordance with this Part.
- (2) The Authority shall notify the complainant and the legal practitioner concerned where it decides under *subsection (1)* to continue or proceed to deal with a complaint.

#### **Regulations regarding complaints**

- 55.** (1) The Authority may make regulations regarding—
- (a) the making of complaints to the Authority under this Part, and
  - (b) the procedures to be followed by the Authority and the Complaints Committee in investigating complaints under this Part.
- (2) Without prejudice to the generality of *subsection (1)*, regulations made under this section may provide in particular for the extension or abridgement by the Authority or the Complaints Committee of any period specified in the regulations for the doing of any thing, where the Authority or the Complaints Committee is satisfied that the extension or abridgement is appropriate and would not cause an injustice to the other parties to the complaint.
- (3) The Authority shall, in making regulations under this section, have as an objective that the manner in which complaints may be made, and the procedures to be followed by the complainant, the legal practitioner concerned and the Authority are as informal as is consistent with the principles of fair procedures and that undue expense is not incurred by the complainant or the legal practitioner concerned in relation to the complaint.

#### **Fees in respect of complaints**

- 56.** The Authority may, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, make regulations prescribing the fee (if any) payable in respect of making a complaint under this Part and the regulations may specify the circumstances in which the fee shall be refunded.

#### **Preliminary review of complaints**

- 57.** (1) Where the Authority receives a complaint under this Part, it shall conduct a preliminary review of the complaint to determine whether or not the complaint is admissible.
- (2) The Authority, for the purpose of its preliminary review under *subsection (1)*, shall notify the legal practitioner concerned of the complaint, which notification shall request the legal practitioner to respond to the Authority, within such reasonable

period as is specified in the notification, with his or her observations on the complaint.

- (3) A notification under *subsection (2)* shall be accompanied by a copy of the complaint and any documents relating to the complaint that are submitted by the complainant.
- (4) The Authority, for the purpose of determining whether a complaint is admissible under *section 58*, may request from the complainant or the legal practitioner further information relating to the complaint.
- (5) The Authority, having considered the response (if any) of the legal practitioner to the notification under *subsection (2)* and any information received under *subsection (4)*, shall, in accordance with *section 58*, determine that the complaint is—
  - (a) admissible,
  - (b) inadmissible, or
  - (c) one to which *section 58(6)* applies.
- (6) The Authority shall notify the complainant and the legal practitioner concerned of its determination under this section and of the reasons for its determination.
- (7) Where the Authority makes a determination referred to in *subsection (5)(b)*, it shall take no further action under this Part in relation to the complaint.

#### **Admissibility of complaints**

- 58.** (1) This section applies to a preliminary review conducted under *section 57* by the Authority to determine whether or not a complaint is admissible.
- (2) The Authority shall determine a complaint to be inadmissible, if in the opinion of the Authority the complaint is—
    - (a) frivolous or vexatious, or
    - (b) without substance or foundation.
  - (3) The Authority shall determine a complaint to be inadmissible where it is satisfied that the act or omission to which the complaint relates is the same or substantially the same act or omission as that which was the subject matter of a complaint in respect of that legal practitioner which was previously determined under this Act.
  - (4) The Authority shall determine a complaint that is made in respect of a solicitor to be inadmissible where it is satisfied that the act or omission to which the complaint relates is—
    - (a) the same or substantially the same act or omission as that which was the subject matter of a complaint in respect of that solicitor which was previously determined under the *Solicitors Acts 1954 to 2015*—
      - (i) by the High Court, or
      - (ii) by the Law Society or any of its Committees or Tribunals,
- or

- (b) the same or substantially the same act or omission as that which was the subject of civil proceedings or criminal proceedings in respect of which a final determination of the issues has been made by the court in those proceedings in favour of the solicitor concerned.
- (5) The Authority shall determine a complaint that is made in respect of a barrister to be inadmissible where it is satisfied that the act or omission to which the complaint relates is—
- (a) the same or substantially the same act or omission as that which was the subject matter of a complaint in respect of that barrister which was previously determined by the Barristers’ Professional Conduct Tribunal or the Honorable Society of King’s Inns, or
- (b) the same or substantially the same act or omission as that which was the subject of civil proceedings or criminal proceedings in respect of which a final determination of the issues has been made by the court in those proceedings in favour of the barrister concerned.
- (6) (a) Where the Authority is satisfied that the act or omission to which a complaint relates is the subject of civil proceedings or criminal proceedings in respect of which a final determination of the issues has not been made by the court in those proceedings, the Authority may defer consideration under this Part of the complaint until the proceedings have been finally determined.
- (b) Where the Authority is satisfied that the act or omission to which a complaint relates has been investigated by a court in civil proceedings or criminal proceedings and that a final determination of the issues which are, in substance, the issues involved in the complaint has been made by the court in those proceedings in favour of the legal practitioner concerned, the Authority may decide to take no action or no further action in relation to the complaint.
- (c) Proceedings shall not be regarded as finally determined for the purposes of *paragraph (a) or (b)* until any appeal, rehearing or retrial in relation to those proceedings has been determined.
- (7) The Authority shall determine a complaint under *section 51(1)* to be inadmissible where it is satisfied that the complaint was made more than 3 years after the later of the following:
- (a) the date on which the legal services concerned were provided or the bill of costs concerned was issued; or
- (b) the date on which the client first became aware, or ought reasonably to have become aware, that it would be reasonable to consider that *paragraph (a) or (b) of section 51(1)* applied in respect of the legal practitioner concerned.
- (8) In reckoning any period of time for the purposes of the limitation period under *subsection (7)*, the period between the date of receipt of a complaint by the body referred to in *subsection (1) or (2) of section 52* and the making, on invitation by the Authority under *section 52(3)*, of a complaint under *section 51* in respect of the act or omission concerned, shall be disregarded.

- (9) Where the Authority does not determine a complaint to be inadmissible under this section, it shall determine the complaint to be admissible.
- (10) In this section, “Barristers’ Professional Conduct Tribunal” means the body of that name constituted in accordance with the Disciplinary Code for the Bar of Ireland.

#### **Authority may request Law Society to investigate matter relevant to complaint**

- 59.** (1) The Authority may, at any stage in its investigation under this Part of a complaint in respect of a solicitor, and for the purposes of the investigation, request the Law Society to carry out an investigation under the *Solicitors Acts 1954 to 2015* into any matter that is relevant to the complaint.
- (2) The Complaints Committee or Disciplinary Tribunal may, for the purposes of its consideration under this Part of a complaint, request the Law Society to carry out an investigation under the *Solicitors Acts 1954 to 2015* into any matter that is relevant to that consideration.
- (3) The Law Society, on receipt of a request under *subsection (1) or (2)*, shall—
- (a) comply with the request, and
  - (b) within one month of receipt of the request, or such later period as may be agreed between it and the Authority, the Complaints Committee or the Disciplinary Tribunal, as the case may be, provide the Authority, Complaints Committee or Disciplinary Tribunal with an interim report of its investigation and an indication of when its final report will be available.
- (4) An interim report and final report of the Law Society referred to in *subsection (3)* shall be admissible in any proceedings under this Part.

#### **Authority to facilitate resolution of complaints made under this Part relating to inadequate services**

- 60.** (1) Where the Authority determines under *section 57* that a complaint to which *section 51(1)(a)* applies is admissible, or where a complaint is remitted to it under *section 62*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.
- (2) Where the client and the legal practitioner agree to the Authority’s invitation under *subsection (1)*, and request the Authority to do so, the Authority shall facilitate the resolution of the matter—
- (a) by offering its assistance in resolving the matter in an informal manner, or
  - (b) by identifying to the legal practitioner and the client other persons who are willing to assist in resolving the matter in an informal manner.
- (3) Where the Authority, having allowed the client and the legal practitioner a reasonable period to resolve the matter the subject of the complaint in an informal manner, considers that an agreement or resolution between the parties in relation to the complaint is unlikely to be reached in that manner, it may give notice in writing to the

client and the legal practitioner (and, where appropriate, any other person involved in attempting to resolve the dispute) that it proposes to determine the complaint in accordance with this section.

- (4) Where *subsection (3)* applies, the Authority shall not determine the complaint concerned earlier than 30 days after the giving of notice under that subsection.
- (5) Where—
  - (a) the client or the legal practitioner does not accept the Authority's invitation under *subsection (1)*,
  - (b) the client or the legal practitioner, having attempted to resolve the matter in an informal manner, confirms to the Authority that he or she does not wish to continue to make such an attempt, or
  - (c) the Authority decides under *subsection (3)* to exercise its power to determine the complaint under this section,

the Authority shall thereafter invite the client and the legal practitioner to furnish to it, within such reasonable period as is specified by the Authority, a statement setting out their respective positions in relation to the matter the subject of the complaint.

- (6) The Authority shall consider any statement furnished to it pursuant to *subsection (5)* and, where it considers that the legal services provided by the legal practitioner were of an inadequate standard, and that it is, having regard to all the circumstances concerned, appropriate to do so, the Authority may direct the legal practitioner to do one or more of the following:
  - (a) secure the rectification, at his or her own expense or at the expense of his or her firm, of any error, omission or other deficiency arising in connection with the legal services concerned;
  - (b) take, at his or her own expense or at the expense of his or her firm (which shall not exceed €3,000), such other action as the Authority may specify;
  - (c) transfer any documents relating to the subject matter of the complaint to another legal practitioner nominated by the client, subject to such terms and conditions as the Authority may consider appropriate having regard to the existence of any right to possession or retention of any of the documents concerned vested in the legal practitioner to whom the direction is issued;
  - (d) pay to the client a sum not exceeding €3,000 as compensation for any financial or other loss suffered by the client in consequence of the legal services provided by the legal practitioner to the client being of an inadequate standard.
- (7) Where the client or the legal practitioner is aggrieved by a direction made by the Authority under *subsection (6)* or its failure to make such a direction, he or she may by notice in writing given not more than 30 days after the Authority has notified the parties to the complaint of its decision under *subsection (6)*, seek a review by a Review Committee established under *section 62* of the direction or the failure.
- (8) Any payment made by a legal practitioner pursuant to a direction referred to in

*subsection (6)(d)* shall be without prejudice to any legal right of the client.

**Authority to facilitate resolution of complaints made under this Part relating to excessive costs**

61. (1) Where the Authority determines under *section 57* that a complaint to which *section 51(1)(b)* applies is admissible, or where a complaint is remitted to it under *section 62*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.
- (2) Where the client and the legal practitioner agree to the Authority's invitation under *subsection (1)*, and request the Authority to do so, the Authority shall facilitate the resolution of the matter—
- (a) by offering its assistance in resolving the matter in an informal manner, or
- (b) by identifying to the legal practitioner and the client other persons who are willing to assist in resolving the matter in an informal manner.
- (3) Where the Authority, having allowed the client and the legal practitioner a reasonable period to resolve the matter the subject of the complaint in an informal manner, considers that an agreement or resolution between the parties in relation to the complaint is unlikely to be reached in that manner, it may give notice in writing to the client and the legal practitioner (and, where appropriate, any other person involved in attempting to resolve the dispute) that it proposes to determine the complaint in accordance with this section.
- (4) Where *subsection (3)* applies, the Authority shall not determine the complaint concerned earlier than 30 days after the giving of notice under that subsection.
- (5) Where—
- (a) the client or the legal practitioner does not accept the Authority's invitation under *subsection (1)*,
- (b) the client or the legal practitioner, having attempted to resolve the matter in an informal manner, confirms to the Authority that he or she does not wish to continue to make such an attempt, or
- (c) the Authority decides under *subsection (3)* to exercise its power to determine the complaint under this section,
- the Authority shall thereafter invite the client and the legal practitioner to furnish to it, within such reasonable period as is specified by the Authority, a statement setting out their respective positions in relation to the matter the subject of the complaint.
- (6) The Authority shall consider any statement furnished to it pursuant to *subsection (5)* and, where it considers that the amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive, and that it is, having regard to all the circumstances concerned, appropriate to do so, may direct the legal practitioner to do one or more of the following:
- (a) refund without delay, either wholly or in part as directed, any amount already

paid by or on behalf of the client in respect of the practitioner's costs in connection with the bill of costs;

- (b) waive, whether wholly or in part as directed, the right to recover those costs.
- (7) Where the client or legal practitioner is aggrieved by a direction made by the Authority under *subsection (6)* or its failure to make a direction, he or she may by notice in writing given not more than 30 days after the Authority has notified the parties to the complaint of its decision under *subsection (6)* seek a review by a Review Committee established under *section 62* of the direction or the failure.
- (8) Where a bill of costs which has been the subject of complaint under *section 51(1)(b)* has subsequently been adjudicated, then—
  - (a) where the Authority has given a direction under *subsection (6)*, the direction shall cease to have effect, or
  - (b) where the Authority has not given a direction under *subsection (6)*, it shall not proceed to investigate such a complaint or otherwise apply the provisions of this section.
- (9) Where the Authority has notified a legal practitioner under *section 57(6)* that a complaint under *section 51(1)(b)* in respect of a bill of costs issued by the legal practitioner is admissible, the legal practitioner shall not—
  - (a) issue or cause to be issued civil proceedings (whether on his own behalf or on behalf of any other person or persons), or
  - (b) if already issued, proceed further with civil proceedings,in respect of the amount (or any part thereof) of a bill of costs without the written consent of the Authority before the Authority has determined the matter under *subsection (6)* unless, on application by that legal practitioner, on notice to the Authority, a court orders otherwise.
- (10) Where pursuant to this section a dispute regarding a bill of costs between the client and the legal practitioner is resolved, the client shall not thereafter be entitled to seek adjudication of the bill of costs under *Part 10* unless such adjudication forms part of the resolution.
- (11) The determination under this section of a complaint shall be without prejudice to any legal right of the client.

### **Review Committee**

- 62.** (1) The Authority shall establish a Review Committee to consider reviews requested by complainants or legal practitioners in relation to determinations of the Authority under *section 60* or *61*.
- (2) The Review Committee shall be composed of 3 persons, 2 of whom shall be lay persons and one of whom shall be a legal practitioner.
  - (3) The member of the Review Committee who is a legal practitioner shall—

- (a) in a case where the complaint relates to a solicitor, be a solicitor, and
  - (b) in a case where the complaint relates to a barrister, be a barrister.
- (4) A person shall be eligible to serve as a member of a Review Committee established under this section if he or she is eligible to serve as a member of the Complaints Committee established under this Part.
- (5) The Review Committee shall consider reviews requested and, having given both the client and the legal practitioner an opportunity to make a statement in writing to it as to why the determination of the Authority under *section 60* or *61*, as the case may be, was incorrect or unjust, determine the review by—
- (a) confirming the determination of the Authority,
  - (b) remitting the complaint to the Authority, with such directions as the Review Committee considers appropriate or necessary, to be dealt with again under *section 60* or *61*, as the case may be, or
  - (c) issuing one or more than one of the directions to the legal practitioner that the Authority is authorised to issue under *section 60(6)* or *section 61(6)*, as the case may be.
- (6) Any payment made by a legal practitioner pursuant to a direction referred to in *subsection (5)* shall be without prejudice to any legal right of the client.

#### **Appeal to High Court from determination of Review Committee**

- 63.** (1) Where a Review Committee determines a review under *section 62*, the client or the legal practitioner concerned may, within a period of 21 days of the notification of such determination or direction to him or her, apply to the High Court for an order directing the Review Committee to rescind or to vary such determination and on hearing such application the Court may make such order as it thinks fit.
- (2) Where no application under *subsection (1)* is made within the period specified in that subsection, the determination of the Review Committee shall become absolutely binding on the client and legal practitioner immediately upon the expiration of such period.
- (3) Where an application has been made by a legal practitioner under *subsection (1)*, the Authority may apply to the High Court and the Court may dismiss the application of the legal practitioner if it is satisfied that such application has no merits and has been made purely for the purposes of delay.
- (4) Where a legal practitioner, in respect of whom a determination of the Review Committee is binding, without reasonable excuse refuses, neglects or otherwise fails to comply with such determination, he or she shall be guilty of an offence and be liable on summary conviction thereof to a Class B fine.

**Authority to offer assistance in resolving matter in dispute where it appears that conduct could constitute misconduct**

64. (1) Where the Authority decides under *section 57* that a complaint under *section 51(2)* is admissible, and that the act or omission of the legal practitioner to which the complaint relates, if the complaint were substantiated, would constitute misconduct within the meaning of *section 50(1)(b)*, it shall invite the complainant and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in a prompt manner in accordance with guidelines published by the Authority pursuant to *section 67*.
- (2) The agreement by the complainant and the legal practitioner to make efforts to resolve the matter the subject of the complaint shall not prevent the Authority continuing with its consideration or investigation of the complaint.
- (3) Notwithstanding *subsection (2)*, where the Complaints Committee, the Disciplinary Tribunal or the High Court is satisfied that an act or omission of a legal practitioner the subject of a complaint has been resolved or that proper effort was made by the legal practitioner concerned to resolve the matter in accordance with this section, the Complaints Committee, Disciplinary Committee or the High Court, as the case may be, shall, in determining the appropriate sanction (if any) that should be imposed upon the legal practitioner, give due regard to the efforts to resolve the matter made by the legal practitioner concerned.

**Resolution of complaint by mediation or informal means — additional provisions**

65. (1) No answer or statement made, in the course of attempting to resolve a complaint in the manner specified in *section 60, 61 or 64*, by—
- (a) the complainant, or
- (b) the legal practitioner who is the subject of the complaint,
- may be used in any disciplinary, civil or criminal proceedings or communicated to any person other than the persons participating in the attempt to resolve the complaint.
- (2) Any costs arising from an attempt to resolve a complaint in the manner specified in *section 60, 61 or 64* shall be borne equally by the parties to the complaint unless the parties agree otherwise.

**Agreement by legal practitioner to participate in resolution of matter under *section 60, 61 or 64* not to be treated as admission of liability**

66. An agreement by a legal practitioner, who is the subject of a complaint, to attempt to resolve the complaint in the manner referred to in *section 60, 61 or 64* shall not be taken as an admission—
- (a) of any allegation contained in a complaint made under *paragraph (a) or (b) of section 51(1)* regarding the legal practitioner, or
- (b) of any allegation of misconduct referred to in *section 51(2)*.

**Guidelines for resolution of complaints by mediation or informal means**

67. The Authority shall prepare and publish guidelines in relation to the resolution of complaints by informal means and those guidelines may—
- (a) set out the process whereby a determination can be made in respect of whether a complaint can be resolved by informal means,
  - (b) provide for the recording of the manner in which a complaint was resolved and of the terms of any agreement between the complainant and the legal practitioner the subject of the complaint,
  - (c) outline the steps to be taken (including notice to the Authority, the complainant, the legal practitioner concerned and, where applicable, the Complaints Committee) if the complaint cannot, in the opinion of the person attempting to do so, be resolved by informal means, and
  - (d) contain any other matters that the Authority considers necessary or appropriate for facilitating the resolution of the complaint by informal means.

**Authority to refer complaints relating to misconduct to Complaints Committee**

68. The Authority shall refer a complaint under *section 51(2)* to the Complaints Committee where the client and legal practitioner concerned do not succeed in resolving a matter in accordance with *section 64*.

**Establishment and membership of Complaints Committee**

69. (1) The Authority shall establish a committee, to be known as the Complaints Committee, for the purpose of considering and investigating complaints referred to it by the Authority under *section 68*.
- (2) A member of the Complaints Committee shall—
- (a) hold office for a period of 4 years from the date of his or her appointment, and
  - (b) be eligible for reappointment as a member of the Complaints Committee, provided that he or she does not hold office for periods the aggregate of which exceeds 8 years.
- (3) The Complaints Committee shall be appointed by the Authority and shall consist of not more than 27 members of whom—
- (a) the majority shall be lay persons,
  - (b) not fewer than 8 shall be persons nominated by the Law Society, each of whom has practised as a solicitor for more than 10 years, and
  - (c) not fewer than 4 shall be persons nominated by the Bar Council, each of whom has practised in the State as a barrister for more than 10 years.
- (4) In appointing lay persons to be members of the Complaints Committee the Authority shall ensure that those members are persons who—
- (a) are independent of the professional bodies, and

- (b) have expertise in or knowledge of—
  - (i) the provision of legal services,
  - (ii) the maintenance of standards in a profession (including those regulated by a statutory body),
  - (iii) the investigation and consideration of complaints relating to services, or
  - (iv) the interests of consumers of legal services.
- (5) The Complaints Committee shall act in divisions of not less than 3 members and not more than 5 members (in this Act referred to as a “Divisional Committee”).
- (6) A Divisional Committee shall consist of an uneven number of members.
- (7) Each Divisional Committee shall have a majority of lay members.
- (8) The chairperson of each Divisional Committee shall be one of the lay members of that Divisional Committee.
- (9) The chief executive shall make arrangements for the provision of such administrative and secretarial support to each Divisional Committee as he or she considers necessary.
- (10) Subject to *subsections (6) and (7)*, where a complaint relates to a solicitor—
  - (a) in a case where the Divisional Committee consists of 3 members, one of the members of the Divisional Committee shall be a solicitor,
  - (b) in a case where the Divisional Committee consists of 5 members, 2 of the members of the Divisional Committee shall be solicitors.
- (11) Subject to *subsections (6) and (7)*, where a complaint relates to a barrister—
  - (a) in a case where the Divisional Committee consists of 3 members, one of the members of the Divisional Committee shall be a barrister,
  - (b) in a case where the Divisional Committee consists of 5 members, 2 of the members of the Divisional Committee shall be barristers.

### **Investigation of complaints**

- 70.** (1) A Divisional Committee shall consider and investigate complaints made under this Part referred to the Complaints Committee by the Authority.
- (2) Where the Authority refers a complaint to the Complaints Committee, the Authority shall furnish to the Divisional Committee concerned—
  - (a) a copy of the complaint and any documents relating to the complaint that have been submitted by the complainant, and
  - (b) a summary of the complaint.
- (3) On receipt of the documents referred to in *subsection (2)*, the Divisional Committee shall—
  - (a) request the legal practitioner to whom the complaint relates to furnish to the

Divisional Committee, within such reasonable period as is specified by the Divisional Committee, his or her response to the complaint, and

- (b) unless the legal practitioner has already been furnished with the documents concerned, furnish a copy of the documents referred to in *subsection (2)* to him or her.
- (4) Where, in the opinion of the Divisional Committee, the response of the legal practitioner under *subsection (3)* indicates that he or she is not in agreement to the issuing of a direction under *section 71(1)(a)* or the taking of a measure under *section 71(1)(b)*, the Divisional Committee shall furnish a copy of the response to the complainant inviting him or her to furnish observations to the Divisional Committee in relation to the response of the legal practitioner within such a period as may be specified by the Divisional Committee.
- (5) Where—
- (a) the response of the legal practitioner under *subsection (3)* does not satisfy the Divisional Committee that it should not issue a direction under *section 71(1)(a)* or take a measure under *section 71(1)(b)*, or
  - (b) the legal practitioner does not furnish a response within the period specified in the notice,
- the Divisional Committee shall, subject to the provisions of this Part, take such steps as it considers appropriate to investigate the complaint.
- (6) For the purposes of investigating a complaint in accordance with *subsection (1)*, the Divisional Committee—
- (a) shall have due regard to information furnished to it by the Authority, the complainant and the legal practitioner,
  - (b) may, by notice in writing to the complainant, do one or more of the following:
    - (i) require the complainant to verify, by affidavit or otherwise, anything contained in the complaint;
    - (ii) request the complainant to supply to the Committee, within a reasonable period specified in the notice—
      - (I) such information relating to the complaint as is specified in the notice, or
      - (II) such documents relating to the complaint as it may require;
    - (iii) require that information requested under *subparagraph (ii)* be verified by affidavit or otherwise;
- and
- (c) may, by notice in writing to the legal practitioner the subject of the complaint require him or her to do one or more of the following:
    - (i) verify, by affidavit or otherwise, anything contained in his or her response

under *subsection (3)*;

- (ii) supply the Committee, within a reasonable period specified in the notice, with—
    - (I) such information relating to the complaint as is specified in the notice, or
    - (II) such documents relating to the complaint as it may require;
  - (iii) require that information requested under *subparagraph (ii)* be verified by affidavit or otherwise.
- (7) The complainant concerned shall comply with a notice issued to him or her by the Divisional Committee under *subsection (6)(b)*.
- (8) The legal practitioner concerned shall comply with a notice issued to him or her by the Divisional Committee under *subsection (6)(c)*.
- (9) The Divisional Committee may, having had due regard to—
- (a) information furnished to it by the Authority,
  - (b) any information or documents provided to it by the complainant or the legal practitioner concerned under this section,
  - (c) any response furnished to the Divisional Committee by the legal practitioner concerned pursuant to this section, and
  - (d) any observations furnished by the complainant under *subsection (4)*,
- require the complainant and the legal practitioner to appear before the Committee for the purposes of the investigation of the complaint.
- (10) The complainant and the legal practitioner may be represented by a person of their choice for the purposes of their appearance before the Divisional Committee and the costs of such representation, if any, shall be borne by the person who requested such representation.
- (11) Where a complaint is withdrawn when it is being investigated by the Divisional Committee, the Committee may—
- (a) decide that no further action be taken in relation to the matter the subject of the complaint, or
  - (b) proceed as if the complaint had not been withdrawn and, where it does so, shall notify the Authority, the complainant and the legal practitioner concerned of the fact.
- (12) Where the Divisional Committee determines that the act or omission does not warrant the issuing of a direction under *section 71(1)(a)* or the taking of a measure under *section 71(1)(b)*, it shall so advise the complainant and the legal practitioner in writing, giving reasons for the determination.
- (13) The Divisional Committee shall make reasonable efforts to ensure that—

- (a) the complainant is kept informed of all decisions made by the Committee in relation to the complaint concerned,
- (b) the Committee acts expeditiously, and
- (c) complaints referred to it are processed in a timely manner.

#### **Power of Divisional Committee to specify measures**

- 71.** (1) Where the Divisional Committee, following an investigation under *section 70*, considers that the act or omission the subject of the complaint is not one to which *subsection (7)* applies, but determines that it warrants the imposition of a sanction under this section, it may—
- (a) subject to *subsection (9)*, issue a direction to the legal practitioner concerned to take such measures as are specified in the determination of the Divisional Committee, being measures specified in *paragraphs (a) to (i) of subsection (5)*, or
  - (b) where the legal practitioner concerned so consents in writing, take the measure specified in the determination of the Divisional Committee, being a measure specified in *subsection (6)*.
- (2) Where the Divisional Committee issues one or more than one direction in accordance with *subsection (1)(a)* and the legal practitioner complies with each such direction, the complaint shall be considered as determined.
- (3) Where the Divisional Committee (with the consent of the legal practitioner concerned) takes a measure specified in *subsection (1)(b)*, the complaint shall be considered as determined.
- (4) The Divisional Committee shall not impose a sanction under *subsection (1)* unless the Committee considers it to be a reasonable and appropriate manner of determining the complaint.
- (5) The measures referred to in *subsection (1)(a)* are the following:
- (a) a direction to the legal practitioner to perform or complete the legal service the subject of the complaint or a direction to the legal practitioner to arrange for the performance or completion of the legal service the subject of the complaint by a legal practitioner nominated by the complainant at the expense of the legal practitioner the subject of the complaint;
  - (b) a direction to the legal practitioner that he or she participate in one or more modules of a professional competence scheme and that he or she furnish evidence to the Authority of such participation within a specified period;
  - (c) a direction to the legal practitioner—
    - (i) that he or she waive all or a part of any fees otherwise payable by the complainant to the legal practitioner concerned, or
    - (ii) that he or she refund to the client some or all of any fees paid to the legal practitioner concerned in respect of the legal services the subject of the

complaint;

- (d) a direction that the legal practitioner take such other action in the interest of the client as the Committee may specify;
  - (e) a direction to the legal practitioner to comply with (in whole or in part) an undertaking given by the legal practitioner to another legal practitioner or to another person or body;
  - (f) a direction to the legal practitioner to withdraw or amend an advertisement;
  - (g) a direction to the legal practitioner to pay a sum not exceeding €5,000 as compensation for any financial or other loss suffered by the client in consequence of any inadequacy in the legal services provided or purported to have been provided by the legal practitioner, provided that any such payment made in compliance with the direction shall be without prejudice to any legal right of the client;
  - (h) a direction to the legal practitioner to pay to the Authority a sum not exceeding €5,000 by way of contribution towards the costs incurred by the Authority in investigating the complaint;
  - (i) where the Divisional Committee has determined that the legal practitioner has in the course of the investigation refused, neglected or otherwise failed, without reasonable cause, to respond appropriately in a timely manner, or at all, to a written request from the Divisional Committee and that the Authority has incurred additional costs in relation to the investigation of the complaint in consequence of that refusal, neglect or failure, a direction to the legal practitioner to pay to the Authority a sum not exceeding €2,500 by way of contribution towards those additional costs incurred by the Authority in investigating the complaint.
- (6) The measure referred to in *subsection (1)(b)* is the issue of a notice—
- (a) in the case of a legal practitioner who is a solicitor, to the Law Society informing the Law Society of the decision of the Divisional Committee to impose a sanction under *subsection (1)(b)* and directing the Law Society to impose a specified restriction or condition on the practising certificate of the legal practitioner concerned, or
  - (b) in the case of a legal practitioner who is a barrister, to the chief executive of the Authority of the decision of the Divisional Committee to impose a sanction under *subsection (1)(b)* and directing the chief executive to impose, in accordance with *Part 9*, a specified restriction or condition on the legal practitioner concerned in respect of his or her practice as a barrister.
- (7) (a) Subject to *subsection (8)*, where the Divisional Committee considers that the act or omission the subject of the complaint is of a kind that is more appropriate for consideration by the Legal Practitioners Disciplinary Tribunal than under this section, it may make an application in respect of the matter to it for the holding of an inquiry under *section 81*.

- (b) In determining whether it would be more appropriate for the complaint to be considered by the Legal Practitioners Disciplinary Tribunal, the Complaints Committee shall have regard to the gravity of the concerns raised and matters disclosed in the complaint and in the investigation under this section.
- (8) (a) Where the Divisional Committee considers that a measure specified in *subsection (6)* is the appropriate measure to be taken as respects the complaint, it shall notify the legal practitioner concerned to that effect and specify the precise measure (including in the case of a restriction or condition to be imposed on the practising certificate of the legal practitioner or on the legal practitioner in respect of his or her practice as a barrister, the precise restriction or condition) it proposes to take.
- (b) The notification referred to in *paragraph (a)* shall indicate that, unless the legal practitioner concerned furnishes to the Divisional Committee his or her consent in writing to the imposition of the specified measures within 21 days of the issue of the notification, the Divisional Committee will apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry into the complaint by the Tribunal under this Part.
- (c) Where the Divisional Committee issues a notification pursuant to *paragraph (b)* and does not receive the written consent of the legal practitioner concerned within 21 days to the imposition of the specified measures, it shall apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry by it into the complaint in so far as the Committee has not found that the complaint is unfounded or that the act or omission concerned does not warrant the imposition of a sanction under this section or an application under *subsection (7)* to the Disciplinary Tribunal.
- (9) In issuing a direction specified in *paragraph (c)(ii), (g), (h) or (i) of subsection (5)*, the Divisional Committee shall have regard to the means of the legal practitioner concerned.
- (10) The Divisional Committee shall notify the Authority of its determination under *subsection (1)*.

#### **Appeal of determination of Divisional Committee**

- 72.** (1) Where the Divisional Committee issues a direction under *section 71(1)(a)* to a legal practitioner, the legal practitioner may, within a period of 21 days of the date of such issue, appeal to the High Court against either or both of the following:
- (a) the determination of the Divisional Committee under *section 71(1)*; or
- (b) the direction.
- (2) The Authority may, within a period of 21 days of the notification under *section 71(10)* of the determination of the Divisional Committee under *section 71(1)*, appeal to the High Court against one or more than one of the following:
- (a) where a direction is issued under *section 71(1)(a)*—
- (i) the determination of the Divisional Committee under *section 71(1)*, or

- (ii) the direction;
- (b) a failure of the Divisional Committee to make an application under *section 71(7)*.
- (3) The High Court, on an application under *subsection (1) or (2)*, may—
  - (a) in an appeal to which *subsection (1)(a) or (2)(a)(i)* applies—
    - (i) confirm the determination of the Divisional Committee under *section 71(1)*,  
or
    - (ii) set aside the determination of the Divisional Committee under *section 71(1)*,  
and
  - (b) in an appeal to which *subsection (1)(b) or (2)(a)(ii)* applies, may—
    - (i) confirm the direction concerned,
    - (ii) set aside the direction, or
    - (iii) set aside the direction and impose another sanction that the Divisional Committee could have imposed under *section 71(1)*,  
and
  - (c) in an appeal to which *subsection (2)(b)* applies, affirm or set aside the decision of the Divisional Committee not to make an application under *section 71(7)*.

**Publication of reports by Authority relating to its functions under this Part**

- 73.** (1) The Authority shall publish, in such manner as the Authority considers appropriate, a report on the performance of its functions under this Part.
- (2) A report referred to in *subsection (1)* shall include information in respect of the relevant reporting period of—
- (a) the number and type of complaints received by the Authority under this Part during the relevant reporting period,
  - (b) the general nature and outcome of those complaints,
  - (c) the number of complaints referred to the Complaints Committee in the relevant reporting period, and
  - (d) the outcome of those complaints which were considered by the Complaints Committee during the relevant reporting period including—
    - (i) the sanction imposed by the Complaints Committee,
    - (ii) where a sanction was imposed, the nature of the act or omission that was the subject of the complaint,
    - (iii) the measures taken by the Complaints Committee, and
    - (iv) where the Complaints Committee made a determination under *section 71(1)*, and where the Authority considers it appropriate, the name of the legal practitioner concerned.

- (3) A report published under *subsection (1)* shall be published by the Authority at intervals no greater than 6 months.

#### **Establishment of Legal Practitioners Disciplinary Tribunal**

74. There shall stand established a body to be known as the Legal Practitioners Disciplinary Tribunal to consider applications brought before it under *section 77* and to perform the other functions assigned to it by this Act.

#### **Membership of Disciplinary Tribunal**

75. (1) The Disciplinary Tribunal shall be appointed by the President of the High Court on the nomination of the Minister and shall consist of not more than 33 members of whom—
- (a) the majority shall be lay persons,
  - (b) not fewer than 6 shall be persons, nominated by the Law Society, each of whom has practised in the State as a solicitor for more than 10 years,
  - (c) not fewer than 6 shall be persons, nominated by the Bar Council, each of whom has practised in the State as a barrister for more than 10 years, and
  - (d) at least 40 per cent, calculated to the nearest whole number, shall be men and at least 40 per cent, as so calculated, shall be women.
- (2) One of the persons appointed under *subsection (1)* shall be appointed as chairperson of the Disciplinary Tribunal.
- (3) The Minister shall ensure that those lay persons nominated to be members of the Disciplinary Tribunal are persons who are independent of the Government and the professional bodies and have knowledge of and expertise in one or more than one of the following:
- (a) the provision of legal services;
  - (b) the maintenance of standards in a profession (including those regulated by a statutory body);
  - (c) the investigation and consideration of complaints relating to services;
  - (d) commercial matters;
  - (e) the interests of consumers of legal services.
- (4) The Disciplinary Tribunal shall act in divisions consisting of—
- (a) an uneven number of members,
  - (b) a majority of lay members, and
  - (c) not fewer than 3 members.
- (5) The chairperson of each division of the Disciplinary Tribunal shall be one of the lay members.

- (6) Where a complaint relates to a solicitor, the division of the Disciplinary Tribunal hearing the inquiry shall include at least one solicitor.
- (7) Where a complaint relates to a barrister, the division of the Disciplinary Tribunal hearing the inquiry shall include at least one barrister.

#### **Chairperson of Disciplinary Tribunal**

76. (1) The person appointed as chairperson of the Disciplinary Tribunal shall, where the person is a legal practitioner, have practised as a barrister or solicitor for not less than 10 years.
- (2) The term of office of the chairperson shall be 5 years, and the chairperson may be appointed for a second term not exceeding 5 years.
  - (3) The chairperson shall retire on attaining the age of 70 years.
  - (4) The chairperson shall be appointed by the President of the High Court from the persons nominated by the Minister for membership of the Tribunal.

#### **Applications to Disciplinary Tribunal**

77. The Disciplinary Tribunal may hear the following applications that are brought to it in accordance with regulations under *section 79(1)*:
- (a) an application by the Complaints Committee under *subsection (7) or (8)(c) of section 71*;
  - (b) an application by the Law Society under *subsection (6) or (7)(c) of section 14A of the Solicitors (Amendment) Act 1994*.

#### **Presentation of case to Disciplinary Tribunal**

78. (1) The Authority, or a person appointed to do so on its behalf, shall, in an application referred to in *paragraph (a) of section 77*, present the evidence to the Disciplinary Tribunal grounding the contention that misconduct by the legal practitioner concerned has occurred.
- (2) The Law Society, or a person appointed to do so on its behalf, shall, in an application referred to in *paragraph (b) of section 77*, present the evidence to the Disciplinary Tribunal grounding the contention that misconduct by the solicitor concerned has occurred.

#### **Regulations relating to Disciplinary Tribunal**

79. (1) The Disciplinary Tribunal may make Regulations, consistent with this Act, regulating—
- (a) the making of applications to the Disciplinary Tribunal under this Act, and
  - (b) the proceedings of the Disciplinary Tribunal under this Act.
- (2) Regulations made under *subsection (1)* may make provision for—

- (a) the procedures to be followed in relation to the matters referred to in *subsection (1)*, and
  - (b) the parties, other than the Authority, the complainant and the legal practitioner concerned, who may make submissions to the Disciplinary Tribunal.
- (3) The Disciplinary Tribunal, in making regulations under *subsection (1)*, shall have as objectives that the manner of making applications, and the conduct of proceedings, be as informal as is consistent with the principles of fair procedures, and that undue expense is not likely to be incurred by any party who has an interest in the application.
- (4) The Disciplinary Tribunal may consider and determine an application to it under this Part on the basis of affidavits and supporting documentation and records where the legal practitioner, and the Authority consent.

**Powers of Disciplinary Tribunal as to taking of evidence, etc.**

80. (1) The Disciplinary Tribunal shall, for the purposes of any inquiry under this Part, have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action, in respect of—
- (a) the enforcement of the attendance of witnesses and their examination on oath or on affirmation,
  - (b) the compelling of the production of documents, and
  - (c) the compelling of the discovery under oath or under affirmation of documents, and a summons signed by a member of the Disciplinary Tribunal may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production and the discovery under oath or under affirmation of documents.
- (2) The Disciplinary Tribunal may require the Authority and the legal practitioner concerned to submit in writing an outline of the evidence expected to be given by each of the witnesses whom they propose to have summoned to attend the hearing.
- (3) The Disciplinary Tribunal may, if of opinion that the evidence expected to be given by any witness whom it is proposed to have summoned to attend the hearing is irrelevant or does not add materially to that proposed to be given by other witnesses and that accordingly the attendance of the witness at the inquiry is likely to give rise to unnecessary delay or expense, so inform the Authority or the legal practitioner concerned, as the case may be, and bring to the attention of the Authority or legal practitioner the provisions of *subsection (4)*.
- (4) On the completion of the inquiry the Disciplinary Tribunal, whether or not it has acted in accordance with *subsection (3)*, may, if of opinion that the attendance of any witness summoned at the request of the Authority or the legal practitioner concerned was unnecessary and thereby involved the witness in avoidable expense, by order direct that the Authority or the legal practitioner concerned, as the case may be, shall pay a specified amount or amounts not exceeding €1,000 to the witness in respect of the expense incurred, and the witness may recover the sum or sums from the

Authority or legal practitioner, as the case may be, as a simple contract debt.

- (5) Before making an order under *subsection (4)*, the Disciplinary Tribunal shall notify in writing the Authority or the legal practitioner concerned that it proposes to do so and shall consider any representations that may be made to it in writing by the person concerned within 14 days after the notification.
- (6) The Authority or the legal practitioner concerned in respect of whom an order has been made under *subsection (4)* may appeal to the High Court against the order within 21 days of the receipt by him or her of notification of the making of the order, and the Court may make such order on the appeal as it thinks fit.
- (7) If a person—
  - (a) on being duly summoned as a witness before the Disciplinary Tribunal, without just cause or excuse disobeys the summons,
  - (b) being in attendance as a witness before the Disciplinary Tribunal, refuses to take an oath or make an affirmation when required by the Disciplinary Tribunal to do so, or to produce or discover under oath or under affirmation any documents in his or her possession or under his or her control or within his or her procurement required by the Disciplinary Tribunal to be produced or discovered under oath or under affirmation by him or her, or to answer any question to which the Disciplinary Tribunal may require an answer,
  - (c) wilfully gives evidence to the Disciplinary Tribunal which is material to its inquiry which he or she knows to be false or does not believe to be true,
  - (d) by act or omission, obstructs or hinders the Disciplinary Tribunal in the performance of its functions, or
  - (e) fails, neglects or refuses to comply with the provisions of an order made by the Disciplinary Tribunal,the person shall be guilty of an offence.
- (8) A witness before the Disciplinary Tribunal shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.
- (9) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 6 months or to both, or
  - (b) on conviction on indictment, to a fine not exceeding €30,000 or to imprisonment for a term not exceeding 2 years or to both.
- (10) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an offence under this section as if, in lieu of the penalties specified in subsection (3) of that section, there were specified therein the penalties provided for by *subsection (9)*, and the reference in subsection (2)(a) of that section to the penalties provided for in subsection (3) of that section shall be construed accordingly.
- (11) A reference in this section and *section 81* to the Authority shall be deemed, in the case

of an inquiry the application for which was made by the Law Society under *section 77(b)*, to include a reference to the Law Society.

### **Inquiry by Disciplinary Tribunal**

- 81.** (1) Where the Disciplinary Tribunal receives an application referred to in *section 77* for the holding of an inquiry, it shall arrange a date for the hearing and notify in writing the legal practitioner and the Authority.
- (2) An inquiry under this section shall be conducted by way of oral hearing and, subject to *subsection (3)*, shall be heard in public.
- (3) Where the Disciplinary Tribunal is satisfied that it is necessary to do so in the interests of justice, it may direct that the hearing of the inquiry or any part thereof be held otherwise than in public.
- (4) The legal practitioner concerned and the Authority may be represented at any hearing before the Disciplinary Tribunal by a legal practitioner.
- (5) Witnesses appearing before the Disciplinary Tribunal shall give evidence on oath or on affirmation.
- (6) The legal practitioner concerned and the Authority shall have an opportunity to examine every witness giving evidence to the Disciplinary Tribunal.
- (7) If the Tribunal considers that, for the purposes of the inquiry, it requires the advice or assistance of an expert in respect of any matter, it may, subject to such terms and conditions as it may determine, appoint such number of persons having expertise in relation to the matter concerned as it considers necessary to provide it with such advice or assistance.
- (8) Having conducted the inquiry, the Disciplinary Tribunal shall make a determination whether or not, on the basis of the evidence properly before it, each act or omission to which the inquiry relates constitutes misconduct and, in that event, make a determination as to whether the issue of sanction should be dealt with pursuant to *subsection (1) or (2) of section 82*.
- (9) A determination referred to in *subsection (8)* shall—
- (a) be in writing,
  - (b) specify the reasons for the determination,
  - (c) specify the sanction (if any) to be imposed pursuant to *section 82(1)* or recommended under *section 82(2)*, and
  - (d) be notified to the legal practitioner, and the Authority.

### **Sanctions following finding of misconduct by Disciplinary Tribunal**

- 82.** (1) Where, pursuant to the holding of an inquiry under *section 81*, the Disciplinary Tribunal makes a determination under *section 81(8)* that there has been misconduct on the part of a legal practitioner and determines that the issue of sanction should be

dealt with pursuant to this subsection, the Disciplinary Tribunal may, subject to *subsections (3) and (4)*, make an order imposing one or more of the following sanctions on the legal practitioner:

- (a) an advice;
- (b) an admonishment;
- (c) a censure;
- (d) a direction that the legal practitioner participate in one or more modules of a professional competence scheme and furnish, within a specified period, evidence to the Disciplinary Tribunal of such participation;
- (e) a direction that the legal practitioner concerned—
  - (i) waive all or a part of any costs otherwise payable by the complainant to the legal practitioner concerned in respect of the matter the subject of the complaint,
  - (ii) refund all or any part of any costs paid to the legal practitioner concerned in respect of the matter the subject of the complaint;
- (f) a direction that the legal practitioner arrange for the completion of the legal service to which the inquiry relates or the rectification, at his or her own expense, of any error, omission or other deficiency arising in connection with the provision of the legal services the subject of the inquiry, as the Disciplinary Tribunal may specify;
- (g) a direction that the legal practitioner take, at his or her own expense, such other action in the interests of the complainant as the Disciplinary Tribunal may specify;
- (h) a direction that the legal practitioner transfer any documents relating to the subject matter of the complaint (but not otherwise) to another legal practitioner nominated by the client or by the Authority with the consent of the client, subject to such terms and conditions as the Authority may deem appropriate having regard to the circumstances, including the existence of any right to possession or retention of such documents or any of them vested in the legal practitioner or in any other person;
- (i) a direction that the legal practitioner pay a sum, not exceeding €15,000, as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;
- (j) a direction that the whole or a part of the costs of the Disciplinary Tribunal or of any person making submissions to it or appearing before it, in respect of the inquiry be paid by the legal practitioner concerned (which costs shall be assessed by a Legal Costs Adjudicator in default of agreement);
- (k) where the legal practitioner is a practising solicitor, a direction that a specified condition be imposed on his or her practising certificate;
- (l) where the legal practitioner is a practising solicitor, and the misconduct

concerned consists of a breach of the Solicitors Accounts Regulations, a direction that he or she pay a sum not exceeding €15,000 to the Compensation Fund;

- (m) where the legal practitioner is a practising barrister, a direction to the chief executive of the Authority directing him or her to impose a specified restriction or condition on the legal practitioner in respect of his or her practice as a barrister.
- (2) Where, pursuant to the holding of an inquiry under this Part, the Disciplinary Tribunal makes a determination under *section 81(8)* that there has been misconduct by a legal practitioner and determines that the issue of sanction should be dealt with pursuant to this subsection, the Disciplinary Tribunal shall make a recommendation to the High Court that the Court make one or more than one of the orders specified in *section 85(7)*.
  - (3) Where the Disciplinary Tribunal under *subsection (1)* makes an order imposing one or more of the sanctions specified in *paragraphs (g), (i), (j) or (l)* of that subsection, the aggregate amount of the sums to be paid by the legal practitioner under the order concerned shall not exceed €15,000.
  - (4) In making an order referred to in *subsection (3)*, the Disciplinary Tribunal shall have regard to the means of the legal practitioner concerned.

**Persons who may appeal determination of Disciplinary Tribunal and matters in respect of which appeal may be brought**

83. (1) Where the Disciplinary Tribunal makes a determination under *section 81(8)* that the act or omission concerned does not constitute misconduct, the Authority may appeal that finding to the High Court.
- (2) Where the Disciplinary Tribunal makes a determination under *section 81(9)* that the act or omission concerned constitutes misconduct and deals with the issue of sanction under *section 82(1)*, an appeal may be brought to the High Court—
    - (a) by the legal practitioner concerned as respects the determination of misconduct or the sanction imposed, or
    - (b) by the Authority as respects the sanction imposed.
  - (3) Where the Disciplinary Tribunal makes a determination under *section 81(8)* that the act or omission concerned constitutes misconduct and deals with the issue of sanction under *section 82(2)*, the legal practitioner concerned may appeal that determination to the High Court.
  - (4) Where the application to the Disciplinary Tribunal was brought by the Law Society, a reference in this section to the Authority shall be construed as including a reference to the Law Society.
  - (5) An appeal under this section shall be brought within the period of 28 days of the date on which the notification under *section 81(9)(d)* of the determination concerned was sent to the person making the appeal.

**Appeals to High Court from Disciplinary Tribunal**

- 84.** (1) The High Court shall determine an appeal brought in accordance with *section 83* in accordance with this section and any rules of court made in relation to such appeals.
- (2) Each party who was a party participating in the inquiry of the Disciplinary Tribunal shall be entitled to appear and make submissions in connection with the matter under appeal.
- (3) In an appeal under *section 83(1)*, the High Court may—
- (a) confirm the determination of the Disciplinary Tribunal, or
  - (b) allow the appeal, and—
    - (i) impose a sanction which the Disciplinary Tribunal could impose pursuant to *section 82(1)*, or
    - (ii) consider, in accordance with that section, the imposition of a sanction under *section 85*.
- (4) In an appeal under *section 83(2)(a)*, the High Court may—
- (a) confirm the determination of the Disciplinary Tribunal, or
  - (b) determine that the act or omission the subject of the inquiry does not constitute misconduct.
- (5) In an appeal under *section 83(2)(b)*, or where the High Court makes a confirmation under *subsection (4)(a)*, the Court may—
- (a) confirm the sanction imposed under *section 82(1)*, or
  - (b) impose a sanction which the Disciplinary Tribunal could have imposed under *section 82(1)*, or
  - (c) consider, in accordance with that section, the imposition of a sanction under *section 85*.

**Consideration of matter by High Court where referred by Disciplinary Tribunal**

- 85.** (1) Where the Disciplinary Tribunal makes a recommendation to the High Court under *section 82(2)* and the legal practitioner concerned appeals in accordance with *section 83(3)* against the determination of misconduct, the Court shall first determine the appeal.
- (2) In an appeal under *section 83(3)*, the High Court may—
- (a) confirm the determination of the Disciplinary Tribunal, or
  - (b) determine that the act or omission the subject of the inquiry does not constitute misconduct.
- (3) Where—
- (a) the legal practitioner concerned does not appeal under *section 83(3)* the determination of the Disciplinary Tribunal,

- (b) the High Court confirms under *subsection (2)* the determination of the Disciplinary Tribunal, or
- (c) the High Court makes a decision referred to in *subsection (3)(b)(ii)* or *(5)(c)* of *section 84*,

the Court shall, having considered (where applicable) the recommendation of the Disciplinary Tribunal under *section 82(2)* and given each party who was a party participating in the inquiry of the Disciplinary Tribunal an opportunity to appear to make submissions in connection with the matter, decide upon the sanction to be imposed on the legal practitioner.

- (4) The sanction referred to in *subsection (3)* may be—
  - (a) one or more of the sanctions which the Disciplinary Tribunal could impose under *section 82(1)*, or
  - (b) the making of an order under *subsection (7)*.
- (5) Before imposing a sanction under *subsection (3)*, the High Court may, if it thinks fit, remit the case to the Disciplinary Tribunal to take further evidence for submission to it and to make a supplementary report, and the Court may adjourn the hearing of the matter pending the submission to it of such further evidence and the making of such supplementary report.
- (6) In imposing a sanction under *subsection (3)*, the High Court shall take account of any finding of misconduct on the part of the legal practitioner concerned previously made by the Disciplinary Tribunal and not rescinded by the Court and of any order made by the Court under this Act or under the *Solicitors Acts 1954 to 2015*.
- (7) The Court, under this subsection, may by order direct one or more than one of the following:
  - (a) that the legal practitioner be censured or that he or she be censured and required to pay an amount of money to the Authority or, in the case of a legal practitioner who is a solicitor, to the Compensation Fund, as the Court considers appropriate;
  - (b) that the legal practitioner be restricted as to the type of work which he or she may engage in, for such period as the Court considers appropriate and subject to such terms and conditions as the Court considers appropriate;
  - (c) that the legal practitioner be prohibited from practising as a legal practitioner otherwise than as an employee, and subject to such terms and conditions as the Court considers appropriate;
  - (d) that the legal practitioner be suspended from practice as a legal practitioner for a specified period and subject to such terms and conditions as the Court considers appropriate;
  - (e) where the legal practitioner is a barrister, that the Authority, in accordance with *Part 9*, strike the name of the person off the roll of practising barristers and inform the Chief Justice and the Honorable Society of King's Inns of the fact;
  - (f) where the legal practitioner is a solicitor, that the name of the solicitor be struck

off the roll of solicitors;

- (g) in the case of a legal practitioner to whom a Patent has been granted, that the Authority make an application referred to in *section 175(2)* in respect of that grant;
- (h) that the legal practitioner do one or more than one of the following:
  - (i) take, at his or her own expense, such other action in the interests of the complainant as the Court may specify;
  - (ii) pay a sum as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;
  - (iii) pay the whole or a part of the costs of the Disciplinary Tribunal or of any person making submissions to it or appearing before it, in respect of the inquiry concerned (which costs shall be assessed by a Legal Costs Adjudicator in default of agreement);
- (i) where the legal practitioner is a solicitor:
  - (i) that a specified bank shall furnish any information in its possession that the Law Society may require relating to any aspect of the financial affairs of the practice of the solicitor;
  - (ii) that the solicitor shall swear an affidavit disclosing all information relating to or contained in accounts, held in his or her own name or in the name of his or her firm or jointly with third parties with any bank within a specified duration of time, to be fixed by the Court;
  - (iii) that the solicitor make restitution to any aggrieved party the Court thinks fit;
  - (iv) on the application of the Law Society or the Authority, that the solicitor swear an affidavit (within a specified duration of time to be fixed by the Court) disclosing all information as to his or her assets either then in his or her possession or control or within his or her procurement and, if no longer in his or her possession or control or within his or her procurement, his or her belief as to the present whereabouts of those assets;
  - (v) that the solicitor make himself or herself available before the Court on a specified day and at a specified time for oral examination under oath or under affirmation in relation to the contents of any affidavit of assets sworn by him or her pursuant to *subparagraph (iv)*;
  - (vi) on the application of the Law Society or the Authority and where it is shown that the conduct of the solicitor or of any clerk or servant of that solicitor arising from that solicitor's practice as a solicitor has given or is likely to give rise to the making by the Law Society of a grant or grants out of the Compensation Fund, direct that the solicitor shall not reduce his assets below a certain specified amount or value unless the Court otherwise directs;
  - (vii) on the application of the Law Society or the Authority, the delivery to any person appointed by the Law Society or Authority of all or any documents in

the possession or control or within the procurement of the solicitor arising from his practice as a solicitor;

(viii) either—

(I) that no bank shall, without leave of the Court, make any payment out of an account in the name of the solicitor or his firm, or

(II) that a specified bank shall not without leave of the Court, make any payment out of any account in the name of the solicitor or his or her firm;

(ix) that the solicitor shall not attend at the place of business of his or her practice as a solicitor unless otherwise permitted by the Court;

(x) that the solicitor shall not represent himself or herself as having, or hold himself or herself out as having, any connection with his or her former practice as a solicitor, or permit any other person to so represent that solicitor, unless otherwise permitted by the Court.

(8) In making an order under *subsection (6)*, the Court may, in addition—

(a) make such order as to costs incurred in the proceedings before it and the Legal Practitioners Disciplinary Tribunal as the Court thinks fit,

(b) make an ancillary order in relation to the matter which the Court thinks fit.

(9) In this section, “Patent” has the same meaning as it has in *Part 12*, and includes a Patent granted in the State before the coming into operation of this section.

#### **Exercise of jurisdiction of High Court under sections 84 and 85**

**86.** The jurisdiction vested in the High Court by *sections 84* and *85* shall be exercised by the President of the High Court or, if and whenever the President of the High Court so directs, by an ordinary judge of the High Court for the time being assigned in that behalf by the President of the High Court.

#### **Appeals to Court of Appeal**

**87.** The Authority or the legal practitioner concerned may appeal to the Court of Appeal against an order of the High Court made under *section 85* within a period of 21 days beginning on the date of the order and, unless the High Court or the Court of Appeal otherwise orders, the order of the High Court shall have effect pending the determination of such appeal.

#### **Orders made by High Court or determinations made by Authority**

**88.** (1) A copy of every decision or order made by the High Court under *section 84* or *85* and any determination made by the Disciplinary Tribunal under *sections 81* and *82* shall be furnished to the registrar of solicitors in the case of an order relating to a practising solicitor, or to the Honorable Society of King’s Inns in the case of an order relating to a practising barrister.

- (2) Where an order—
- (a) striking the name of a legal practitioner who is a solicitor off the roll of solicitors,
  - (b) striking the name of a legal practitioner who is a barrister off the roll of practising barristers, or
  - (c) suspending a legal practitioner from practice,
- is made by the High Court under *section 84* or *85*, the Authority shall as soon as practicable thereafter cause a notice stating the effect of the operative part of the order to be published in *Iris Oifigiúil* and shall also cause the notice to be published in such other manner as the Authority may consider appropriate.
- (3) Where a matter is determined by the Disciplinary Tribunal in accordance with *section 82(1)* and the time for lodging an appeal has expired the Authority shall arrange for the publication of—
- (a) the determination,
  - (b) the nature of the misconduct,
  - (c) the sanction imposed, and
  - (d) the name of the legal practitioner concerned.
- (4) Where the High Court makes a decision under—
- (a) *section 84(3)(b)*,
  - (b) *section 84(4)* (other than *section 84(4)(b)*),
  - (c) *section 85* (other than *section 85(2)(b)*),
- the Authority shall arrange for the publication of—
- (i) the decision,
  - (ii) the nature of the misconduct,
  - (iii) the sanction imposed, and
  - (iv) the name of the legal practitioner concerned.

### **Privilege (Part 6)**

**89.** The following shall be absolutely privileged:

- (a) complaints made to the Authority under this Part and documents created or furnished to the parties entitled to receive them under this Part;
- (b) proceedings and documents associated with an inquiry held by the Disciplinary Tribunal under this Part;
- (c) a report made by the Disciplinary Tribunal to the High Court in accordance with this Part;
- (d) a notice authorised by *section 88* to be published or communicated.

**Enforcement of order of Disciplinary Tribunal under this Part**

- 90.** (1) Where, on application by the Authority in circumstances where the matter is not otherwise before the High Court, it is shown that a legal practitioner or any other person has refused, neglected or otherwise failed, without reasonable cause, to comply in whole or in part with a direction, determination or order to which *subsection (4)* applies, the Court may by order direct the legal practitioner or other person, as the case may be, to comply in whole or in part as may be appropriate, with the direction, determination or order.
- (2) An application by the Authority pursuant to *subsection (1)* shall be on notice to the legal practitioner or other person concerned unless the High Court otherwise orders.
- (3) An order of the High Court under *subsection (1)* may contain such provisions of a consequential nature as the Court considers appropriate.
- (4) This subsection applies to the following—
- (a) a direction of the Authority under *section 60(6)* or *61(6)*;
  - (b) a determination of a Review Committee under *section 62(5)*;
  - (c) a direction of a Divisional Committee under *section 71(1)(a)*;
  - (d) an order of the Disciplinary Tribunal under *section 82(1)*.

**Transitional provisions in relation to solicitors**

- 91.** (1) Where, before the date on which this subsection comes into operation, a complaint under section 8 or 9 of the Solicitors (Amendment) Act 1994 has been received by the Law Society, then, notwithstanding the amendment by this Act of the Solicitors Acts 1954 to 2011, the provisions of those Acts shall continue to apply to the complaint as if those amendments had not been made.
- (2) Where, on or after the date on which this subsection comes into operation—
- (a) a complaint is made under *section 51(1)* in respect of a solicitor, and
  - (b) the act or omission to which the complaint relates occurred before that date,
- the complaint shall be dealt with under this Part and this Act shall apply accordingly.
- (3) Where, on or after the date on which this subsection comes into operation—
- (a) a complaint is made under *section 51(2)*, in respect of a solicitor, and
  - (b) the act or omission to which the complaint relates occurred before that date,
- the complaint shall be dealt with under this Part and this Act shall apply accordingly, subject to the modification that “misconduct” shall, for the purposes of the complaint, be deemed to have the meaning it has under section 3 of the Solicitors (Amendment) Act 1960 as if the amendment of that section by *section 184* had not been made.

**Transitional provisions in relation to barristers**

- 92.** (1) Where, on or after the date on which this subsection comes into operation, the

Benchers of the Honorable Society of King's Inns disbar a person for an act or omission of the person that occurred before that date, the Honorable Society of King's Inns shall notify the Authority of the disbarment, which notification shall be accompanied by a report of the act or omission concerned.

- (2) The Authority, on receipt of a notification and report under *subsection (1)*, shall examine the report and, where it considers that the act or omission of the person constitutes misconduct, shall make an application to the High Court for the making by it of an order under this section.
- (3) An application under *subsection (2)* shall be on notice to the person concerned and the Honorable Society of King's Inns.
- (4) The High Court, on an application under *subsection (2)*, having considered the report under *subsection (1)* and given the Authority, the persons concerned and the Honorable Society of King's Inns an opportunity to appear and to make submissions in connection with the application, decide whether to impose a sanction on the person.
- (5) The Court, under this subsection, may by order direct one or more than one of the following:
  - (a) that the person be restricted as to the type of work which he or she may engage in, for such period as the Court considers appropriate and subject to such terms and conditions as the Court considers appropriate;
  - (b) that the person be suspended from practice as a barrister for a specified period and subject to such terms and conditions as the Court considers appropriate;
  - (c) that the Authority, in accordance with *Part 9*, strike the name of the person off the roll of practising barristers and inform the Chief Justice and the Honorable Society of King's Inns of the fact.

#### **Authority may appoint monitor for purposes of section 14C of Act of 1994**

93. (1) The Authority may appoint such and so many members of its staff as it thinks fit to perform the functions of a monitor under section 14C of the Act of 1994.
- (2) The Authority may, at any time, request a report from a monitor in relation to the performance by him or her of his or her functions referred to in *subsection (1)*.

#### **Power of Authority under Part 6**

94. The Authority, in the performance by it of its functions under this Part in relation to a complaint made as respects a solicitor, may exercise any power conferred on the Law Society under the *Solicitors Acts 1954 to 2015*.

## PART 7

IMPOSITION OF LEVY ON PROFESSIONAL BODIES AND CERTAIN BARRISTERS TO COVER EXPENSES OF AUTHORITY  
AND DISCIPLINARY TRIBUNAL**Levy to be paid by Law Society, Bar Council and certain barristers**

95. (1) Subject to *section 97*, the following shall, in accordance with this Part, pay to the Authority in each financial year a levy in the amount determined in accordance with this section:
- (a) the Law Society;
  - (b) the Bar Council;
  - (c) each barrister who is not a member of the Law Library.
- (2) At the end of each financial year, the Authority shall, with the consent of the Minister, determine for the purposes of this section—
- (a) the operating costs and administrative expenses that are properly incurred in that financial year by the Authority in the performance of its functions under this Act (in this section referred to as “approved expenses of the Authority”), and
  - (b) the operating costs and administrative expenses incurred in that financial year by the Disciplinary Tribunal in the performance of its functions under this Act (in this section referred to as “expenses of the Disciplinary Tribunal”).
- (3) The approved expenses of the Authority include—
- (a) the remuneration (including allowances for expenses) of the members of the Authority,
  - (b) the remuneration (including allowances for expenses and superannuation benefits) of inspectors and members of the staff of the Authority,
  - (c) any superannuation contributions paid in respect of the members of the staff of the Authority out of moneys provided by the Oireachtas,
  - (d) fees due to consultants and advisers appointed under *section 17*,
  - (e) the cost of office premises, and
  - (f) any costs or expenses, not referred to in *paragraphs (a) to (e)*, incurred by the Authority in the performance of its functions under *Part 6*.
- (4) The Authority shall determine—
- (a) the proportion of the approved expenses of the Authority that was incurred by the Authority in the performance of its functions—
    - (i) under *Part 6*, and
    - (ii) under this Act, other than *Part 6*,
- and

- (b) in relation to the approved expenses of the Authority referred to in *paragraph (a) (i)*, the proportion of those expenses that was incurred by the Authority in the consideration and investigation of—
- (i) complaints in respect of solicitors,
  - (ii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and
  - (iii) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.
- (5) The Authority, in consultation with the Disciplinary Tribunal, shall determine, in relation to the expenses of the Disciplinary Tribunal, the proportion of those expenses that was incurred by the Tribunal in the consideration of applications brought before it that concerned—
- (a) complaints in respect of solicitors,
  - (b) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, members of the Law Library, and
  - (c) complaints in respect of barristers who were, at the time of the act or omission to which the complaint relates, not members of the Law Library.
- (6) The amount of the levy payable in each financial year shall be the sum of—
- (a) the approved expenses of the Authority, and
  - (b) the expenses of the Disciplinary Tribunal,
- in respect of the preceding financial year.
- (7) The liability for payment of the amount referred to in *subsection (6)* shall be apportioned as follows:
- (a) in the case of the proportion of the approved expenses of the Authority referred to in *subsection (4)(a)(i)*—
    - (i) 10 per cent of that amount shall be apportioned *pro rata* between the Bar Council and the practising barristers who are not members of the Law Library, according to the number of barristers whose names are on the roll of practising barristers who are members of the Law Library and the number of practising barristers whose names are on that roll who are not such members, respectively,
    - (ii) 10 per cent of that amount shall be apportioned to the Law Society, and
    - (iii) the remaining 80 per cent of that amount shall be apportioned *pro rata* among the Law Society, the Bar Council and the practising barristers who are not members of the Law Library, respectively, according to the proportion, calculated under *paragraph (b) of subsection (4)*, of those expenses that were incurred by the Authority in the consideration and investigation of complaints in respect of each category of legal practitioner referred to in *subparagraphs (i), (ii) and (iii) of that paragraph*;

- (b) the proportion of approved expenses referred to in *subsection (4)(a)(ii)* shall be apportioned *pro rata* among the Law Society, the Bar Council and the practising barristers who are not members of the Law Library, respectively, according to the number of practising solicitors, the number of practising barristers on the roll of practising barristers who are members of the Law Library and the number of practising barristers on that roll who are not such members;
- (c) in the case of the expenses of the Disciplinary Tribunal—
  - (i) 10 per cent of that amount shall be apportioned *pro rata* between the Bar Council and the practising barristers who are not members of the Law Library, according to the number of practising barristers whose names are on the roll of practising barristers who are members of the Law Library and the number of practising barristers whose names are on that roll who are not such members, respectively,
  - (ii) 10 per cent of that amount shall be apportioned to the Law Society, and
  - (iii) the remaining 80 per cent of that amount shall be apportioned *pro rata* among the Law Society, the Bar Council and the practising barristers who are not members of the Law Library, respectively, according to the proportion, calculated under *subsection (5)*, of those expenses that was incurred in the consideration of applications brought before the Tribunal that concerned complaints in respect of each category of legal practitioner referred to in *paragraphs (a), (b) and (c)* of that subsection.
- (8) The Authority shall—
  - (a) calculate, in accordance with *subsection (7)*, the proportion of the amount referred to in *subsection (6)* that is payable by—
    - (i) the Law Society,
    - (ii) the Bar Council, and
    - (iii) the practising barristers who are not members of the Law Library,and
  - (b) apportion the amount calculated under *paragraph (a)(iii)* equally among all practising barristers who are not members of the Law Library.
- (9) As soon as practicable after the beginning of each financial year, the Authority shall provide a notice (in this Act referred to as a “levy assessment notice”) to each of the bodies or persons referred to in *subsection (1)*.
- (10) A levy assessment notice shall specify—
  - (a) the approved expenses of the Authority in respect of the preceding financial year,
  - (b) the proportion of the approved expenses referred to in *subparagraphs (i) and (ii)* of *subsection (4)(a)*,
  - (c) the proportion, calculated under *subsection (4)(b)*, of the expenses referred to in *subsection (4)(a)(i)* that was incurred in the consideration and investigation of

complaints in respect of each category of legal practitioner referred to in *subparagraphs (i), (ii) and (iii) of paragraph (b) of subsection (4)*,

- (d) the expenses of the Disciplinary Tribunal in respect of the preceding financial year,
  - (e) the proportion, calculated under *subsection (5)*, of the expenses of the Disciplinary Tribunal that was incurred in the consideration of applications brought before it concerning complaints in respect of each category of legal practitioner referred to in *paragraph (a), (b) and (c) of that subsection*,
  - (f) the amount of levy payable by the professional body or person concerned, calculated in accordance with *subsection (7)* and, where applicable, *subsection (8)(b)*,
  - (g) the date by which the levy becomes payable, and
  - (h) the rate of interest payable if all or part of the amount specified under *paragraph (f)* is not paid by the date referred to in *paragraph (g)*.
- (11) The levy referred to in *subsection (1)* shall be collected and retained by the Authority to be used to meet the costs it incurs in carrying out its functions under this Act.
- (12) For the purposes of this section—
- (a) a reference to the number of barristers whose names are on the roll of practising barristers shall be construed as a reference to the number of barristers whose names are on that roll during the financial year to which the expenses concerned relate, less the number of such barristers to whom *section 97* applies, and
  - (b) a reference to the number of practising solicitors is a reference to the number of solicitors holding a practising certificate in the financial year to which the expenses concerned relate, less the number of such solicitors to whom *section 97* applies.
- (13) In this Part—
- “barrister who is not a member of the Law Library” means a barrister whose name, in the financial year to which the expenses concerned relate, is on the roll of practising barristers, where the entry concerned specifies that he or she is not a member of the Law Library, and “barrister who is a member of the Law Library” shall be construed accordingly;
- “superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death.
- (14) For the purposes of *subsections (4) and (5)*—
- (a) a barrister is not a member of the Law Library at a given time, if, at that time, his or her name is on the roll of practising barristers, where the entry concerned specifies that he or she is not a member of the Law Library, and
  - (b) a barrister is a member of the Law Library at a given time, if, at that time, his or her name is on the roll of practising barristers, where the entry concerned does

not include the specification referred to in *paragraph (a)*.

#### **Failure to pay amount specified in levy assessment notice**

- 96.** (1) If all or part of the amount specified in a levy assessment notice is not paid on or before the date specified in the notice, interest, at a rate calculated in accordance with regulations under *section 98*, on the unpaid amount accrues from that date to the date of payment.
- (2) Where a barrister who is not a member of the Law Library has not, within one month of the date on which the amount becomes payable, paid all of the amount specified in a levy assessment notice as payable by him or her in respect of the levy imposed by this Part, the Authority shall provide that barrister with a further notice, which shall—
- (a) be accompanied by a copy of the levy assessment notice concerned,
  - (b) specify the rate of interest payable on the unpaid amount, and
  - (c) contain a statement of the effect of *subsection (3)*.
- (3) Where, after the expiry of 3 months from the date on which the amount, specified in a levy assessment notice as payable by him or her in respect of the levy imposed under this Part, becomes payable, a barrister who is not a member of the Law Library has not paid all of that amount together with any interest on the unpaid amount that has accrued in accordance with *subsection (1)* on that amount, the Authority shall remove the name of the barrister from the roll of practising barristers.
- (4) Subject to *subsection (5)*, the Authority may recover, as a simple contract debt in any court of competent jurisdiction, from the professional body or person concerned, any amount payable by that body or person in respect of the levy imposed by this Part and any interest that has accrued, in accordance with *subsection (1)*, on that amount.
- (5) For the purposes of *subsection (4)*, where the professional body concerned is the Bar Council, proceedings may be brought against the Chairman of the Bar Council, in a representative capacity, on behalf of the Bar Council and, if in those proceedings the Authority obtains a judgment, order or decree for any amount payable by the Bar Council, any assets held by or on behalf of or for the benefit of the Bar Council may be used or otherwise applied towards satisfying all or any of the claims under the judgment, order or decree, as the case may be.

#### **Exemption for legal practitioner in full time service of the State**

- 97.** (1) *Section 95(1)* shall not apply in respect of a legal practitioner who is in the full time service of the State.
- (2) No fee shall be payable by a legal practitioner to whom *subsection (1)* applies to the Law Society or Bar Council in respect of an amount of levy payable by that professional body under this Part.

#### **Regulations relating to levy**

- 98.** (1) The Authority may by regulations provide for all or any of the following matters

relating to the levy under *section 95*:

- (a) the date on which payment of the levy becomes payable;
  - (b) the keeping by the Authority and the Disciplinary Tribunal of specified records in respect of matters connected with the liability to pay the levy;
  - (c) the collection and recovery of the levy;
  - (d) subject to *subsection (2)*, the rate of interest on amounts not paid when due;
  - (e) such other matters as are necessary for, or incidental to, the imposition, payment and collection of the levy.
- (2) Regulations under *subsection (1)* may prescribe a formula for determining the interest rate referred to in *subsection (1)(d)* by reference to—
- (a) the prevailing Euro Interbank Offered Rate,
  - (b) an additional rate certified by the Central Bank of Ireland, and
  - (c) such other additional rate as the Minister considers appropriate, taking into account the cost of recovering unpaid levy, including any bank charges the Authority may incur in maintaining a bank overdraft to cover a shortfall in funds arising out of unpaid levy.

## PART 8

### LEGAL PARTNERSHIPS, DIRECT PROFESSIONAL ACCESS, MULTI-DISCIPLINARY PRACTICES AND LIMITED LIABILITY PARTNERSHIPS

#### CHAPTER 1

#### *Interpretation*

#### **Interpretation (*Part 8*)**

**99.** In this Part—

“contentious matter” means a matter that arises in, and that relates to the subject matter of, proceedings before any court, tribunal or other body or person before which the respective legal rights and obligations of two or more parties are determined, to which the person instructing the practising barrister concerned is a party;

“limited liability partnership” means a relevant business in respect of which an authorisation, granted under *section 125*, is for the time being in force;

“relevant business” means—

- (a) a partnership of solicitors, or
- (b) a legal partnership.

## CHAPTER 2

*Legal Partnerships, Direct Professional Access and Multi-Disciplinary Practices*

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

**Legal partnerships and professional codes**

- 100.** (1) Subject to this Part, a legal practitioner may provide legal services as a partner in, or an employee of, a legal partnership.
- (2) A professional body shall not, through its professional codes or otherwise, prevent or restrict a legal practitioner who is a member of that body from working with, or otherwise doing business with, a legal practitioner providing legal services in a legal partnership in accordance with *subsection (1)*.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

**Professional code not to prevent direct professional access to barrister**

- 101.** No professional code shall operate to prevent a barrister from providing legal services as a practising barrister in relation to a matter, other than a contentious matter, where his or her instructions on that matter were received directly from a person who is not a solicitor.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

**Multi-disciplinary practices and professional codes**

- 102.** (1) Subject to this Part, a legal practitioner may provide legal services as a partner in, or an employee of, a multi-disciplinary practice.
- (2) A professional body shall not, through its professional codes or otherwise, prevent or restrict a legal practitioner who is a member of that body from working with, or otherwise doing business with, a legal practitioner providing legal services in a multi-disciplinary practice in accordance with *subsection (1)*.

Commenced at publication (Feb 2020) other than insofar as it relates to LPs and MDPs. Go to [eISB](#) to confirm current status.

**Complaints under *Part 6* in respect of legal practitioners in limited partnerships, multi-disciplinary practices and limited liability partnerships**

- 103.** For the avoidance of doubt, nothing in this Part shall be construed as preventing a person making a complaint to the Authority under *Part 6* in respect of a legal practitioner who provides a legal service as a partner or employee of a legal partnership, a multi-disciplinary practice or a limited liability partnership.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

**Notification of Authority of commencement, cessation of provision of legal services by a legal partnership**

- 104.** (1) A legal partnership that intends to provide legal services—
- (a) shall notify the Authority, in accordance with *subsection (3)*, of that fact, and
  - (b) shall not provide such services until it has complied with *paragraph (a)*.
- (2) A legal partnership that ceases providing legal services shall—
- (a) notify the Authority in accordance with *subsection (3)* of that fact, and
  - (b) having complied with *paragraph (a)*, shall not provide legal services without

providing the Authority with a further notification under *subsection (1)*.

- (3) A notification under *subsection (1)* or *(2)* shall be in writing and in such form and subject to such fee (if any) as may be prescribed.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

#### **Legal partnership to have professional indemnity insurance**

- 105.** A legal partnership shall not provide legal services unless there is in force, at the time of the provision of such services, a policy of professional indemnity insurance which complies with regulations made under *section 47* and *section 26* of the Act of 1994 (if applicable).

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

#### **Notification of Authority of commencement, cessation of provision of legal services by multi-disciplinary practice**

- 106.** (1) A multi-disciplinary practice that intends to provide legal services—
- (a) shall notify the Authority, in accordance with *subsection (3)*, of that fact, and
  - (b) shall not provide such services until it has complied with *paragraph (a)*.
- (2) A multi-disciplinary practice that ceases providing legal services shall—
- (a) notify the Authority, in accordance with *subsection (3)*, of that fact, and
  - (b) having complied with *paragraph (a)*, shall not provide legal services without providing the Authority with a further notification under *subsection (1)*.
- (3) A notification under *subsection (1)* or *(2)* shall be in writing and in such form and subject to such fee (if any) as may be prescribed.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

#### **Partners in multi-disciplinary practice**

- 107.** (1) Each partner in a multi-disciplinary practice shall be jointly and severally liable in respect of his or her acts or omissions, those of the other partners and those of the employees of the partnership.
- (2) A partner in a multi-disciplinary practice may share with another partner in that multi-disciplinary practice fees or other income arising from the provision of services by the practice, regardless of whether—
- (a) either or both partners are legal practitioners, or
  - (b) the services concerned are legal services or services other than legal services.
- (3) Subject to *subsection (4)*, a person may be a partner in a multi-disciplinary practice notwithstanding that he or she does not provide legal services or services other than legal services.
- (4) Subject to *subsection (5)*, the following shall not be a partner in a multi-disciplinary practice:
- (a) a person in respect of whom the High Court has made an order under *section 85(7)(c)* that he or she be prohibited from providing legal services otherwise than

as an employee;

- (b) for the period specified in the order, a person in respect of whom the High Court has made an order under *section 85(7)(d)* that he or she be suspended from practice as a legal practitioner unless, in the case of a person who at the time the order was made was a partner in a multi-disciplinary practice, the order expressly permits him or her to continue to be a partner of that multi-disciplinary practice;
- (c) a person in respect of whom the High Court has made an order under *paragraph (e) or (f) of section 85(7)* that his or her name be struck off the roll of practising barristers or the roll of solicitors;
- (d) a person who is an unqualified person;
- (e) a person who, having been a qualified barrister, is disbarred (other than a person who has procured himself or herself to be disbarred with a view to being admitted as a solicitor);
- (f) a person who, being a solicitor in another jurisdiction, is not a solicitor qualified to practise in that jurisdiction by reason of a sanction equivalent to a sanction specified in *subsection (9)* having been imposed on him or her in accordance with the law of that jurisdiction;
- (g) a person who, having been a barrister in another jurisdiction, has been disbarred in accordance with the law of that jurisdiction;
- (h) a person who—
  - (i) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
  - (ii) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provisions of that Act;
- (i) a person who is convicted on indictment of an offence;
- (j) a person who is convicted of an offence involving fraud or dishonesty or breach of trust;
- (k) a person who is convicted of an offence involving money laundering or terrorist financing (both within the meaning of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010);
- (l) a person who is an undischarged bankrupt in this or another jurisdiction;
- (m) a person who is convicted outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment;
- (n) a person who is disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or an undertaking.

- (5) The High Court may, on application to it by a person to whom *subsection (4)* (other than *paragraphs (a) to (c)* of that subsection) applies, grant the person an order permitting him or her to be a partner in a multi-disciplinary practice where it is of the opinion that it is reasonable and proportionate to do so, having regard to the circumstances of the person, including the circumstances that gave rise to *subsection (4)* applying to him or her.
- (6) A person who contravenes *subsection (4)*, and is not the subject of an order under *subsection (5)*, commits an offence.
- (7) A person who commits an offence under *subsection (6)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (8) Nothing in this section shall be construed as permitting investment in a multi-disciplinary practice by a person other than an individual.
- (9) In this section, “unqualified person” means a solicitor who is not a solicitor qualified to practise, within the meaning of the Act of 1954, by reason of—
  - (a) his or her name having been struck off the roll of solicitors,
  - (b) his or her suspension from practice,
  - (c) his or her having had the issue to him or her of a practising certificate refused under section 49 of that Act,
  - (d) having his or her practising certificate suspended under section 58 of the Act of 1994, or
  - (e) his or her having given to the High Court an undertaking not to practise as a solicitor.

### Managing legal practitioner

Not commenced  
at publication  
(Feb 2020).  
Go to [eISB](#) to  
confirm current  
status.

- 108.** (1) A multi-disciplinary practice shall have at least one legal practitioner (referred to in this Part as the “managing legal practitioner”) who shall be a partner in the multi-disciplinary practice, who shall be responsible for the management and supervision of the provision of legal services by the practice.
- (2) Where a multi-disciplinary practice fails to be in compliance with *subsection (1)* for a period of 7 days or longer, it shall—
    - (a) notify the Authority of that fact, and
    - (b) cease providing legal services until a managing legal practitioner is appointed under *subsection (1)*.
  - (3) The managing legal practitioner shall ensure that the multi-disciplinary practice is managed so as to ensure the provision of legal services by the practice—
    - (a) is in accordance with the requirements of this Act and regulations made under it and any other applicable enactment or rule of law, and
    - (b) adheres to the professional principles specified in *section 13(5)*.

- (4) Where a managing legal practitioner has reason to believe that the multi-disciplinary practice is providing, or is likely to provide, legal services in a manner that does not comply with *paragraph (a) or (b) of subsection (3)*, or if it would be reasonable for the managing legal practitioner to so believe, he or she shall, within a period of 14 days, take all reasonable action available to him or her to—
- (a) ensure that those paragraphs are complied with, and
  - (b) remedy any defaults in compliance with those paragraphs.
- (5) Where a managing legal practitioner fails, within the period referred to in *subsection (4)*—
- (a) in accordance with *paragraph (a) of that subsection*, to ensure compliance as referred to in that paragraph, or
  - (b) to remedy any defaults in accordance with *paragraph (b) of that subsection*,
- he or she shall, within 7 days of the expiration of that period, notify the Authority of such failure.
- (6) A managing legal practitioner who fails to notify the Authority in accordance with *subsection (5)* commits an offence.
- (7) A person who commits an offence under *subsection (6)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

### Obligations of legal practitioners in multi-disciplinary practice

#### 109. Nothing in this Part—

- (a) shall be construed as preventing an act or omission on the part of a legal practitioner who is a partner in or an employee of a multi-disciplinary practice that is in contravention of this Part also being found to amount to misconduct under *section 50*, or
- (b) derogates from the obligations, liabilities or privileges of such a legal practitioner under this Act or any other enactment or rule of law.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

### Operation of multi-disciplinary practice

#### 110. (1) A multi-disciplinary practice shall have written procedures in place, to which all partners and employees of the practice are subject, that—

- (a) ensure that legal services are provided by the practice in a manner that complies with *paragraphs (a) and (b) of section 108(3)*, and
  - (b) facilitate compliance by the managing legal practitioner with his or her obligations under this Act.
- (2) Without prejudice to the generality of *subsection (1)*, procedures referred to in that subsection shall—

- (a) provide that partners and employees of the multi-disciplinary practice concerned are obliged to comply with—
    - (i) such directions of the managing legal practitioner as he or she considers necessary to issue in order to comply with his or her obligations under this Act, and
    - (ii) *subsection (3)*,and
  - (b) include such procedures as may be specified in regulations under *section 116*.
- (3) A person shall not cause or induce a legal practitioner who is a partner in or an employee of a multi-disciplinary practice to provide legal services in a manner that does not comply with *paragraphs (a) or (b) of section 108(3)*.
- (4) The managing legal practitioner of a multi-disciplinary practice shall ensure that—
- (a) separate accounting records are maintained by the multi-disciplinary practice in respect of—
    - (i) the legal services provided by it, and
    - (ii) the services other than legal services provided by it,
  - (b) moneys received, held, controlled or paid by a legal practitioner who is a partner in, or an employee of, the multi-disciplinary practice, arising from the provision by the practice of legal services, are held in a separate bank account to moneys otherwise received, held or controlled by the practice, and
  - (c) fees or other income arising from the provision by the practice of legal services are held in a separate bank account to fees or other income arising from the provision by the practice of services other than legal services.
- (5) A legal practitioner who is a partner in or employee of a multi-disciplinary practice shall not, in the provision by him or her of legal services to a client, disclose the affairs of the client to a partner or employee of the practice who is not also engaged in the provision of legal services to that client, without the express consent of the client concerned.
- (6) Subject to *subsection (7)*, nothing in this Part shall be construed as affecting any entitlement of a person under an enactment or rule of law to inspect a multi-disciplinary practice or to obtain information from a partner in or employee of such a practice in relation to the provision by the practice of services other than legal services.
- (7) *Subsection (6)* shall not be construed as permitting a person referred to in that subsection to obtain information in the possession of a legal practitioner who is a partner in or employee of a multi-disciplinary practice where that information is the subject of legal privilege.

**Letter of engagement**

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

- 111.** A legal practitioner who is a partner in or an employee of a multi-disciplinary practice shall not provide legal services to a client of the multi-disciplinary practice unless he or she provides the client with a notice in writing which shall—
- (a) specify the services to be provided to the client by the multi-disciplinary practice,
  - (b) specify which of the services referred to in *paragraph (a)* are to be provided by a legal practitioner,
  - (c) specify which of the services referred to in *paragraph (a)* are services other than legal services,
  - (d) specify which (if any) of the services referred to in *paragraph (a)* are services to which section 21 (as amended by section 29 of the Solicitors (Amendment) Act 1994) of the Solicitors (Amendment) Act 1960 applies, and
  - (e) provide such additional information as may be prescribed.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

**Multi-disciplinary practice to have professional indemnity insurance**

- 112.** A multi-disciplinary practice shall not provide legal services unless there is in force, at the time of the provision of such services, a policy of professional indemnity insurance which complies with regulations made under *section 47* and section 26 of the Act of 1994 (if applicable).

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

**Saver for Compensation Fund under section 21 of Solicitors (Amendment) Act 1960**

- 113.** Nothing in this Part shall be construed as extending the obligation of the Law Society under section 21(4) (as amended by section 29 of the Solicitors (Amendment) Act 1994) of the Solicitors (Amendment) Act 1960 to loss sustained in consequence of dishonesty on the part of a legal practitioner who is a partner in or an employee of a legal partnership or, as the case may be, a multi-disciplinary practice or any clerk or servant of that legal practitioner arising from the provision by that legal practitioner of legal services to a client, where that legal practitioner is not a practising solicitor.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

**Power of Authority to specify measures**

- 114.** (1) Where the Authority is satisfied that a provision of this Part or regulations made under it are not being, or have not been, complied with by the multi-disciplinary practice or managing legal practitioner concerned, it may, in accordance with this section, issue a direction to the multi-disciplinary practice or managing legal practitioner concerned to take such measures as are specified in the direction.
- (2) The Authority shall not issue a direction under this section unless it considers it to be necessary to ensure compliance by the multi-disciplinary practice or managing legal practitioner, as the case may be, with its or, as the case may be, his or her obligations under this Part or regulations made under it.
  - (3) A direction under this section may, where the multi-disciplinary practice concerned has been found to be in breach of *section 108(1)*, direct the practice to appoint, within

7 days of the date on which the notice is issued, a managing legal practitioner.

- (4) Where the Authority reasonably believes that the multi-disciplinary practice or managing legal practitioner concerned is in breach of any other provision of this Part or regulations made under it, the Authority—
- (a) shall send the multi-disciplinary practice or managing legal practitioner, as the case may be, a notice in writing—
- (i) setting out its belief and the reasons for it,
  - (ii) setting out the measures it proposes to direct the multi-disciplinary practice or, as the case may be, the managing legal practitioner to take in order to comply with its or, as the case may be, his or her, obligation under the provision concerned,
  - (iii) inviting the multi-disciplinary practice or managing legal practitioner, as the case may be, to make within such reasonable period as the Authority may specify in the notice, observations on the finding or proposal, or both,
- and
- (b) may, having considered any observations made by the multi-disciplinary practice or managing legal practitioner under *paragraph (a)(iii)*, issue a direction to the multi-disciplinary practice or managing legal practitioner, directing it, or him or her, as the case may be, to take such measures, within such period as may be specified in the direction, as the Authority considers necessary to ensure compliance by the multi-disciplinary practice or managing legal practitioner, as the case may be, with the provision concerned.
- (5) A multi-disciplinary practice or managing legal practitioner may, within 21 days of the issuing to it of a direction under this section, appeal that direction to the High Court.
- (6) An appeal under *subsection (5)* shall be on notice to the Authority.
- (7) The High Court, on hearing an appeal under this section, may—
- (a) confirm the direction concerned, or
  - (b) where it considers that the direction is oppressive, unreasonable or unnecessary, revoke or vary the direction.

Not commenced  
at publication  
(Feb 2020).  
Go to [eLSB](#) to  
confirm current  
status.

#### **Application to High Court for order suspending or ceasing provision of legal services by multi-disciplinary practice**

- 115.** (1) Where a multi-disciplinary practice or, as the case may be, a managing legal practitioner, fails to comply with a notice under *section 114*, the Authority may apply to the High Court for an order—
- (a) requiring the multi-disciplinary practice or managing legal practitioner to comply with the direction,
  - (b) suspending the provision by the multi-disciplinary practice concerned of legal

services, or

- (c) directing the multi-disciplinary practice to cease providing legal services.
- (2) An application under *subsection (1)* shall be on notice to the multi-disciplinary practice and managing legal practitioner concerned.
- (3) The High Court, on hearing an application for an order referred to in *subsection (1) (b)*, may make an order that the multi-disciplinary practice be suspended from providing legal services for a specified period and subject to such terms and conditions as the Court considers appropriate.
- (4) The High Court, on hearing an application for an order referred to in *subsection (1) (c)*, may make an order—
  - (a) that the multi-disciplinary practice be suspended from providing legal services for a specified period and subject to such terms and conditions as the Court considers appropriate, or
  - (b) that the multi-disciplinary practice cease providing legal services.
- (5) The jurisdiction vested in the High Court under this section shall be exercised by the President of the High Court or, if and whenever the President of the High Court so directs, by an ordinary judge of the High Court for the time being assigned in that behalf by the President of the High Court.
- (6) The Authority or the legal practitioner concerned may appeal to the Court of Appeal against an order of the High Court made under this section within a period of 21 days beginning on the date of the order and, unless the High Court or the Court of Appeal otherwise orders, the order of the High Court shall have effect pending the determination of such appeal.
- (7) Where an order is made by the High Court under *subsection (3)* or *(4)*, the Authority shall as soon as practicable thereafter cause a notice stating the effect of the operative part of the order to be published in *Iris Oifigiúil* and shall also cause the notice to be published in such other manner as the Authority may consider appropriate.

### **Regulations on operation of legal partnerships and multi-disciplinary practices**

- 116.** (1) Subject to this section, the Authority may make regulations in relation to the operation and management of—
- (a) legal partnerships, and
  - (b) multi-disciplinary practices.
- (2) The Authority shall—
- (a) upon the commencement of *section 100* or as soon as practicable thereafter, make regulations under *subsection (1)(a)*, and
  - (b) upon the commencement of *section 102* or as soon as practicable thereafter, make regulations under *subsection (1)(b)*.
- (3) Without prejudice to the generality of *subsection (1)*, regulations under that

subsection may provide for—

- (a) the standards to be observed in the provision by the practice of legal services to clients, including standards relating to:
    - (i) the professional and ethical conduct of persons providing legal services to clients;
    - (ii) the obligation of such persons to keep the affairs of clients confidential;
    - (iii) the provision of information to a client in relation to the duties owed by the practice to him or her,
  - (b) the rights, duties and responsibilities of a practice in respect of moneys received from clients,
  - (c) the management and control of the practice so as to ensure that:
    - (i) the standards referred to in *paragraph (a)* are at all times observed;
    - (ii) it has in place appropriate systems of control, including systems for risk management and financial control;
    - (iii) where, in the provision by it of services, a conflict of interest or potential conflict of interest arises, this is dealt with adequately and in accordance with any relevant code of conduct or professional codes;
    - (iv) its obligations under this Act and regulations made under it are complied with,
  - (d) the maintenance by the practice of records,
  - (e) the regulation of the names that may be used by a practice,
  - (f) the regulation of the advertising by the practice of its services.
- (4) Without prejudice to the generality of *subsection (1)*, regulations under *subsection (1) (b)* may—
- (a) specify procedures that are to be included in the written procedures referred to in *section 110(1)*, and
  - (b) provide for:
    - (i) the type or types of bank accounts that may be opened and kept by a multi-disciplinary practice, and the opening and keeping of such accounts;
    - (ii) the accounting records to be maintained (or caused to be maintained) by a legal practitioner, who is a partner in or an employee of a multi-disciplinary practice arising from the provision by him or her of legal services, including the minimum period or periods for which accounting records shall be retained by a legal practitioner during the period of, and following the conclusion of, the provision of legal services;
    - (iii) the keeping by a legal practitioner referred to in *subparagraph (ii)* of accounting records containing particulars of and information as to moneys

received, held, controlled or paid by him or her arising from the provision by him or her of legal services, for or on account of a client or any other person or himself or herself.

- (5) In making regulations under this Part, the Authority shall have regard to the objectives specified in *section 13(4)* and to the following:
- (a) the need to ensure that the provision by a practice of legal services to its clients is of a standard that it is reasonable to expect of a legal practitioner in the provision of those services;
  - (b) the need to ensure that a practice is operated or managed in such a way as to ensure that a legal practitioner who is a partner in or an employee of that practice has, in the provision by him or her of legal services, adequate regard to—
    - (i) the codes of practice and professional codes that are applicable to him or her, and
    - (ii) the professional principles specified in *section 13(5)*;
  - (c) the need to ensure that the interests of clients of practices are protected and that the duties owed to them by practices are complied with and, in particular, that the activities of a practice do not expose the interests of a client to risk or pose a risk to monies received by it from a client;
  - (d) the need, in the case of a multi-disciplinary practice, to ensure that the provision by it of services other than legal services does not have the effect of lowering the standard referred to in *paragraph (a)* or the regard by legal practitioners referred to in *paragraph (b)* to the matters specified in that paragraph;
  - (e) the need to ensure that public confidence in practices is maintained.
- (6) In *subsections (3) and (5)*, “practice” means a legal partnership or a multi-disciplinary practice.

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#### Authority to maintain register of legal partnerships and multi-disciplinary practices

**117.** (1) The Authority shall maintain a register of—

- (a) legal partnerships that have notified it in accordance with *section 104(1)(a)*, and
  - (b) multi-disciplinary practices that have notified it in accordance with *section 106(1)(a)*.
- (2) Where a legal partnership or a multi-disciplinary practice referred to in *subsection (1)* notifies the Authority in accordance with *section 104(2)(a)* or *106(2)(a)*, as the case may be, the Authority shall remove the name of that legal partnership or multi-disciplinary practice from the register referred to in that subsection.
- (3) The Authority shall make the register referred to in *subsection (1)* available in an appropriate format to members of the public for inspection free of charge.

**Public consultation on operation etc., of legal partnerships****118.** (1) The Authority—

- (a) immediately following its establishment, shall, and
  - (b) periodically thereafter, may,  
engage in a public consultation process in relation to the regulation, monitoring and operation of legal partnerships.
- (2) The Authority shall conduct its initial consultation referred to in *subsection (1)(a)* and report to the Minister within a period of 6 months following its establishment.
- (3) Following any consultation conducted under *subsection (1)*, and having regard to any submissions duly received, the Authority shall prepare a report to the Minister setting out any recommendations in relation to the matters specified in *subsection (1)*.
- (4) The Minister shall cause copies of any such report to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.

**Report on operation etc., of multi-disciplinary practices****119.** (1) The Authority shall, no later than 6 months following the establishment day, make a report (“initial report”) to the Minister on the establishment, regulation, monitoring, operation and impact of multi-disciplinary practices in the State.

- (2) The initial report shall include information on—
- (a) the operation of similar practices in other jurisdictions, including the—
    - (i) length of time in which such practices have been operating,
    - (ii) legislative and regulatory measures relating to such practice that are in place in the jurisdictions concerned, and the effect of those measures, and
    - (iii) impact of the operation of the practices on the matters referred to in *paragraph (d)*,
  - (b) the likely consequences, including the changes to the operation of existing models of legal practice in the State, of the operation in the State of multi-disciplinary practices,
  - (c) the likely impact of the operation of multi-disciplinary practices in the State on—
    - (i) legal costs,
    - (ii) the provision of legal services to consumers, and
    - (iii) the access of persons to legal practitioners,and
  - (d) the likely effect of the operation of multi-disciplinary practices in the State on the achievement of the objectives specified in *section 13(4)*.
- (3) The Authority shall engage in a public consultation process in relation to the matters

specified in *subsection (1)* and, not later than 6 months after the making to the Minister of the initial report, make a report (“final report”) to the Minister on those matters.

- (4) The final report shall—
  - (a) have regard to the information contained in the initial report, and to any submissions received in the course of the public consultation under *subsection (3)*, and
  - (b) set out the recommendations of the Authority in relation to the establishment, regulation, monitoring and operation of multi-disciplinary practices in the State.
- (5) The Minister shall cause copies of the initial report and the final report to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.

#### **Public consultation on certain issues relating to barristers**

**120.** (1) The Authority shall engage in a public consultation process on—

- (a) the extent, if any, to which the restriction on legal practitioners, other than solicitors, holding the moneys of clients, as provided under *section 45*, should be retained,
  - (b) the retention or removal of restrictions on a barrister receiving instructions in a contentious matter, directly from a person who is not a solicitor, and the reforms, whether administrative, legislative, or to existing professional codes, that are required to be made in the event that the restrictions are retained or, as the case may be, removed, and
  - (c) the circumstances and manner in which a barrister may hold clients’ moneys and the mechanisms to be applied for the protection of clients’ moneys which may be so held.
- (2) The public consultation process referred to in *subsection (1)* shall be carried out in the following manner:
- (a) the Authority shall invite members of the public to make submissions, within a specified time limit, on the matters referred to in *subsection (1)*, where such invitation is made by means of a notice to that effect published in a newspaper circulating within the State and on the internet;
  - (b) the Authority may, where it considers it appropriate to do so, consult with such bodies, including professional bodies and persons, in relation to the matters referred to in *subsection (1)*;
  - (c) the Authority shall, immediately following the expiry of the time limit referred to in *paragraph (a)*, and having regard to the submissions duly received under that paragraph and any consultation held under *paragraph (b)*, prepare a report to the Minister setting out its recommendations in relation to the matters specified in *subsection (1)*;
  - (d) the report referred to in *paragraph (c)* shall be completed and submitted to the

Minister within 12 months of the establishment day.

- (3) (a) At any time before the completion of the report referred to in *subsection (2)(c)*, the Authority shall, on the request of the Minister, and may, on its own initiative, prepare an interim report for the Minister.
- (b) An interim report referred to in *paragraph (a)* may refer to the general progress of the public consultation process and shall refer—
  - (i) where the Minister has requested the interim report, to such matters as the Minister has requested in the report, or
  - (ii) where the interim report is prepared on the initiative of the Authority, to such matters as the Authority considers appropriate,and the interim report may contain recommendations in respect of such matters.
- (4) The Minister shall cause copies of the report referred to in *subsection (2)(c)* or, as the case may be, *subsection (3)*, to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.

#### Review of operation of this Part

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**121.** (1) The Authority shall—

- (a) not later than 4 years after the commencement of *section 100*, and every 5 years thereafter, commence a review of the operation of this Part, insofar as it relates to legal partnerships, and
  - (b) not later than 1 year after the commencement of the review referred to in *paragraph (a)*, make a report to the Minister on its findings and conclusions resulting from that review.
- (2) The Authority shall—
- (a) not later than 2 years after the commencement of *section 102*, and every 5 years thereafter, commence a review of the operation of this Part, insofar as it relates to multi-disciplinary practices, and
  - (b) not later than 1 year after the commencement of the review referred to in *paragraph (a)*, make a report to the Minister on its findings and conclusions resulting from that review.
- (3) A report under *subsection (1)(b)* or *(2)(b)* may include such recommendations (including recommendations for the amendment of any provision of this Part that is the subject of the review) as the Authority considers necessary.
  - (4) The Minister shall cause copies of any report under *subsection (1)(b)* or *(2)(b)* to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.

## CHAPTER 3

*Limited Liability Partnerships***Limited liability partnership and professional codes**

**122.** A professional body shall not, through its professional code or otherwise, prevent or restrict a legal practitioner who is a member of that body from working with, or otherwise doing business with, a legal practitioner providing legal services as a partner in, or as an employee of, a limited liability partnership.

**Liability of partner in a limited liability partnership**

- 123.** (1) A partner in a limited liability partnership shall not, by reason only of his or her being a partner or being held out as being a partner in that partnership, be personally liable directly or indirectly, by way of contribution or otherwise, for any debts, obligations or liabilities arising in contract, tort or otherwise of—
- (a) the limited liability partnership,
  - (b) himself or herself,
  - (c) any other partner in that limited liability partnership, or
  - (d) any employee, agent or representative of that limited liability partnership.
- (2) *Subsection (1)* shall not apply to a partner in a limited liability partnership to the extent that—
- (a) the debt, obligation or liability referred to in that subsection is incurred as a result of an act or omission of the partner involving fraud or dishonesty, and
  - (b) that act or omission—
    - (i) was the subject of a finding of misconduct under *Part 6*, or
    - (ii) constituted an offence of which the partner was convicted.
- (3) *Subsection (1)* does not affect the liability of a partner in a limited liability partnership in respect of a debt, obligation or liability incurred by that partner for a purpose not connected with the carrying on of the business of the limited liability partnership.
- (4) *Subsection (1)* shall not apply to a partner in a limited liability partnership to the extent that the debt or obligation referred to in that subsection relates to any tax (within the meaning of section 960A of the Taxes Consolidation Act 1997).
- (5) *Subsection (1)* does not affect the personal liability of a partner in a limited liability partnership for any debt, obligation or liability referred to in that subsection where the debt, obligation or liability was incurred by reason of an act or omission of the partner which occurred prior to the date of authorisation to operate as a limited liability partnership notified under *section 125(6)*.
- (6) The Partnership Act 1890 shall apply to limited liability partnerships to the extent that it is not inconsistent with this Chapter.

**Property of partnership**

- 124.** (1) *Section 123* shall not operate to prevent or restrict the enforcement against the property of a limited liability partnership of any debt, obligation or liability.
- (2) The transfer of any partnership property out of the joint ownership of some or all of the partners in a limited liability partnership for the benefit of any one or more of those partners shall constitute a conveyance for the purposes of section 74 of the Land and Conveyancing Law Reform Act 2009 and section 7 of the Bankruptcy Act 1988.

**Application for limited liability partnership**

- 125.** (1) A relevant business shall not operate as a limited liability partnership unless authorised by the Authority to so operate under this section.
- (2) An application for authorisation to operate a relevant business as a limited liability partnership shall be made to the Authority.
- (3) An application under *subsection (2)* shall be in such form and be accompanied by—
- (a) such information, and
  - (b) such fee (if any),
- as may be prescribed in regulations made under *section 130*.
- (4) Subject to *subsection (5)*, where the Authority receives an application in accordance with *subsection (3)* and the Authority is satisfied that the relevant business has professional indemnity insurance in place which complies with regulations made under *section 47* in relation to limited liability partnerships and under section 26 of the Act of 1994 (if applicable), the Authority shall authorise a relevant business to operate as a limited liability partnership.
- (5) An authorisation under *subsection (4)* is subject to the condition that the limited liability partnership has professional indemnity insurance in place which complies with regulations made under *section 47* in relation to limited liability partnerships and under section 26 of the Act of 1994 (if applicable) at all times in respect of that partnership.
- (6) An authorisation given by the Authority under *subsection (4)* shall be in writing and shall have effect from such date as is specified in the notice.
- (7) A limited liability partnership shall, as soon as practicable after receipt of the authorisation under *subsection (4)*, notify its clients and creditors of the fact that it is operating as a limited liability partnership and setting out the information prescribed in regulations made under *section 130(2)(c)*.
- (8) A limited liability partnership shall—
- (a) conduct the business of the partnership using a name that ends with either the expression “limited liability partnership” or the abbreviation “LLP”,
  - (b) use the name referred to in *paragraph (a)* on all contracts, invoices, negotiable instruments, orders for goods and services, advertisements, invitations to treat,

websites or any other publication published in any format by or on behalf of the limited liability partnership, and

- (c) comply with any obligations imposed on limited liability partnerships by or under this Act.
- (9) The Authority shall make a decision under *subsection (4)* not later than 60 days after receipt of an application which complies with *subsection (3)*.

#### **Authority to maintain register of limited liability partnerships**

**126.** (1) The Authority shall establish and maintain a register (in this section referred to as the “register”) of limited liability partnerships.

- (2) The Authority shall enter the following details in the register in relation to a limited liability partnership:
  - (a) the name and address of each of the partners in that partnership;
  - (b) the full name of the partnership and address at which the partnership ordinarily carries on business;
  - (c) the date on which the authorisation is to take effect under *section 125(6)*;
  - (d) details of any order under *section 128* suspending an authorisation issued under *section 125*, the period for which the suspension is to operate and any conditions imposed by the High Court under that section;
  - (e) details of any order under *section 128* which revokes an authorisation issued under *section 125*.
- (3) If a particular entered in the register is incorrect, the limited liability partnership to which the particular relates shall, as soon as may be after becoming aware of its being incorrect, inform the Authority thereof accordingly.
- (4) The Authority shall, upon becoming aware that any particular entered in the register is incorrect or has ceased to be correct, make such alterations to that register as it considers necessary.
- (5) The Authority shall record in the register the date from which an authorisation stands revoked under *subsection (2)* or *subsection (3)* of *section 129*.
- (6) The Authority shall make the register available for inspection free of charge to members of the public in such form and manner as it thinks appropriate.

#### **Power of Authority to issue direction for failure to comply with statutory requirements**

**127.** (1) Where the Authority reasonably believes that a limited liability partnership is contravening or has contravened *subsection (8)* of *section 125* it may, in accordance with this section, give a direction in writing to that partnership to do or refrain from doing such acts as are specified in the direction.

- (2) Where the Authority proposes to issue a direction under *subsection (1)*, it shall send the limited liability partnership a notice in writing—

- (a) setting out the nature of the contravention that the Authority reasonably believes to be occurring or to have occurred and the reason it so believes,
  - (b) setting out the measures that it proposes to direct the limited liability partnership concerned to take in order to bring such contravention to an end, and
  - (c) inviting the limited liability partnership to make observations within such period as is specified in the notice in relation to the belief of the authority referred to in *paragraph (a)* or the measures proposed under *paragraph (b)* or both.
- (3) The Authority may, having considered any observations made by the limited liability partnership under *subsection (2)* within the time specified in the notice, give a direction in writing to the partnership, directing it to take such measures within such period as may be specified in the direction, as the Authority considers necessary to ensure compliance by that partnership with any requirements under *section 125(8)*.
  - (4) A limited liability partnership may, not later than 21 days after the giving of a direction under this section by the Authority, appeal that direction to the High Court.
  - (5) An appeal under *subsection (4)* shall be on notice to the Authority.
  - (6) The High Court, on hearing an appeal under this section, may—
    - (a) confirm the direction concerned, or
    - (b) where it considers that the direction is oppressive, unreasonable or unnecessary, revoke or vary the direction.

**Application to High Court for order in respect of failure to comply with direction under section 127**

- 128.** (1) Where a limited liability partnership fails to comply with a direction under *section 127*, the Authority may apply to the High Court for an order—
- (a) requiring the partnership to comply with the direction,
  - (b) suspending the authorisation issued under *section 125*, or
  - (c) revoking the authorisation issued to that partnership under *section 125*.
- (2) An application under *subsection (1)* shall be on notice to the limited liability partnership concerned.
  - (3) The High Court, on hearing an application for an order under *subsection (1)* may make an order—
    - (a) directing the limited liability partnership to comply with the direction under *section 127*, or
    - (b) setting aside the direction.
  - (4) The High Court, on hearing an application for an order referred to in *subsection (1)(b)*, may make an order suspending the authorisation issued under *section 125* to the limited liability partnership concerned for such period as is specified in the order and subject to such conditions (if any) as the Court may specify.

- (5) The High Court, on hearing an application for an order referred to in *subsection (1) (c)*, may make an order—
  - (a) suspending the authorisation issued under *section 125* to the limited liability partnership concerned for such period as is specified in the order and subject to such conditions (if any) as the Court may specify, or
  - (b) revoking the authorisation issued under *section 125* to the limited liability partnership concerned.
- (6) The jurisdiction vested in the High Court under this section shall be exercised by the President of the High Court or, if and whenever the President of the High Court so directs, by an ordinary judge of the High Court for the time being assigned in that behalf.
- (7) The Authority or the limited liability partnership concerned may appeal to the Court of Appeal against an order of the High Court made under this section not later than 21 days from the date of the making of the order and, unless the High Court or the Court of Appeal otherwise directs, the order of the High Court shall have effect pending the determination of such appeal.
- (8) Where an order is made by the High Court under *subsection (3) or (4)*, the Authority shall as soon as practicable thereafter cause—
  - (a) a notice to be published in *Iris Oifigiúil* stating the effect of the order, and
  - (b) such notice to be published in such other manner as the Authority may consider appropriate.

#### **Ceasing to operate as a limited liability partnership**

- 129.** (1) Where a limited liability partnership intends to cease operating as a limited liability partnership it shall notify the Authority in writing of its intention and the date on which it intends to cease to so operate.
- (2) An authorisation issued to a limited liability partnership under *section 125* shall stand revoked from such date as is specified in a notification given to the Authority in accordance with *subsection (1)*.
  - (3) An authorisation issued to a limited liability partnership under *section 125* shall stand revoked from such date as the limited liability partnership ceases to have professional indemnity insurance in place as required by that section.
  - (4) A notification under *subsection (1)* shall be in such form and accompanied by such fee (if any) as may be prescribed by regulations made under *section 130*.

#### **Regulations on operation of limited liability partnerships**

- 130.** (1) The Authority shall make regulations in relation to the operation and management of limited liability partnerships.
- (2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for—

- (a) the form of application for authorisation under *section 125*,
- (b) the information to accompany any application for authorisation under *section 125*, including the name and address of each of the partners in the relevant business making the application and the full name of the partnership and the address at which the partnership ordinarily carries on business,
- (c) the information (including the standard of such information) to be provided by a limited liability partnership to its clients and creditors as to the nature and effect of limited liability partnerships,
- (d) the information to be provided by a limited liability partnership to the Authority for the purposes of enabling the Authority to ensure compliance by that partnership with any requirements imposed on such partnerships by or under this Act, and
- (e) the fee to accompany an application under *section 125* or a notification under *section 129*.

### **Disapplication of section 3 of Registration of Business Names Act 1963**

**131.** Section 3 of the Registration of Business Names Act 1963 shall not apply to a limited liability partnership.

### **Amendment of section 27 of Companies Act 2014**

**132.** Section 27 of the Companies Act 2014 is amended by the insertion of the following subsection after subsection (3):

“(3A) Subsection (1) as it relates to the use of the word ‘limited’, or any abbreviation of that word, shall not apply to a limited liability partnership (within the meaning of the *Legal Services Regulation Act 2015*).”.

## PART 9

### OBLIGATIONS OF PRACTISING BARRISTERS

#### **Roll of practising barristers**

**133.** (1) The Authority shall—

- (a) set up and maintain a roll of practising barristers (in this Part referred to as the “roll”), and
  - (b) within six months of the commencement date, enter on the roll the name of, and additional information in respect of, every person who is, on the commencement date, a practising barrister.
- (2) The Authority shall make a copy of the roll available at its principal office during normal working hours to members of the public for inspection free of charge.

- (3) If the roll is kept in an electronic or other non-written form, the Authority may comply with its obligation under *subsection (2)* by making it publicly available on its website.
- (4) An entry on the roll shall, in respect of each practising barrister—
  - (a) contain such information as is required by this Part,
  - (b) contain such additional information as may be prescribed under *subsection (5)*,
  - (c) specify whether he or she is a member of the Law Library, and
  - (d) specify whether he or she is in the full time service of the State.
- (5) The Authority may, having regard to the objectives specified in *section 13(4)*, prescribe additional information in relation to the professional qualifications and areas of expertise of the practising barrister concerned that is to be contained in an entry on the roll.
- (6) In this Part—

“additional information”, in relation to a practising barrister, means the additional information relating to him or her that is prescribed under *subsection (5)*;

“commencement date” means the date on which this section comes into operation.

#### **Entry of name on roll**

- 134.** (1) A person who has been called to the Bar of Ireland and who intends to provide legal services as a barrister shall apply to the Authority to have his or her name, and additional information relating to him or her, entered on the roll and the Authority, on being satisfied that the person is a qualified barrister, shall enter the name of that person and the additional information concerned on the roll.
- (2) An application under *subsection (1)* shall be in such form as may be prescribed.

#### **Variation of entry on roll**

- 135.** (1) The Authority shall remove the name of a person from the roll—
- (a) where the High Court makes an order under *section 85(7)(e)* that the person’s name be struck off the roll,
  - (b) where *section 96(3)* applies in respect of that person,
  - (c) on application to it under *subsection (3)* by the person concerned,
  - (d) on the death of that person, where the Authority has received a certified copy, referred to in *subsection (4)*, of the entry in the register of deaths concerning that person.
- (2) Where the High Court makes an order under *section 85(7)(d)* that a practising barrister be suspended from practice as a legal practitioner, the Authority shall, for the period specified in the order, maintain a record on the roll of—
- (a) the fact of such suspension, and

- (b) any terms and conditions specified in the order to which the suspension is subject.
- (3) A person whose name has been entered on the roll, who no longer wishes to provide legal services as a practising barrister, may apply to the Authority to have his or her name removed from the roll.
- (4) Where a registrar of deaths within the meaning of the Civil Registration Act 2004 registers in the register of deaths (within the meaning of Part 5 of that Act) the death of a person whose name is on the roll, the registrar shall as soon as practicable send by post to the Authority a certified copy of the entry in the register of deaths, and may charge the cost of the certificate and of the sending thereof to the Authority as an expense of his or her office of registrar of deaths.
- (5) Where the Authority removes the name of a person from the roll under this section, it shall also remove from the roll any information in respect of him or her specified in *section 133(4)* that is contained in the entry concerned.

#### **Prohibition on unqualified person providing legal services as practising barrister**

- 136.** (1) Subject to *subsection (5)*, an unqualified person shall not provide legal services as a practising barrister.
- (2) A person who contravenes *subsection (1)* shall, without prejudice to any other liability or disability to which he may be subject, be guilty of an offence and shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or, at the discretion of the court, to a fine not exceeding €30,000 or to both such fine and such imprisonment, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or, at the discretion of the Court, to a Class A fine or to both such fine and such imprisonment.
- (3) A person who contravenes *subsection (1)* in relation to a court of justice shall also be guilty of contempt of that court and shall be punishable accordingly.
- (4) In this section, “unqualified person” means a person who—
- (a) is not a qualified barrister,
  - (b) notwithstanding that he or she is a qualified barrister, is not a person whose name is entered on the roll of practising barristers, or
  - (c) is not a practising solicitor.
- (5) *Subsection (1)* shall not, during the period referred to in that paragraph, apply to a practising barrister to whom *paragraph (b)* of *section 133(1)* applies.

#### **Prohibition on pretending to be qualified barrister**

- 137.** (1) A person who is not a qualified barrister shall not pretend to be a qualified barrister or take or use any name, title, addition or description or make any representation or

demand implying that he is a qualified barrister.

- (2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a Class A fine.

## PART 10

### LEGAL COSTS

#### CHAPTER 1

#### *Interpretation*

#### **Interpretation (Part 10)**

**138.** In this Part—

“application” means an application for adjudication of legal costs under *section 154*;

“bill of costs” means a document setting out the amount of legal costs chargeable to a client in respect of legal services provided to him or her, prepared by a legal practitioner in accordance with *section 152* or, where applicable, *section 154(1)*;

“Chief Legal Costs Adjudicator” means the Chief Legal Costs Adjudicator appointed under *section 139(2)*;

“commercially sensitive information” means—

- (a) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or
- (b) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;

“contentious business” means legal services provided by a legal practitioner for the purposes of, or in contemplation of, proceedings before a court, tribunal or other body, the Personal Injuries Assessment Board or an arbitrator appointed under the Arbitration Act 2010 or in connection with an arbitration, mediation or conciliation;

“disbursement” means a fee or cost (whether or not fixed by or under a statute or rules of court) payable to a third party that is necessarily and reasonably incurred by a legal practitioner for the purposes of the provision by that legal practitioner of legal services to a client, and includes fees or costs payable by the legal practitioner to a barrister or an expert witness, but does not include general costs incurred in the course of the legal practitioner’s practice as a legal practitioner;

“enactment” means—

- (a) an Act of the Oireachtas,

- (b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or
- (c) an instrument made under—
  - (i) an Act of the Oireachtas, or
  - (ii) a statute referred to in *paragraph (b)*;

“legal costs” means fees, charges, disbursements and other costs incurred or charged in relation to contentious or non-contentious business, and includes—

- (a) the costs of or arising out of any cause or matter in any court,
- (b) any costs which are the subject of an order made by an arbitral tribunal in accordance with section 21(4) of the Arbitration Act 2010 for the adjudication of the costs of the arbitration by a Legal Costs Adjudicator,
- (c) the costs of a receiver appointed in any cause or matter, on the application of the receiver or of any party to the cause or matter,
- (d) costs that arise from an inquiry, investigation or other proceeding conducted under an enactment, and
- (e) the cost of registering judgments as mortgages, of obtaining grants of probate and of letters of administration, of satisfying judgments, and any other costs usually adjudicated *ex parte*;

“Legal Costs Adjudicator” means a person appointed under *section 139(2)* to be a Legal Costs Adjudicator;

“non-contentious business” means legal services that do not relate to contentious business;

“Office” means the Office of the Legal Costs Adjudicators referred to in *section 139*;

“register of determinations” means the register of determinations referred to in *section 140*.

## CHAPTER 2

### *Office of the Legal Costs Adjudicator*

#### **Office**

**139.** (1) The Office heretofore known as the Taxing-Masters’ Office shall be known as the Office of the Legal Costs Adjudicators.

Section 139(2) and 139(2) (b) amended by Section 8, Courts Act 2016 so that reference to the Minister is replaced by reference to the Government.

- (2) ~~The Minister may~~, in accordance with the provisions of the Courts (Supplemental Provisions) Act 1961, appoint—
  - (a) the Chief Legal Costs Adjudicator, and
  - (b) such number of Legal Costs Adjudicators ~~that the Minister, with the consent of the Minister for Public Expenditure and Reform, determines~~ to be the number

necessary to ensure that the work of the Office may be carried out effectively and efficiently.

- (3) A function, power or jurisdiction conferred by or under any enactment on a Taxing-Master shall be deemed to be conferred on the Chief Legal Costs Adjudicator and every Legal Costs Adjudicator.
- (4) The role and functions of the Chief Legal Costs Adjudicator and every Legal Costs Adjudicator appointed under this Act are limited to the jurisdiction heretofore proper to the Taxing-Masters' Office and shall not extend to the lower courts or to the jurisdiction of County Registrars.

### **Register of determinations**

- 140.** (1) The Chief Legal Costs Adjudicator shall ensure that a register of determinations is established and maintained in relation to applications for adjudication of legal costs under this Part.
- (2) Subject to this section, the register of determinations shall contain the following particulars in relation to each application:
    - (a) the date of the receipt by the Office of the application;
    - (b) the names of the parties to the adjudication;
    - (c) the date of receipt by the Office of the bill of costs and each other document in connection with the application, including, if the application arises from contentious business, the title of the proceedings and record number of the proceedings (if any);
    - (d) the date on which the adjudication is assigned and, where the adjudication is assigned to a Legal Costs Adjudicator, the Legal Costs Adjudicator to whom the adjudication is assigned;
    - (e) the outcome of determination made under *section 157(1)* and the dates on which it was made and on which the notice of it was furnished to the parties;
    - (f) where a party applies under *section 160* for a determination to be considered, the date on which the Legal Costs Adjudicator concerned makes his or her decision under *section 160(5)*, the date on which notice of that decision is furnished to the parties and, where a new determination is made under *section 160(5)(b)*, the outcome of that determination;
    - (g) where a party applies under *section 161* for a review of a determination made under *section 160*, the date on which the High Court determines that review, the outcome of the review and, where the High Court remits the matter under *section 161(4)(b)(i)*, the determination of the Legal Costs Adjudicator to whom the matter is remitted;
    - (h) the reasons for the determination, prepared by the Chief Legal Costs Adjudicator in accordance with *subsection (3)*.
  - (3) Subject to *subsections (4) to (7)*, the Chief Legal Costs Adjudicator shall prepare, and

cause to be placed on the register of determinations, the reasons for a determination unless—

- (a) the adjudication relates to an application for adjudication of legal costs as between the parties to proceedings which—
    - (i) were held otherwise than in public, or
    - (ii) if there had been a hearing, would have been held otherwise than in public,
  - (b) the adjudication relates to an application for adjudication of legal costs as between a legal practitioner and his or her client,
  - (c) the adjudication relates to an application for adjudication of legal costs as between the parties to proceedings where the proceedings have been settled prior to the conclusion of the hearing by a court of the proceedings, or
  - (d) the Chief Legal Costs Adjudicator considers, having obtained the views of the parties to the adjudication, that it would be contrary to public interest for that information to be published.
- (4) For the purposes of *subsection (3)*, the Chief Legal Costs Adjudicator need not publish the reasons for a determination where he or she is of the opinion that the adjudication concerned does not involve a matter of legal importance.
- (5) Where *paragraph (a), (b) or (c) of subsection (3)* applies, notwithstanding that subsection and *subsection (2)*, the Chief Legal Costs Adjudicator shall cause to be published the outcome of and the reasons for the determination, as well as the information referred to in *paragraphs (b) and (c) of subsection (2)*, in such a manner that—
- (a) where *subsection (3)(a)(i)* applies, information which is protected from disclosure by reason of those proceedings is not disclosed,
  - (b) where *subsection (3)(a)(ii)* applies, information is not disclosed which would have been protected from disclosure if the matter had been disposed of by proceedings which would have been held otherwise than in public, and
  - (c) where *subsection (3)(b)* applies, the client concerned may not be identified, whether by name, address, or economic activity.
- (6) Where the adjudication concerned relates to legal costs as between parties to proceedings, or a legal practitioner and his or her client, the Chief Legal Costs Adjudicator shall ensure that the information referred to in *subsection (2)* is published in such a manner that commercially sensitive information relating to either party, or to the client, as the case may be, is not disclosed.
- (7) A reference to a determination in *subsection (2)(h)* shall be construed, as the case may be, as a reference to—
- (a) subject to *paragraphs (b) and (c)*, a determination made under *section 158(1)*,
  - (b) subject to *paragraph (c)*, where a party applies under *section 160* for a determination to be considered, and a new determination is made under *section*

160(5)(b), that determination, or

- (c) where a party applies under *section 161* for a review of a determination made under *section 160*, and the High Court remits the matter under *section 161(4)(b)(i)*, the determination under that provision of the Legal Costs Adjudicator to whom the matter is remitted.
- (8) The register of determinations shall be available for inspection without payment, during office hours by any person who applies to inspect it, and on a website of the Courts Service.

### County registrars

- 141.** (1) A County Registrar, on a taxation of costs, shall have regard to the principles relating to legal costs specified in *Schedule 1*.
- (2) Each County Registrar shall ensure that a register of taxation determinations is established and maintained by him or her in relation to applications to him or her for taxation of costs.
  - (3) A register referred to in *subsection (2)* shall contain the following particulars in relation to each application for taxation of costs:
    - (a) the date of the receipt by the county registrar concerned of the application for taxation;
    - (b) the names of the parties to the application;
    - (c) the date on which the determination was made;
    - (d) an outline of the disputed issues;
    - (e) the outcome, in monetary terms, of the taxation;
    - (f) the reasons for the outcome, as determined by the County Registrar.
  - (4) The register referred to in *subsection (2)* shall be available for inspection during office hours without payment by any person who applies to inspect it.
  - (5) Each County Registrar shall report annually to the Chief Legal Costs Adjudicator providing a summary of the information contained in the register of taxation determinations maintained by him or her.

New subsection (6) inserted by section 3(a), Courts Act 2019. See [page 407](#).

### Guidelines on performance of functions of Chief Legal Costs Adjudicator under this Part

Section 142 modified by Schedule 1 to Climate Action and Environment (Transfer of Departmental Administration and Ministerial Functions) Order 2016 so that the reference to the Minister for the Environment, Community and Local Government should be taken to be a reference to the Minister for Communications, Energy and Natural Resources.

- 142.** (1) After consulting with the Minister, the Minister for the Environment, Community and Local Government and any person or body that the Chief Legal Costs Adjudicator considers to be an appropriate person or body to be consulted for the purposes of this section, the Chief Legal Costs Adjudicator may from time to time prepare, for the guidance of Legal Costs Adjudicators, legal practitioners and the public, guidelines not inconsistent with this Act (including any regulations made under this Act) or Rules of Court indicating the manner in which the functions of the Chief Legal Costs Adjudicator and the Legal Costs Adjudicators are to be performed.

- (2) The Chief Legal Costs Adjudicator shall ensure that guidelines prepared by him or her under this section are published as soon as practicable after the guidelines have been prepared.
- (3) Without prejudice to the generality of *subsection (1)*, guidelines under this section may—
  - (a) describe the procedures for the adjudication of legal costs under this Part,
  - (b) set out the documents and other information that are required by or under this Part to accompany an application for the adjudication of legal costs,
  - (c) describe the notices and other information that will be provided by the Legal Costs Adjudicator in relation to any such applications,
  - (d) identify the provisions of this Part and the Rules of Court relevant to an application, including those relating to the time limits within which the documentation and information referred to in *paragraph (b)* are to be provided,
  - (e) describe the procedures that are to be followed in the Office of the Legal Costs Adjudicators in relation to the adjudication of legal costs,
  - (f) provide guidance as to the circumstances in which a Legal Costs Adjudicator may exercise his or her powers under *subsection (4) or (5) of section 156*,
  - (g) set out the fees that are to be charged in the Office of the Legal Costs Adjudicators in respect of the services provided by it, and the manner in which those fees may be paid,
  - (h) provide such other information as appears to the Chief Legal Costs Adjudicator to be appropriate, having regard to the purposes of the guidelines referred to in *subsection (1)*.

#### **Review of scales of fees**

- 143.** The Superior Courts Rules Committee shall, whenever it considers it appropriate to do so and, in any case, not less than once every 2 years, review the scales of fees for contentious and non-contentious business set out in Appendix W to the Rules of the Superior Courts.

#### **Strategic plan**

- 144.** (1) As soon as practicable and in any event not later than 6 months after the coming into operation of this section, the Chief Legal Costs Adjudicator shall prepare a strategic plan for the 3 year period following that coming into operation and submit the plan to the Chief Executive Officer of the Courts Service for his or her approval.
- (2) The Chief Legal Costs Adjudicator shall also prepare, not later than 6 months before each third anniversary of the coming into operation mentioned in *subsection (1)*, a strategic plan for the next ensuing 3 year period and submit the plan to the Chief Executive Officer of the Courts Service for his or her approval.
  - (3) A strategic plan shall—

- (a) set out the key objectives, outputs and related strategies for the performance of the functions of the Chief Legal Costs Adjudicator and the Legal Costs Adjudicators, and
  - (b) have regard to the need to ensure the most effective and efficient use of resources possible.
- (4) The Chief Executive Officer of the Courts Service shall as soon as practicable after approving a strategic plan under this section, forward that plan to the Minister, and the Minister shall, as soon as practicable after receiving that strategic plan, cause a copy of it to be laid before each House of the Oireachtas.

### **Business plan**

**145.** (1) Subject to this section, the Chief Legal Costs Adjudicator shall, in each year—

- (a) prepare a business plan in respect of that year or of such other period as may be determined by the Chief Executive Officer of the Courts Service, and
  - (b) submit the plan to that Chief Executive Officer for approval.
- (2) The Chief Legal Costs Adjudicator shall prepare a business plan in a form and manner in accordance with any directions issued by the Chief Executive Officer of the Courts Service (including any time limit by which the plan shall be submitted to him or her) and shall ensure that the plan—
- (a) indicates the activities of the Chief Legal Costs Adjudicator and the Legal Costs Adjudicators during the period to which the plan relates, and
  - (b) contains any other information specified by that Chief Executive Officer.
- (3) The Chief Legal Costs Adjudicator shall, in preparing a business plan, have regard to the strategic plan prepared under *section 144* and in operation at that time.
- (4) The Chief Legal Costs Adjudicator shall implement the business plan unless the Chief Executive Officer of the Courts Service, within 30 days of the submission of the business plan, directs the Chief Legal Costs Adjudicator in writing to amend the plan or not to give effect to it.

### **Chief Legal Costs Adjudicator to submit annual report**

- 146.** (1) The Chief Legal Costs Adjudicator shall, not later than 30 April in each year, prepare a report (in this section referred to as the “annual report”) of the activities of the Office in the immediately preceding financial year and submit it to the Chief Executive Officer of the Courts Service.
- (2) The Chief Executive Officer of the Courts Service may specify, by direction in writing to the Chief Legal Costs Adjudicator, the form of the annual report and any information that is required to be included in the annual report.
- (3) The Chief Legal Costs Adjudicator shall comply with a direction given to him or her under *subsection (2)*.

- (4) The Chief Legal Costs Adjudicator—
- (a) may make any other reports that he or she considers appropriate, to draw to the attention of the Chief Executive Officer of the Courts Service matters that have come to his or her notice and that should, because of their gravity, be the subject of another report, and
  - (b) shall make a report on any other matter if that Chief Executive Officer so requests.
- (5) The annual report shall be laid before each House of the Oireachtas together with the annual report of the Courts Service.
- (6) A Legal Costs Adjudicator shall provide such information on his or her activities as the Chief Legal Costs Adjudicator may, for the purpose of discharging his or her functions under *sections 144 and 145* and this section, require.

#### **Amendment of Court Officers Act 1926**

- 147.** Section 3(3) of the Court Officers Act 1926 is amended by substituting “Master of the High Court” for “Master of the High Court and the Taxing-Masters” in each place where it occurs.

#### **Amendment of Courts (Supplemental Provisions) Act 1961**

- 148.** (1) The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended—
- (a) in paragraph 2, by substituting “The Office of the Legal Costs Adjudicators” for “The Taxing-Masters’ Office”,
  - (b) in paragraph 3, by substituting “the Chief Legal Costs Adjudicator and the Legal Costs Adjudicators appointed in accordance with the other provisions of this Schedule” for “Two Taxing-Masters”,
  - (c) by substituting the following for paragraph 8:
    - “8. The Office of the Legal Costs Adjudicators shall be under the management of the Chief Legal Costs Adjudicator, and there shall be transacted in that Office the business of the Chief Legal Costs Adjudicator and the Legal Costs Adjudicators, other than such business as is required by law to be transacted by the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator in person.
    - 8A. Each Legal Costs Adjudicator shall, in respect of the discharge of his or her functions and exercise of his or her powers, be subject to the general direction of the Chief Legal Costs Adjudicator.
    - 8B. The hours of attendance and sitting times for oral hearings of the Chief Legal Costs Adjudicator and of each Legal Costs Adjudicator shall be regulated by the Chief Legal Costs Adjudicator.”,
  - (d) by substituting the following for paragraph 18:

- “18.(1) No person shall be appointed to be the Chief Legal Costs Adjudicator, or a Legal Costs Adjudicator, unless —
- (a) that person is included in a group of not more than 5 persons who have been selected by the Public Appointments Service, after a competition for that purpose under section 47 of the Public Service Management (Recruitment and Appointments) Act 2004 has been held on behalf of the Minister for Justice and Equality, in order to find persons who are suitable to be selected as the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator, as the case may be, and
  - (b) that person—
    - (i) has practised as a solicitor for a period of not less than 10 years,
    - (ii) has practised as a barrister for a period of not less than 10 years, or
    - (iii) has practised as a legal costs accountant, within the meaning of the *Legal Services Regulation Act 2015*, for a period of not less than 10 years.
- (2) In computing the periods referred to in subparagraph (1)(b)—
- (a) in the case of a solicitor, periods during which a person has practised as a barrister or a legal costs accountant may be aggregated with the person’s practice as a solicitor,
  - (b) in the case of a barrister, periods during which a person has practised as a solicitor or a legal costs accountant may be aggregated with the person’s practice as a barrister,
  - (c) in the case of a legal costs accountant, periods during which a person has practised as a solicitor or barrister may be aggregated with the person’s practice as a legal costs accountant.
- (3) In applying subparagraph (2) no period of time may, as respects any person, be counted more than once.
- (4) A person appointed to be the Chief Legal Costs Adjudicator or, as the case may be, a Legal Costs Adjudicator, shall be appointed by the Government on the nomination, from amongst a group of persons referred to in subparagraph (1), of the Minister.
- (5) Notwithstanding any other enactment, the Chief Legal Costs Adjudicator appointed pursuant to this paragraph—
- (a) shall, subject to clauses (b) and (c), hold office for a period not exceeding 7 years,
  - (b) shall be required to retire on attaining the age of 70 years, and
  - (c) shall, on the expiry of the period referred to in clause (a), be

taken to have been appointed under this paragraph as a Legal Costs Adjudicator for the period beginning on that expiry and ending on his or her attainment of the age of 70 years.

- (6) Notwithstanding any other enactment, a Legal Costs Adjudicator appointed pursuant to this paragraph—
- (a) shall, subject to clauses (b) and (c), hold office for a period not exceeding 5 years,
  - (b) shall be required to retire on attaining the age of 70 years, and
  - (c) shall, subject to clause (b), be eligible for re-appointment or to have the term of appointment extended, but shall not hold office for periods the aggregate of which exceeds 10 years.
- (7) A person appointed pursuant to this paragraph may resign from office by notice in writing addressed to the Government and the resignation takes effect on the date the Government receives the notice or, if a date is specified in the notice and the Government agree to that date, on that date.
- (8) A person appointed pursuant to this paragraph immediately ceases to be the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator, as the case may be, on—
- (a) being nominated as a member of Seanad Éireann,
  - (b) being elected as a member of either House of the Oireachtas or of the European Parliament,
  - (c) being regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to be a member of the European Parliament,
  - (d) becoming a member of a local authority,
  - (e) being appointed to be a judge, or
  - (f) being appointed Attorney General.
- (9) A person shall be disqualified from being the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator during any period during which—
- (a) he or she is entitled under the Standing Orders of either House of the Oireachtas to sit in that House,
  - (b) he or she is a member of the European Parliament, or
  - (c) he or she is entitled under the standing orders of a local authority to sit as a member of the local authority.
- (10) A period during which a solicitor or barrister is the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator shall be

reckonable as a period of professional practice for the purposes of an application for appointment as a judge.

- (11) The Government may at any time remove the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator from office if—
- (a) in the opinion of the Government, he or she has become incapable through ill-health of performing the functions of the office,
  - (b) he or she has committed stated misbehaviour,
  - (c) he or she has failed without reasonable cause, in the opinion of the Government, to perform the functions of the office for a continuous period of at least 3 months beginning not earlier than 6 months before the day of removal, or
  - (d) he or she has contravened to a material extent a provision of the Ethics in Public Office Acts 1995 and 2001 that, by virtue of a regulation under section 3 of the Ethics in Public Office Act 1995, applies to him or her.
- (12) The Chief Legal Costs Adjudicator or a Legal Costs Adjudicator ceases to hold office if he or she—
- (a) is convicted on indictment of an offence,
  - (b) is convicted of an offence involving fraud or dishonesty,
  - (c) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,
  - (d) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provisions of that Act,
  - (e) is sentenced to a term of imprisonment by a court of competent jurisdiction, or
  - (f) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession in the State or in another jurisdiction.
- (13) The Government may appoint a person who would be eligible under this Part to be the Chief Legal Costs Adjudicator or, as the case may be, a Legal Costs Adjudicator, to temporarily fill a vacancy until an appointment is made under this paragraph, where the vacancy occurs because the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator—

- (a) dies, resigns, becomes disqualified for or is removed from office, or
  - (b) is for any reason temporarily unable to continue to perform his or her functions as Chief Legal Costs Adjudicator or, as the case may be, a Legal Costs Adjudicator.”,
- and
- (e) in paragraph 19, by substituting “The Chief Legal Costs Adjudicator and each of the Legal Costs Adjudicators” for “Each of the Taxing-Masters”.
- (2) *Subsection (1)(d)* applies only as respects the appointment of the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator made after the coming into operation of this section.

## CHAPTER 3

*Legal practitioners’ duties in relation to legal costs***Prohibitions on charging costs in certain circumstances**

- 149.** (1) A legal practitioner shall not charge any amount in respect of legal costs if—
- (a) they are legal costs in connection with contentious business expressed as a specified percentage or proportion of any damages (or other moneys) that may be or become payable to his or her client, other than in relation to a matter seeking only to recover a debt or liquidated demand, or
  - (b) they purport to set the legal costs to be charged to a junior counsel as a specified percentage or proportion of the legal costs paid to a Senior Counsel.
- (2) A legal practitioner shall not, without the prior written agreement of his or her client, deduct or appropriate any amount in respect of legal costs from the amount of any damages or moneys that become payable to the client in respect of legal services that the legal practitioner provided to the client.

**Legal practitioner to provide notice of conduct of matter, costs, etc.**

- 150.** (1) A legal practitioner shall, whenever required to do so under this section, provide to his or her client a notice (in this section referred to as a “notice”) written in clear language that is likely to be easily understood by the client and that otherwise complies with this section.
- (2) On receiving instructions from a client, a legal practitioner shall provide the client with a notice which shall—
- (a) disclose the legal costs that will be incurred in relation to the matter concerned, or
  - (b) if it is not reasonably practicable for the notice to disclose the legal costs at that time, set out the basis on which the legal costs are to be calculated.

- (3) Where *subsection (2)(b)* applies, the legal practitioner concerned shall, as soon as may be after it becomes practicable to do so, provide to the client a notice containing the information specified in *subsection (2)(a)*.
- (4) A notice shall:
- (a) subject to *subsection (2)(b)*, specify the amount of legal costs—
    - (i) certified by the legal practitioner as having been incurred as at the date on which the notice is provided,
    - (ii) certified by the legal practitioner to be of a fixed nature or otherwise certain to be incurred (or if it would be impracticable for the legal practitioner to so certify, the basis on which they are to be charged), and
    - (iii) insofar as is practicable, certified by the legal practitioner to be likely to be incurred;
  - (b) specify the amount of value-added tax to be charged in respect of the amounts referred to in *paragraph (a)*;
  - (c) set out the basis on which the amounts were or are to be calculated, explained by reference to the matters set out in *paragraph 2 of Schedule 1*;
  - (d) contain a statement of the legal practitioner's obligation under *subsection (5)*;
  - (e) if the matter which is the subject of the notice involves or is likely to involve litigation, provide—
    - (i) an outline of the work to be done in respect of each stage of the litigation process and the costs or likely costs or basis of costs involved in respect of each such stage, including the likelihood of engaging a practising barrister, expert witnesses, or providers of other services,
    - (ii) a statement of the legal practitioner's obligation under *subsection (6)*,
    - (iii) information as to the likely legal and financial consequences of the client's withdrawal from the litigation and its discontinuance, and
    - (iv) information as to the circumstances in which the client would be likely to be required to pay the costs of one or more other parties to the litigation, and information as to the circumstances in which it would be likely that the costs of the legal practitioner would not be fully recovered from other parties to the litigation;
  - (f) specify a period, which shall be not longer than 10 working days, for the purposes of *subsection (7)*.
- (5) Where the legal practitioner becomes aware of any factor that would make the legal costs likely to be incurred in a matter significantly greater than those disclosed or indicated in a notice relating to that matter provided under this section, he or she shall, as soon as may be after he or she becomes aware of that factor, provide the client concerned with a new notice.
- (6) Where a matter which is the subject of a notice under this section involves or is likely

to involve litigation, the legal practitioner shall not, in relation to that matter, engage a practising barrister, expert witness or provider of any other service without first, to the extent practicable—

- (a) ascertaining the likely cost or basis of cost of engaging the person,
  - (b) providing the client with the information referred to in *paragraph (a)*, and
  - (c) having complied with *paragraph (b)*, satisfying himself or herself of the client's approval (whether express or implied) of the engaging of the person.
- (7) A legal practitioner shall not, during the period referred to in *subsection (4)(f)* that is specified in a notice, provide any legal services in relation to the matter concerned, unless—
- (a) the client concerned confirms that he or she wishes to instruct the legal practitioner to continue to provide legal services in connection with the matter concerned, or
  - (b) *subsection (8)* applies.
- (8) A legal practitioner to whom *subsection (7)* applies shall, notwithstanding that *subsection*, provide legal services in relation to the matter concerned where—
- (a) in the professional opinion of the legal practitioner, not to provide those legal services would constitute a contravention of a statutory requirement or the rules of court or would prejudice the rights of the client in a manner that could not later be remedied,
  - (b) a court orders the legal practitioner to provide legal services to the client, or
  - (c) where the matter involves litigation, a notice of trial has been served in relation to the matter or a date has been fixed for the hearing of the matter concerned.
- (9) The legal practitioner shall provide his or her client with clarification in relation to a notice, as soon as is reasonably practicable after having been requested to do so by the client.
- (10) Where a practising solicitor, having received instructions from a client in relation to a matter, proceeds to instruct a practising barrister in relation to that matter—
- (a) an obligation on the barrister under this section to provide a notice shall be fulfilled where the barrister provides the notice concerned to the solicitor,
  - (b) a duty owed by the barrister under *subsection (6), (7) or (9)* to his or her client shall be construed as a duty owed by the barrister to the solicitor, and
  - (c) the solicitor concerned shall—
    - (i) where he or she considers it appropriate, or where requested to do so by the client, request the barrister to provide clarification in relation to a notice provided by the barrister, and
    - (ii) immediately on receipt of a notice referred to in *paragraph (a)* or the clarification referred to in *subparagraph (i)*, provide that notice or

clarification to the client.

**Agreement regarding legal costs, etc.**

- 151.** (1) A legal practitioner and his or her client may make an agreement in writing concerning the amount, and the manner of payment, of all or part of the legal costs that are or may be payable by the client to the legal practitioner for legal services provided in relation to a matter.
- (2) An agreement under *subsection (1)* may include all the particulars required by *section 150(4)* and if it does—
- (a) the legal practitioner need not also provide a notice referred to in *subsection (2)* of that section, and
- (b) references to the notice under that section shall be taken to include references to the agreement.
- (3) An agreement under *subsection (1)* shall constitute the entire agreement between the legal practitioner and the client as respects the provision of legal services in relation to the matter concerned, and no other amount shall be chargeable in relation to those legal services, except to the extent otherwise indicated in the agreement.
- (4) An agreement under *subsection (1)* shall, in an adjudication under this Part, be amenable to adjudication by the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator.

**Legal practitioner to provide bill of costs**

- 152.** (1) A legal practitioner shall, as soon as is practicable after concluding the provision of legal services in relation to a legal matter for a client, prepare and sign a bill of costs, which shall contain the particulars specified in this section and shall be in such form (if any) as may be specified in rules of court.
- (2) Subject to *subsections (5) to (7)*, a bill of costs shall contain the following particulars:
- (a) a summary of legal services provided to the client in connection with the matter concerned;
- (b) an itemised statement of the amounts in respect of the legal costs in connection with the legal services;
- (c) the registration number of the legal practitioner for the purposes of value-added tax, and the amount of value-added tax chargeable in respect of the amounts referred to in *paragraph (b)*;
- (d) where time is a factor in the calculation of the legal costs concerned, the time spent in dealing with the matter;
- (e) the amount, where known to the legal practitioner, of any damages or other moneys that are recovered by, or payable to, the client and that arose from the matter in respect of which the legal services were provided;

- (f) the amount of any legal costs recovered by or payable to the legal practitioner concerned on behalf of the client, including costs recovered from another party, or an insurer on behalf of another party, to the matter concerned.
- (3) The legal practitioner shall provide to the client, along with the bill of costs, an explanation in writing of the procedure available to the client should the client wish to dispute any aspect of the bill of costs, which shall contain the following information:
- (a) that the client may discuss the matter with the legal practitioner;
  - (b) that the client is obliged under *section 153(1)* to communicate to the legal practitioner the existence of a dispute on any aspect of the bill of costs, and the date and means by which this is to be communicated;
  - (c) that, where a dispute is communicated under *section 153(1)*, the legal practitioner is obliged under *section 153* to attempt to resolve the dispute by informal means, including mediation;
  - (d) that the client may have the dispute referred to mediation, including a reference to the procedures available for such mediation;
  - (e) that the client may apply for adjudication of legal costs, including the contact information for the Office and the potential cost to the client of seeking an adjudication of a bill of costs; and
  - (f) the date on which the legal practitioner may, subject to *section 153*, make an application under *section 154(5)* for an adjudication in the event that the bill of costs or any part thereof remains unpaid.
- (4) This section shall not be construed as limiting a right that any other person has to require a legal practitioner to submit a bill of costs for adjudication.
- (5) Where an agreement has been made under *section 151* by a legal practitioner and his or her client, that agreement shall be set out in, or annexed to, the bill of costs relating to the matter to which the agreement relates.
- (6) Where an agreement referred to in *subsection (5)* concerns all of the legal costs that are payable by the client to the legal practitioner for legal services provided in relation to the matter concerned, an invoice prepared by the legal practitioner containing a summary of the costs and outlays pursuant to the agreement, together with a copy of the agreement, shall constitute a bill of costs of the purposes of this section.
- (7) Where an agreement referred to in *subsection (5)* concerns a part of the legal costs that are payable by the client to the legal practitioner for legal services provided in relation to the matter concerned, a summary prepared by the legal practitioner of the costs and outlays pursuant to the agreement shall, as respects that part of the legal costs, satisfy the requirements of *paragraphs (a), (b) and (d) of subsection (2)*.
- (8) Where a practising solicitor, having received instructions from a client in relation to a matter, proceeds to instruct a practising barrister in relation to that matter, and the barrister has concluded providing legal services in relation to that matter—
- (a) an obligation on the barrister under this section to provide a bill of costs shall be

fulfilled where the barrister provides the bill of costs concerned to the solicitor,

- (b) the solicitor concerned shall immediately on receipt of a bill of costs referred to in *paragraph (a)*, provide that bill of costs to the client.

### **Legal practitioner to attempt to resolve dispute**

- 153.** (1) Where a client disputes any aspect of a bill of costs, he or she shall, within 21 days of the bill of costs being provided to him or her under *section 152*, send the legal practitioner concerned a statement in writing setting out the nature of the dispute.
- (2) Where a legal practitioner receives a statement in accordance with *subsection (1)*, he or she shall, before making an application under *section 154(5)*, take all appropriate and reasonable steps to attempt to resolve the dispute by informal means, which may include, where appropriate and with the consent of the client, mediation.
- (3) Where the legal practitioner or the client, as the case may be, having made reasonable attempts to resolve the dispute in accordance with *subsection (2)*, is of the opinion that the attempt has failed, he or she shall inform the other party in writing of that opinion.
- (4) In reckoning the period of time for the purposes of *subsection (5) or (7) of section 154*, the period beginning on the date on which the client sends the legal practitioner a statement under *subsection (1)* and ending on the date on which the legal practitioner or the client, as the case may be, informs the other party of his or her opinion referred to in *subsection (3)*, shall be disregarded.
- (5) Failure by a client to pay a bill of costs to a legal practitioner within the time period referred to in *section 154(5)* shall not be construed as a formal communication of the existence of a dispute by the client to the legal practitioner.

## CHAPTER 4

### *Adjudication of legal costs*

#### **Application for adjudication of legal costs**

- 154.** (1) In a case where a person is ordered by a court, tribunal or other body to pay, in whole or in part, the legal costs of another person, the person whose legal costs are to be paid by reason of that order shall furnish a bill of costs to the person who is the subject of the order to pay the legal costs, in a form and manner consistent with—
- (a) the terms of the order,
- (b) this Act, and
- (c) any rules of court relating to the preparation and furnishing of bills of costs in a case to which this subsection refers.
- (2) Where a person who is the subject of the order to pay costs receives a bill of costs prepared in accordance with *subsection (1)*, that person may, having attempted to agree the bill of costs with the person referred to in *subsection (1)*, apply to the Chief

Legal Costs Adjudicator for adjudication on any matter or item claimed in the bill of costs.

- (3) Where a person in whose favour the order to pay costs has been made issues a bill of costs prepared in accordance with *subsection (1)*, that person, having attempted to resolve any dispute regarding the bill of costs with the person who is the subject of the order, may apply to the Chief Legal Costs Adjudicator for the bill of costs or any matter or item in the bill of costs to be adjudicated upon.
- (4) Where a legal practitioner provides a bill of costs in accordance with *section 152* to his or her client and the client considers that any matter or item or the amount charged in respect of any matter or item in the bill of costs is not properly chargeable, taking account of the provisions of this Act, and any rules of court relating to costs payable to legal practitioners by clients, the client may apply to the Chief Legal Costs Adjudicator for the bill of costs or any matter or item in the bill of costs to be adjudicated upon.
- (5)
  - (a) Where a legal practitioner provides a bill of costs in accordance with *section 152* to his or her client and the bill of costs or any part thereof remains unpaid on the expiry of a period of 30 days from the date on which the bill of costs was provided, the legal practitioner may apply to the Chief Legal Costs Adjudicator for the bill of costs or any matter or item in the bill of costs to be adjudicated upon.
  - (b) Where a barrister has, in accordance with *section 152(8)*, provided a bill of costs to a solicitor, and the bill of costs or any part thereof remains unpaid on the expiry of a period of 30 days from the date on which the bill of costs was provided, the solicitor concerned may, with the consent of the barrister, apply to the Chief Legal Costs Adjudicator for the bill of costs or any matter or item in the bill of costs to be adjudicated upon.
  - (c) An application to the Chief Legal Costs Adjudicator pursuant to *paragraph (a)* or *(b)* may not be made after the expiry of 12 months after the date on which the bill of costs concerned was provided to the client under *section 152*.
- (6) Where the legal practitioner applies for adjudication pursuant to *subsection (5)*, the legal practitioner shall indicate whether or not he or she is aware of any dispute regarding an item in the bill of costs and if so aware the matter to which the dispute relates.
- (7) Subject to *subsection (8)*, an application to the Chief Legal Costs Adjudicator by a client pursuant to *subsection (4)* may not be made after the expiry of 6 months after the date on which the bill of costs concerned was provided to the client under *section 152*, or 3 months from the date of payment of the bill of costs, whichever first occurs, so long as the bill of costs is in a form and manner consistent with—
  - (a) this Act, and
  - (b) any rules of court relating to the preparation and provision of bills of costs by a legal practitioner to a client.
- (8) Where a bill of costs has been provided by a legal practitioner to his or her client and

the legal practitioner has agreed to accept a lesser amount in discharge of the bill of costs which lesser amount is paid, neither the legal practitioner nor the client may make an application to the Chief Legal Costs Adjudicator for adjudication of the bill of costs under this section.

- (9) A legal practitioner who has provided a bill of costs in accordance with *section 152* to his or her client may apply *ex parte* to the High Court or to a Legal Costs Adjudicator for the abridgement of the period of 30 days referred to in *subsection (5)* and, where it appears that it is just to do so, the Court or the Legal Costs Adjudicator, as appropriate, may grant an abridgement of that period.

Subsection (10) (c) amended by the substitution of “adjudication, and” with “adjudication” by section 3(b)(i), Courts Act 2019. See [page 407](#).

- (10) Rules of court may make provision for—

- (a) the giving of notice of the application for adjudication to other parties or to such other persons as the Chief Legal Costs Adjudicator shall direct, including the manner in which notice is to be given,
- (b) the furnishing of documents, records and vouchers to the Chief Legal Costs Adjudicator or to other parties to the adjudication,
- (c) the circumstances and manner in which written submissions are to be provided for the purposes of an ~~adjudication, and~~
- (d) the steps that may constitute an attempt, by a person referred to in *subsection (2)* or *(3)*, to agree a bill of costs, and the certification by a Legal Costs Adjudicator that the person has made such an ~~attempt~~.

Subsection (10) (d) amended by the substitution of “attempt.” with “attempt,” by section 3(b)(ii), Courts Act 2019. See [page 407](#).

New subsections (10)(e) and (f) inserted by section 3(b), Courts Act 2019. See [page 407](#).

- (11) An application under this section shall be in a form specified by rules of court or, as the case may be, under *section 163(1)*.

#### **Matters to be ascertained in course of adjudication of costs**

**155.** (1) *Schedule 1* on the principles relating to legal costs shall apply to the adjudication of a bill of costs by a Legal Costs Adjudicator.

- (2) Where the Chief Legal Costs Adjudicator is adjudicating an application under this Part, a reference to a Legal Costs Adjudicator shall be construed as including the Chief Legal Costs Adjudicator.
- (3) In determining an application for the adjudication of legal costs, the Legal Costs Adjudicator shall, to the extent which he or she considers it necessary to do so, consider and have regard to the entire case or matter to which the adjudication relates and the context in which the costs arise.
- (4) In particular, the Legal Costs Adjudicator shall, as respects a matter or item the subject of the application—
  - (a) verify that the matter or item represents work that was actually done,
  - (b) determine whether or not in the circumstances it was appropriate that a charge be made for the work concerned or the disbursement concerned,
  - (c) determine what a fair and reasonable charge for that work or disbursement would be in the circumstances, and

- (d) determine whether or not the costs relating to the matter or item concerned were reasonably incurred.
- (5) In applying *subsection (4)* the Legal Costs Adjudicator shall, so far as reasonably practicable, ascertain, in relation to work (including work to which a disbursement relates)—
  - (a) the nature, extent and value of the work,
  - (b) who carried out the work, and
  - (c) the time taken to carry out the work.
- (6) In the application of *subsection (3)* to an adjudication relating to a bill of costs as between a legal practitioner and his or her client, the Legal Costs Adjudicator shall have regard to an agreement (if any) between the legal practitioner and the client in relation to the matter concerned, made under *section 151*.

### **Powers of Legal Costs Adjudicator**

- 156.** (1) For the purposes of determining an application for adjudication of legal costs, a Legal Costs Adjudicator may—
- (a) inspect documents relating to or relevant to the matter concerned, and
  - (b) where there is an oral hearing, summon and examine witnesses and administer oaths, and apply to the High Court for the enforcement of a summons.
- (2) A Legal Costs Adjudicator may invite the parties to an adjudication to refer their dispute to mediation or another informal resolution process if he or she considers that to do so would be appropriate in all the circumstances, whether or not any of the parties have requested that the Legal Costs Adjudicator do so.
- (3) If the parties agree to refer their dispute to mediation or other process referred to in *subsection (2)*, the Legal Costs Adjudicator shall adjourn the determination of the application and may give any other direction that he or she considers will facilitate the resolution of the dispute.
- (4) An oral hearing held for the purposes of an adjudication shall be held in public unless, in the opinion of the Legal Costs Adjudicator, the hearing or part thereof ought, in the interests of justice, be held otherwise than in public.
- (5) The Legal Costs Adjudicator may, with the consent of the parties, conduct an adjudication without an oral hearing where he or she is of the opinion that it is expedient and in the interests of justice to do so.
- (6) The High Court, in an application referred to in *subsection (1)*, may make such order as to costs as it thinks fit in respect of the application.

### **Determination of applications**

- 157.** (1) A Legal Costs Adjudicator, having considered an application in accordance with *section 155*, shall, in accordance with this section, make a determination in respect of

that application.

- (2) A determination shall, as soon as practicable after it is made, be furnished to the parties to the adjudication.
- (3) Subject to the other provisions of this section, and the principles relating to legal costs specified in *Schedule 1*, a Legal Costs Adjudicator shall confirm the charge in respect of an item of legal costs the subject of the application if, having regard to the matters that he or she considered and ascertained under *section 155*, he or she considers that—
  - (a) charging in respect of the item is fair and reasonable in the circumstances, and
  - (b) the amount charged in the bill of costs in respect of that item is fair and reasonable in the circumstances.
- (4) A Legal Costs Adjudicator shall, if he or she determines that it is fair and reasonable to charge an amount in respect of an item but that the amount of the charge in respect of the item is not fair and reasonable, determine a different amount to be charged in respect of that item.
- (5) A Legal Costs Adjudicator shall not confirm an amount for a disbursement unless—
  - (a) there is a valid voucher or receipt in respect of the disbursement, or
  - (b) the parties have agreed, and the Legal Costs Adjudicator is satisfied, that such a voucher or receipt is not required.
- (6) A Legal Costs Adjudicator shall not confirm a charge in respect of a matter or item if the matter or item is not included in a notice referred to in *section 150* or, as the case may be, is not the subject of an agreement referred to in *section 151*, unless the Legal Costs Adjudicator is of the opinion that to disallow the matter or item would create an injustice between the parties.
- (7) If a Legal Costs Adjudicator is of the opinion that a party to the application has neglected or refused to provide documents, and that the refusal or neglect would likely be prejudicial to the interests of one or more of the other parties, the Legal Costs Adjudicator shall, in order to minimise the prejudice to those interests—
  - (a) determine the application to the extent possible in the circumstances, and
  - (b) determine that only a nominal amount is to be payable to the party who has neglected or refused to provide the required documentation.
- (8) The Legal Costs Adjudicator, having made a determination, shall prepare a report under *subsection (9)*—
  - (a) where he or she considers it to be in the public interest, or
  - (b) upon request by any party to the adjudication, made not later than 14 days after the making of the determination.
- (9) A report referred to in *subsection (8)* shall set out the matters or items the subject of the adjudication and a brief outline of the background to the provision of the legal services concerned and the principal issues relating to the context of the provision of

those services and—

- (a) specify the work involved relating to the matters or items the subject of the adjudication which was considered in reaching the determination,
  - (b) specify the various stages of the legal services and the stage of the legal process at which such work was carried out by reference to distinct aspects of the course of the work,
  - (c) set out a summary of the written or oral submissions made by or on behalf of the parties to the adjudication, and
  - (d) give reasons for his or her determination.
- (10) A copy of any report under *subsection (8)* shall be furnished to any requesting party to the adjudication as soon as practicable after it has been prepared.

### **Effect of determination**

- 158.** (1) Subject to *section 160*, the determination of a Legal Costs Adjudicator is final and shall take effect 20 days after it is furnished under *section 157(2)* to the parties to the adjudication.
- (2) Where an adjudication concerns only legal costs as between a legal practitioner and his or her client, and the Legal Costs Adjudicator has determined that the aggregate of the amounts to be paid is less than 15 per cent lower than the aggregate of those amounts set out in the bill of costs, the party chargeable to those costs shall pay the costs of the adjudication.
  - (3) Where a Legal Costs Adjudicator has determined that the aggregate of the amounts to be paid in respect of the legal costs referred to in *subsection (2)* is 15 per cent or more than 15 per cent lower than the aggregate of those amounts set out in the bill of costs, the legal practitioner who issued the bill of costs shall be responsible for the costs of the adjudication.
  - (4) Where *subsection (3)* applies, the Legal Costs Adjudicator may determine that the costs of the adjudication be set-off against the aggregate amount determined.

### **Reference to High Court**

- 159.** (1) A Legal Costs Adjudicator may, whether or not at the request of a party to an application for adjudication of legal costs, refer a question of law arising in the application to the High Court for the opinion of that Court.
- (2) Where, in the determination of an application, a question as to the enforceability of an agreement entered into under *section 151* arises, a Legal Costs Adjudicator shall refer the agreement to the High Court and the High Court shall decide if, and to what extent, the agreement is enforceable and—
    - (a) if it considers that the agreement is enforceable, it shall make the order that it considers appropriate to enforce the agreement, or
    - (b) if it considers that the agreement is not enforceable, it shall direct that the

adjudication of the legal costs proceed as if no agreement had been entered into.

- (3) If a question has been referred to the High Court under this section, a Legal Costs Adjudicator may not—
- (a) make a determination to which the question is relevant while the reference is pending, or
  - (b) proceed in a manner, or make a determination, that is inconsistent with the opinion of the High Court on the question.

### Consideration by Legal Costs Adjudicator of determination

**160.** (1) Where a party to an adjudication is dissatisfied with a decision of a Legal Costs Adjudicator under *section 157* to confirm a charge, not to confirm a charge or to determine a different amount to be charged in respect of a matter or item the subject of the adjudication, he or she may, within 14 days of the date on which the determination is furnished to him or her under *section 157(2)*, apply to the Legal Costs Adjudicator for the consideration of the decision and the making of a determination under this section.

(2) An application under *subsection (1)* shall be—

- (a) in such form as may be specified in rules of court or, where applicable, under ~~*section 166*~~, and shall specify by a list in a short and concise form the matters or items, or parts thereof, to which the decision of the Legal Costs Adjudicator being objected to relates and the grounds and reasons for such objections, and
- (b) made on notice to the other party to the adjudication.

(3) The Legal Costs Adjudicator shall, if he or she considers it appropriate to do so, and upon the application of the party entitled to the costs, issue an interim determination pending consideration of an application under *subsection (1)*, in respect of—

- (a) the remainder of the matters or items in the determination to which no objection has been made, and
- (b) such of the matters or items that are subject of the application as the Legal Costs Adjudicator considers reasonable.

(4) For the purposes of an application under *subsection (1)*, the Legal Costs Adjudicator shall reconsider and review his determination having regard to the matters or items specified under *subsection (2)(a)*, and *sections 155 to 158* shall apply in relation to such a consideration.

(5) The Legal Costs Adjudicator, having considered an application under this section may decide—

- (a) not to vary his or her determination, or
- (b) to make a new determination,

and the determination referred to in *paragraph (a)* or *(b)* shall, subject to *section 161*, take effect immediately.

Subsection (2)  
(a) amended by  
the substitution  
of "section 166"  
with "section 163"  
by section 3(c),  
Courts Act 2019.  
See [page 408](#).

- (6) The functions of a Legal Costs Adjudicator in relation to an application under this section shall, insofar as practicable, be performed by the Legal Costs Adjudicator who made the determination to which the application relates.

### **Review of determination of Legal Costs Adjudicator**

- 161.** (1) A party to an adjudication who has made an application under *section 160* may, not later than 21 days after the date on which the Legal Costs Adjudicator has made his or her determination under *section 160(5)*, apply to the High Court for a review of the determination concerned.
- (2) A review under this section shall be made by motion on notice to all other parties to the adjudication and the Chief Legal Costs Adjudicator.
- (3) The court shall hear and determine the review on the evidence that was tendered to the Legal Costs Adjudicator unless the court orders that other evidence be submitted.
- (4) The court shall, having heard the review under *subsection (1)*—
- (a) confirm the determination of the Legal Costs Adjudicator, or
  - (b) allow the review and—
    - (i) remit the matter to the Legal Costs Adjudicator to determine the adjudication in accordance with the decision of the court, or
    - (ii) substitute its own determination for that of the Legal Costs Adjudicator.
- (5) The High Court shall allow a review under *subsection (4)(b)* only where it is satisfied that the Legal Costs Adjudicator has, in his or her determination, erred as to the amount of the allowance or disallowance so that the determination is unjust.
- (6) In this section “court” means—
- (a) if the adjudication the subject of the review is in relation to party and party costs, the court that heard the proceedings to which those costs relate, and
  - (b) in any other case, the High Court.

## CHAPTER 5

### *Miscellaneous*

#### **Privilege in respect of adjudications**

- 162.** Proceedings and documents created or furnished to the parties to a legal costs adjudication are absolutely privileged except—
- (a) to the extent required for an appeal from the determination of a Legal Costs Adjudicator, and
  - (b) in relation to a mediation or other procedure for the resolution of disputes as to the legal costs concerned.

**Power to specify forms**

- 163.** (1) Unless a form of document is specified in rules of court, the Chief Legal Costs Adjudicator may specify the form of documents required for the purposes of this Part as he or she considers appropriate.
- (2) The Chief Legal Costs Adjudicator's power under *subsection (1)* may be exercised in such a way as to—
- (a) include in the specified form of any document referred to in that subsection a statutory declaration—
    - (i) that is to be made by the person completing the form, and
    - (ii) that states that the particulars contained in the form are true and correct to the best of that person's knowledge and belief,and
  - (b) specify 2 or more forms of any document referred to in that subsection, whether as alternatives, or to provide for particular circumstances or particular cases, as the Chief Legal Costs Adjudicator considers appropriate.
- (3) A form specified under this section, or specified in rules of court, shall be—
- (a) completed in accordance with such directions and instructions as are specified in the form,
  - (b) accompanied by such documents as are specified in the form, and
  - (c) if the completed form is required to be provided to—
    - (i) the Chief Legal Costs Adjudicator,
    - (ii) another person on behalf of the Chief Legal Costs Adjudicator, or
    - (iii) any other person,so provided in the manner, if any, specified in the form.

**Transitional — Taxing-Masters**

- 164.** The Minister may designate a person who, immediately before the date on which this section commences, was serving as a Taxing-Master of the High Court, to perform the functions of the Chief Legal Costs Adjudicator or of a Legal Costs Adjudicator under this Part for a period that ends when his or her term as Taxing-Master would but for this Part otherwise expire and, if the Minister does so, that person may perform the functions of the Chief Legal Costs Adjudicator or of a Legal Costs Adjudicator under this Part, and shall be treated as though he or she were the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator appointed under *section 139(2)*, during that period.

**Transitional — matters in course and legal proceedings**

- 165.** (1) Where, before the day on which this subsection comes into operation, a matter has been referred for taxation and a hearing has taken place on the matter, whether before

a Taxing-Master or a County Registrar exercising the powers of a Taxing-Master, the matter shall be dealt with in accordance with the applicable law as it stood before that day notwithstanding the provisions of this Part.

- (2) Where, before the day on which this subsection comes into operation, a decision has been made on a matter referred to taxation, any review of the decision shall be determined in accordance with the applicable law as it stood before that day, notwithstanding the provisions of this Part.
- (3) Where, before the day on which this subsection comes into operation, a matter has been referred for taxation but a hearing has not yet taken place on the matter, the matter shall be dealt with as though the referral were an application for adjudication of legal costs under *section 154* made on the day on which the matter was referred for taxation.
- (4) Where, immediately before the day on which this subsection comes into operation, any legal proceedings are pending to which a Taxing-Master, or a County Registrar exercising the powers of a Taxing-Master, is a party and the proceedings have reference to any functions that on or after that day are functions of the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator, the name of the Chief Legal Costs Adjudicator or Legal Costs Adjudicator, as the case may be, shall, in so far as the proceedings relate to those functions, be substituted in those proceedings for that of the Taxing-Master, or County Registrar, or added in those proceedings, and those proceedings shall not abate by reason of such substitution.

#### **Information, documents, records, etc.**

- 166.** (1) Any information or document provided, before the day on which this section commences, to a Taxing-Master, or a County Registrar exercising the powers of a Taxing-Master, under a statute or rule of court relating to the taxation of legal costs, shall, on and after that day, be treated as information or a document provided to the Chief Legal Costs Adjudicator under this Part.
- (2) A book, index, document or other record (including such a record in electronic or other non-legible form that is capable of being converted into permanent legible form) that was held, before the day on which this section commences, by a Taxing-Master, or a County Registrar exercising the powers of a Taxing-Master, under a statute or rule of court relating to the taxation of legal costs, shall, on and after that day, be treated as such a record held by or on behalf of the Chief Legal Costs Adjudicator.

#### **References**

- 167.** On and after the day on which this section comes into operation—
- (a) a reference in any other enactment to taxation of costs shall be construed as a reference to adjudication of costs,
  - (b) a reference to the Taxing-Masters' Office contained in any other enactment or any other document shall be construed as a reference to the Office of the Legal Costs Adjudicators, and

- (c) a reference to a Taxing-Master contained in any other enactment or any other document shall be construed as a reference to the Chief Legal Costs Adjudicator and every Legal Costs Adjudicator.

## PART 11

### LEGAL COSTS IN CIVIL PROCEEDINGS

#### Power to award legal costs

- 168.** (1) Subject to the provisions of this Part, a court may, on application by a party to civil proceedings, at any stage in, and from time to time during, those proceedings—
- (a) order that a party to the proceedings pay the costs of or incidental to the proceedings of one or more other parties to the proceedings, or
  - (b) where proceedings before the court concern the estate of a deceased individual, or the property of a trust, order that the costs of or incidental to the proceedings of one or more parties to the proceedings be paid out of the property of the estate or trust.
- (2) Without prejudice to *subsection (1)*, the order may include an order that a party shall pay—
- (a) a portion of another party's costs,
  - (b) costs from or until a specified date, including a date before the proceedings were commenced,
  - (c) costs relating to one or more particular steps in the proceedings,
  - (d) where a party is partially successful in the proceedings, costs relating to the successful element or elements of the proceedings, and
  - (e) interest on costs from or until a specified date, including a date before the judgment.
- (3) Nothing in this Part shall be construed as—
- (a) restricting any right of action for the tort of maintenance, or
  - (b) restricting any right of a trustee, mortgagee or other person, existing on the day on which this section commences, to be paid costs out of a particular estate or fund to which he or she would be entitled under any rule of law or equity.

#### Costs to follow event

- 169.** (1) A party who is entirely successful in civil proceedings is entitled to an award of costs against a party who is not successful in those proceedings, unless the court orders otherwise, having regard to the particular nature and circumstances of the case, and the conduct of the proceedings by the parties, including—
- (a) conduct before and during the proceedings,

- (b) whether it was reasonable for a party to raise, pursue or contest one or more issues in the proceedings,
  - (c) the manner in which the parties conducted all or any part of their cases,
  - (d) whether a successful party exaggerated his or her claim,
  - (e) whether a party made a payment into court and the date of that payment,
  - (f) whether a party made an offer to settle the matter the subject of the proceedings, and if so, the date, terms and circumstances of that offer, and
  - (g) where the parties were invited by the court to settle the claim (whether by mediation or otherwise) and the court considers that one or more than one of the parties was or were unreasonable in refusing to engage in the settlement discussions or in mediation.
- (2) Where the court orders that a party who is entirely successful in civil proceedings is not entitled to an award of costs against a party who is not successful in those proceedings, it shall give reasons for that order.
- (3) Where a party succeeds against one or more than one of the parties to civil proceedings but not against all of them, the court may order, to the extent that the court considers that it is proper to do so in all the circumstances, that—
- (a) the successful party pay any or all of the costs of the party against whom he or she has not succeeded, or
  - (b) the party or more than one of the parties against whom the successful party has succeeded pay not only the costs of the successful party but also any or all of the costs that the successful party is liable to pay under *paragraph (a)*.
- (4) Unless the court before which civil proceedings were commenced orders otherwise, or the parties to those proceedings agree otherwise, a party who discontinues or abandons the proceedings after they are commenced (including discontinuance or abandonment of an appeal) is liable to pay the reasonable costs of every other party who has incurred costs in the defence of the civil proceedings concerned until the discontinuance or abandonment.
- (5) Nothing in this Part shall be construed as affecting section 50B of the Planning and Development Act 2000 or Part 2 of the Environment (Miscellaneous Provisions) Act 2011.

## PART 12

### PATENTS OF PRECEDENCE

#### **Definitions (*Part 12*)**

**170.** In this Part—

“Committee” means the Advisory Committee on the grant of Patents of Precedence

established under *section 172*;

“Patent”, subject to *section 171(2)*, means—

- (a) in relation to a barrister, a Patent of Precedence, the grant of which to the barrister entitles him or her to be called to the Inner Bar and to use the title of “Senior Counsel”, and
- (b) in relation to a solicitor, a Patent of Precedence, the grant of which to a solicitor entitles him or her to use the title of “Senior Counsel”;

“tax clearance certificate” means a certificate issued under section 1095 of the Taxes Consolidation Act 1997.

### **Power to grant, and to revoke grant of, Patent**

**171.** (1) The Government may—

- (a) on the recommendation of the Committee under *section 174*, grant a Patent to a legal practitioner, and
  - (b) on the recommendation of the Committee under *section 175*, revoke the grant of a Patent to a legal practitioner.
- (2) For the purposes of *subsection (1)(b)*, *section 175* and *section 176*, “Patent” includes a Patent granted in the State before the commencement of this section.

### **Advisory Committee on the grant of Patents of Precedence**

**172.** (1) The Authority shall establish an Advisory Committee on the grant of Patents of Precedence to perform the functions assigned to it under this Part.

(2) The Committee shall consist of:

- (a) the Chief Justice, who shall be the chairperson of the Committee;
- (b) the President of the High Court;
- (c) the Attorney General;
- (d) the Chairperson of the Bar Council;
- (e) the President of the Law Society; and
- (f) a lay member of the Authority nominated by the Minister.

(3) A person appointed under *paragraph (f)* of *subsection (2)*—

- (a) shall be a member of the Committee for a period not exceeding 3 years from the date of his or her appointment as such a member, and
- (b) shall be eligible for re-appointment to the Committee provided, and for so long as, he or she remains a member of the Authority.

(4) A member of the Committee, who is unable to attend a meeting of the Committee, may nominate a deputy to attend in his or her place.

New subsection  
(2)(aa) inserted  
by section 3(d)(i),  
Courts Act 2019.  
See [page 408](#).

- (5) The Committee may act notwithstanding a vacancy in its membership.
- (6) On the death or retirement of the Chief Justice, the senior ordinary judge of the Supreme Court who is for the time being available shall be a member of the Committee until the appointment of a Chief Justice.
- (7) On the death or retirement of the President of the High Court, the senior ordinary judge of the High Court who is for the time being available shall be a member of the Committee until the appointment of a President of the High Court.
- (8) Where a member of the Committee—
- (a) makes an application under *section 174(1)*, or
  - (b) is the subject of an application under *section 175(2)*,
- he or she shall take no part in any consideration by the Committee of that application.
- (9) All proceedings of the Committee and all communications by and to the Committee, including consultations by the Committee under *section 174(3)*, shall be confidential and shall not be disclosed except for the purposes of this Act.

New subsection  
(6A) inserted by  
section 3(d)(ii),  
Courts Act 2019.  
See [page 408](#).

### Criteria for grant of Patent

- 173.** (1) The Committee shall establish the criteria, based on the objectives specified in *subsection (2)*, to be met by a legal practitioner in order for a recommendation to be made by it to the Government that a Patent be granted to him or her.
- (2) The objectives referred to in *subsection (1)* are those of ensuring, in relation to a legal practitioner seeking to have a Patent granted to him or her, that he or she:
- (a) has, in his or her practice as a legal practitioner, displayed—
    - (i) a degree of competence and a degree of probity appropriate to and consistent with the grant to him or her of a Patent,
    - (ii) professional independence, and
    - (iii) one or more of the following:
      - (I) a proven capacity for excellence in the practice of advocacy;
      - (II) a proven capacity for excellence in the practice of specialist litigation; or
      - (III) specialist knowledge of an area of law;
  - (b) is suitable on grounds of character and temperament;
  - (c) is in possession of a tax clearance certificate that is in force;
  - (d) is otherwise suitable to be granted a Patent.

### Application for recommendation

- 174.** (1) A legal practitioner who wishes to be granted a Patent under *section 171* may apply to the Committee for—

- (a) its consideration, in accordance with this section, of whether he or she meets the criteria established under *section 173*, and
  - (b) subject to *paragraph (a)*, its recommendation to the Government that he or she be granted a Patent.
- (2) An application under *subsection (1)* shall be accompanied by such information and such fee as may be prescribed.
- (3) Where the Committee receives an application under *subsection (1)*, it shall consider whether the applicant meets the criteria established under *section 173* and, for that purpose, may consult in confidence with such persons as it considers appropriate.
- (4) Following its consideration under *subsection (3)*, the Committee shall—
- (a) where it decides that an applicant meets the criteria established under *section 173*, recommend to the Government that the applicant be granted a Patent, and
  - (b) where it decides that the applicant does not meet those criteria, notify the applicant in writing of its decision and of the reasons for it.
- (5) The Minister may prescribe—
- (a) the form of application under this section,
  - (b) the information and fee (if any) that is to accompany an application for the grant of a Patent, and
  - (c) any other matters that the Minister considers necessary for purposes of this section.

### **Revocation of grant of Patent**

- 175.** (1) The Government may, on a recommendation from the Committee made in accordance with this section, revoke the grant of a Patent.
- (2) Where the High Court makes an order referred to in *section 85(7)(g)* in relation to a legal practitioner, the Authority shall apply to the Committee for—
- (a) its consideration, in accordance with this section, of whether the grant of a Patent to that legal practitioner should be revoked, and
  - (b) subject to *paragraph (a)*, its recommendation to the Government that that grant be revoked.
- (3) An application under *subsection (2)* shall be accompanied by—
- (a) a statement of the reasons for the application,
  - (b) copies of all documents that were before the Disciplinary Tribunal in the making of its determination under *section 81(8)*, and
  - (c) such other information, and such fee, as may be prescribed.
- (4) The Committee, on receipt of an application under *subsection (2)*, shall notify the person concerned in writing of the application.

- (5) A notification under *subsection (4)* shall include—
- (a) a copy of all documents furnished to the Committee in the application under *subsection (2)*,
  - (b) a statement that the person concerned may, within 30 working days of the sending of the notification or such other period as the Committee, having regard to the requirements of justice, may specify, make representations in the prescribed manner to the Committee as to why the grant should not be revoked, and
  - (c) a statement that, where no representations are received within the period specified under *paragraph (b)*, the Committee will, without further notice, proceed to consider the application.
- (6) In considering an application under *subsection (2)*, the Committee shall take into account—
- (a) the information furnished in the application,
  - (b) any representations made pursuant to *subsection (5)(b)*, and
  - (c) any other matter the Committee considers relevant for the purpose of its decision.
- (7) The Committee shall decide to recommend to the Government that the grant of a Patent be revoked only where satisfied, on the basis of the representations and matters referred to in *subsection (6)*, that the person concerned no longer meets the criteria established under *section 173*.
- (8) Where the Committee makes a decision referred to in *subsection (7)*, it shall notify the person concerned in writing of its decision and of the reasons for it.
- (9) A person referred to in *subsection (8)* may, within 30 working days of the sending of the notification under that subsection, appeal to the High Court against the decision of the Committee.
- (10) On hearing an appeal under *subsection (9)*, the High Court may, as it thinks proper, either affirm or overturn the decision concerned.
- (11) The Committee shall recommend to the Government that the grant of a Patent to a person referred to in *subsection (8)* be revoked only—
- (a) where no appeal is made under *subsection (9)*, after the expiry of the period referred to in that subsection,
  - (b) where an appeal is made under *subsection (9)*, if the High Court affirms the decision concerned.
- (12) The Minister may prescribe—
- (a) the form of application under *subsection (2)*,
  - (b) the information and fee (if any) that is to accompany such an application, and
  - (c) any other matters that the Minister considers necessary for the purposes of this section.

**Solicitor granted Patent while barrister**

- 176.** A solicitor to whom, before the commencement of this section and while he or she was a barrister, a Patent was granted, shall be entitled to use the title of “Senior Counsel”.

## PART 13

## AMENDMENTS OF SOLICITORS ACTS 1954 TO 2011

**Amendment of section 3 of Act of 1954**

- 177.** Section 3 of the Act of 1954 is amended by the insertion of the following definition:

“ ‘the Authority’ means the Legal Services Regulatory Authority;”.

Not commenced  
at publication  
(Feb 2020).  
Go to [eISB](#) to  
confirm current  
status.

**Amendment of section 5 of Act of 1954**

- 178.** Section 5(1) of the Act of 1954 is amended by the substitution of “may, with the approval of the Authority, make” for “may make”.

Not commenced  
at publication  
(Feb 2020).  
Go to [eISB](#) to  
confirm current  
status.

**Amendment of section 47 of Act of 1954**

- 179.** Section 47(8) of the Act of 1954 is amended by the substitution of “Authority” for “Minister”.

Not commenced  
at publication  
(Feb 2020).  
Go to [eISB](#) to  
confirm current  
status.

**Amendment of section 48 of Act of 1954**

- 180.** Section 48(3) of the Act of 1954 is amended by the substitution of “Authority” for “Chief Justice” in both places where it occurs.

**Amendment of section 49 of Act of 1954**

- 181.** Section 49 of the Act of 1954 is amended—

(a) in subsection (1)(q)—

- (i) by the substitution, in subparagraph (ii), of “years,” for “years, or”,
- (ii) by the substitution, in subparagraph (iii), of “clients, or” for “clients.”, and
- (iii) by the insertion of the following after subparagraph (iii):

“(iv) the number and nature of complaints made to the Authority in respect of the solicitor under *section 51* of the *Legal Services Regulation Act 2015*, within the preceding two practice years;”,

(b) by the insertion of the following after subsection (1)(q):

“(r) he has failed to comply with a notice issued to him under *section 70(6)(c)* of the *Legal Services Regulation Act 2015* by the Complaints Committee of the Authority;

- (s) he has failed to comply with a direction issued to him under *section 71(1)(a)* of the *Legal Services Regulation Act 2015*;
- (t) he has been convicted of an indictable offence;
- (u) he has contravened the *Solicitors Acts 1954 to 2015*;
- (v) he has contravened the *Legal Services Regulation Act 2015* or regulations made under it.”

and

(c) by the insertion of the following after subsection (7):

- “(8) The Society, where it has reason to consider that a solicitor may not be fit to carry on the practice of a solicitor having regard to the state of his physical or mental health, may, for the purposes of subsection (1) (p), direct that the solicitor be examined by a registered medical practitioner nominated by the Society.
- (9) In subsection (8), ‘registered medical practitioner’ means a person who is a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007.”.

#### **Amendment of section 66 of Act of 1954**

**182.** Section 66 of the Act of 1954 is amended in subsection (1) by the substitution of “the Authority” for “the President of the High Court”.

Not commenced at publication (Feb 2020). Go to [eISB](#) to confirm current status.

#### **Amendment of section 71 of Act of 1954**

**183.** Section 71 of the Act of 1954 is amended in subsection (8) by—

- (a) the deletion of “Notwithstanding paragraph (d) of subsection (2) and subsection (3) of this section;” and
- (b) the deletion of “, whether in an advertisement or otherwise.”.

#### **Amendment of section 3 of Act of 1960**

**184.** Section 3 of the Act of 1960 is amended by the insertion of the following definitions:

- “ ‘Authority’ means the Legal Services Regulatory Authority;
- ‘misconduct’ shall be construed in accordance with *section 50* of the *Legal Services Regulation Act 2015*, in so far as that section relates to solicitors;”.

#### **Solicitor shall not have connection, accept instructions, from certain persons**

**185.** The Act of 1960 is amended by the insertion of the following after section 3:

- “**3A.** A solicitor shall not, in the course of his or her practice as a solicitor, other than where permitted to do so under the *Legal Services Regulation*

*Act 2015—*

- (a) have any direct or indirect connection, association or arrangement with any person (other than a client) whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of section 55 or 56 or section 58 of the Principal Act, or section 5 of the Solicitors (Amendment) Act 2002, or
- (b) accept instructions to provide legal services to a person from another person whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of the enactments referred to in paragraph (a).”.

**Amendment of section 7 of Act of 1960**

- 186.** Section 7 of the Act of 1960 is amended in subsection (1) by the substitution of “made by the person before the date on which *Part 6* of the *Legal Services Regulation Act 2015* comes into operation, or made by the Society” for “or by the Society”.

**Amendment of section 9 of Act of 1960**

- 187.** Section 9 of the Act of 1960 is amended by the substitution of “Law Society” for “Disciplinary Committee” in each place where it occurs.

**Amendment of section 10 of Act of 1960**

- 188.** Section 10 of the Act of 1960 is amended by the insertion of the following after subsection (4):

“(5) The Law Society shall inform the Authority of the making of an order, or the refusal of an application, under subsection (3).”.

**Amendment of section 14 of Act of 1960**

- 189.** Section 14 of the Act of 1960 is amended—

- (a) in paragraph (e), by the substitution of “application,” for “application, and”,
- (b) by the insertion of the following after paragraph (f):

“(g) the making of a complaint under *Part 6* of the *Legal Services Regulation Act 2015* to the Authority and documents created or furnished to the parties entitled to receive them under that Part,

- (h) an interim report and final report, referred to in *section 59* of the *Legal Services Regulation Act 2015*, of the Society of an investigation carried out by it in compliance with a request under that section, and
- (i) proceedings and documents associated with an inquiry held by the Legal Practitioners Disciplinary Tribunal under *Part 6* of the *Legal*

*Services Regulation Act 2015,”.*

**Amendment of section 17 of Act of 1960**

**190.** Section 17 of the Act of 1960 is amended—

(a) in subsection (1)—

(i) by the substitution, in paragraph (a), of “Act” for “Act, and”,

(ii) by the substitution, in paragraph (b), of “Act, and” for “Act,”, and

(iii) by the insertion of the following after paragraph (b):

“(c) a copy of any decision or order made by the High Court and any determination made by the Legal Practitioners Disciplinary Tribunal under *Part 6* of the *Legal Services Regulation Act 2015* in relation to a complaint under that Part in respect of a solicitor,”,

(b) in subsection (3)—

(i) by the substitution, in paragraph (b), of “Disciplinary Committee, and” for “Disciplinary Committee.”, and

(ii) by the insertion of the following after paragraph (b):

“(c) on a file to be termed File C, there shall be entered each decision or order made by the High Court under *section 84* or *85* of the *Legal Services Regulation Act 2015* and any determination made by the Legal Practitioners Disciplinary Tribunal under *section 82* of the *Legal Services Regulation Act 2015*, in relation to a complaint under that Part in respect of a solicitor.”,

(c) in subsection (4), by the substitution of “File A, File B or File C” for “File A or File B”, and

(d) in subsection (5)(a), by the substitution of “File A, File B or File C” for “File A or File B”.

**Amendment of section 24 of Act of 1960**

**191.** Section 24 of the Act of 1960 is amended by the substitution of “Authority” for “President of the High Court”.

**Amendment of section 31 of Act of 1960**

**192.** Section 31 of the Act of 1960 is amended in subsection (2) by the substitution of “Authority” for “President of the High Court”.

**Amendment of section 2 of Act of 1994**

**193.** Section 2 of the Act of 1994 is amended by the insertion of the following definition:

“ ‘Authority’ means the Legal Services Regulatory Authority;”.

**Amendment of section 8 of Act of 1994**

**194.** Section 8 of the Act of 1994 is amended—

- (a) in subsection (1), by the substitution of “Where the Society, before the date on which *Part 6* of the *Legal Services Regulation Act 2015* comes into operation,” for “Where the Society”, and
- (b) in subsection (8), by the substitution of “Authority” for “President of the High Court”.

**Amendment of section 9 of Act of 1994**

**195.** Section 9 of the Act of 1994 is amended—

- (a) in subsection (1), by the substitution of “Where the Society, before the date on which *Part 6* of the *Legal Services Regulation Act 2015* comes into operation,” for “Where the Society”, and
- (b) in subsection (2), by the substitution of “basis, or to the Chief Legal Costs Adjudicator for adjudication under *Part 10* of the *Legal Services Regulation Act 2015*.” for “basis.”,
- (c) in subsection (3)—
  - (i) by the substitution of “basis, or to the Chief Legal Costs Adjudicator for adjudication under *Part 10* of the *Legal Services Regulation Act 2015*,” for “basis,” and
  - (ii) “taxation, or to the Chief Legal Costs Adjudicator for adjudication under *Part 10* of the *Legal Services Regulation Act 2015*.” for “taxation.”,and
- (d) in subsection (7), by the substitution of “Authority” for “President of the High Court”.

Not commenced  
at publication  
(Feb 2020).  
Go to [eISB](#) to  
confirm current  
status.

**Amendment of section 10 of Act of 1994**

**196.** Section 10 of the Act of 1994 is amended by the substitution of “made, before the date on which *Part 6* of the *Legal Services Regulation Act 2015* comes into operation, to the Society -” for “made to the Society -”.

**Amendment of section 14 of Act of 1994**

**197.** Section 14 of the Act of 1994 is amended in subsection (1)—

- (a) by the deletion of “whether as a result of a complaint or otherwise,” and
- (b) by the insertion of the following after paragraph (a):
  - “(aa) a matter for the purposes of compliance with a request under *section 59* of the *Legal Services Regulation Act 2015*.”.

**Amendment of section 14A of Act of 1994**

**198.** The Act of 1994 is amended by the substitution of the following for section 14A:

“**14A.** (1) For the avoidance of doubt, it is hereby declared that the power of the Society to investigate alleged misconduct by a solicitor may be exercised whether or not the Society receive—

- (a) a complaint in relation to the solicitor, or
  - (b) a request under *section 59* of the *Legal Services Regulation Act 2015* for the investigation into any matter that is relevant to a complaint under *Part 6* of that Act in relation to the solicitor.
- (2) The Society shall, in addition to exercising its power referred to in subsection (1), conduct an investigation in compliance with a request under *section 59* of the *Legal Services Regulation Act 2015* for the investigation into any matter that is relevant to a complaint under *Part 6* of that Act in relation to the solicitor.
- (3) Where the Society, following an investigation, considers that the act or omission the subject of the investigation is not one to which subsection (6) applies, but determines that it warrants the imposition of a sanction under this section, it may—
- (a) in accordance with *section 71* of the *Legal Services Regulation Act 2015*, issue a direction to the solicitor concerned to take such measures as are specified in the determination of the Society, being measures specified in respect of solicitors in subsection (5) of that section, or
  - (b) where the solicitor concerned so consents in writing, take the measure, being the measure specified in *section 71(6)(a)* of the *Legal Services Regulation Act 2015*, specified in the determination of the Society.
- (4) Where the Society issues one or more than one direction in accordance with subsection (3)(a) and the solicitor complies with each such direction, the complaint shall be considered as determined.
- (5) Where the Society (with the consent of the solicitor concerned) takes the measure specified in subsection (3)(b), the complaint shall be deemed to be determined.
- (6) (a) Subject to subsection (7), where the Society has commenced its investigation on or after the date on which the *Legal Services Regulation Act 2015* comes into operation, and it considers that the act or omission the subject of the investigation is of a kind that is more appropriate for consideration by the Legal Practitioners Disciplinary Tribunal than by it, it may make an application in respect of the matter to it for the holding of an inquiry under *section 81* of the *Legal Services Regulation Act 2015*.

- (b) In determining whether it be more appropriate for the matter to be considered by the Legal Practitioners Disciplinary Tribunal, the Society shall have regard to the gravity of the concerns raised and matters disclosed in the complaint and in its investigation.
- (7) (a) Where the Society considers that the measure specified in *section 71(6)(a)* of the *Legal Services Regulation Act 2015* is the appropriate measure to be taken as respects the finalisation of its investigation, it shall notify the solicitor concerned to that effect and specify the precise measure (including in the case of a restriction or condition to be placed on the practising certificate of the solicitor, the precise restriction or condition) it proposes to take.
- (b) The notification referred to in paragraph (a) shall indicate that unless the solicitor concerned furnishes to the Society his or her consent in writing to the imposition of the specified measures within 21 days of the issue of the notification, the Society will apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry under *section 81* of the *Legal Services Regulation Act 2015*.
- (c) Where the Society issues a notification pursuant to paragraph (b) and does not receive the written consent of the solicitor concerned within 21 days to the imposition of the specified measures, it shall apply to the Legal Practitioners Disciplinary Tribunal for the holding of an inquiry under *section 81* of the *Legal Services Regulation Act 2015* into the matter, in so far as the Society has not found that the concerns giving rise to its investigation of the matter are unfounded or that the act or omission concerned does not warrant the imposition of a sanction under this section or an application under subsection (7) to the Legal Practitioners Disciplinary Tribunal.
- (8) The Society shall notify the Authority of its determination under subsection (3).”.

Not commenced  
at publication  
(Feb 2020).  
Go to [eLSB](#) to  
confirm current  
status.

### Monitor appointed by Authority may attend committee meetings

**199.** The Act of 1994 is amended by the insertion of the following after section 14B:

- “**14C.** (1) Where a committee is investigating an act or omission of a solicitor to which *section 51(5)* of the *Legal Services Regulation Act 2015* applies, a monitor may attend and observe any meeting of the committee in relation to the investigation.
- (2) The Society shall inform the Authority of the time and place of a meeting referred to in subsection (1).
- (3) In this section—
- ‘committee’ means any committee of the Society to which the powers

or functions of investigating alleged misconduct by a solicitor has been delegated;

‘monitor’ means a person appointed by the Authority under *section 93* of the *Legal Services Regulation Act 2015* to perform the functions of a monitor under this section.”.

#### **Amendment of section 22 of Act of 1994**

**200.** Section 22 of the Act of 1994 is amended by the insertion of “or the Legal Practitioners Disciplinary Tribunal” after “Tribunal” in both places where it occurs.

#### **Amendment of section 26 of Act of 1994**

**201.** Section 26 of the Act of 1994 is amended—

- (a) in subsection (1)—
  - (i) by the substitution of “The Society may, with the consent of the Authority, make regulations” for “The Society may make regulations”,
  - (ii) in paragraph (a), by the substitution of “solicitor,” for “solicitor, or”,
  - (iii) in paragraph (b), by the substitution of “as a solicitor, or” for “as a solicitor.”, and
  - (iv) by the insertion of the following paragraph after paragraph (b):
    - “(c) by a solicitor arising from his practice as a solicitor in a legal partnership, multi-disciplinary practice or limited liability partnership (within the meaning of the *Legal Services Regulation Act 2015*).”.
- (b) by the insertion of the following new subsection after subsection (1):
  - “(1A) In making indemnity regulations under subsection (1), regard shall be had to the objective of ensuring, in relation to solicitors in a legal partnership, multi-disciplinary practice or limited liability partnership referred to in paragraph (c) of that subsection, that there is adequate indemnity against losses in place in respect of each solicitor and other person in such partnership or practice concerned who is required to be covered.”.
- (c) in subsection (5), by the substitution of “the Authority” for “the Minister”, and
- (d) by the deletion of subsection (6).

#### **Amendment of section 35 of Act of 1994**

**202.** Section 35 of the Act of 1994 is amended by the substitution of “Society and to the Authority,” for “Society,”.

Commenced at publication (Feb 2020) other than insofar as subsections (1)(c) and (1A), inserted by that section in section 26, Solicitors (Amendment) Act 1994, relate to LPs and MDPs. Go to [eLSB](#) to confirm current status.

**Amendment of section 38 of Act of 1994**

**203.** Section 38 of the Act of 1994 is amended—

- (a) in subsection (1)—
  - (i) by the substitution of “the *Solicitors Acts 1954 to 2015* or the *Legal Services Regulation Act 2015*,” for “the Solicitors Acts, 1954 to 1994,”, and
  - (ii) by the insertion of “or the Authority” after “Society”,
- and
- (b) in subsection (2) by the substitution of “the *Solicitors Acts 1954 to 2015* or the *Legal Services Regulation Act 2015*,” for “the Solicitors Acts, 1954 to 1994,”.

**Amendment of section 58 of Act of 1994**

**204.** Section 58 of the Act of 1994 is amended—

- (a) in subsection (1), by the substitution of “Where a solicitor fails to comply with any provision of the *Solicitors Acts 1954 to 2015* or the *Legal Services Regulation Act 2015*, or with any regulations made thereunder or with any conditions specified in a direction relating to a practising certificate under section 59 of this Act, or has been convicted of an indictable offence and sentenced to a term of imprisonment, and the Society are of the opinion that such failure to comply or, as the case may be, such conviction and sentence is serious and warrants the making of an application under this section” for “Where a solicitor fails to comply with any provision of the Solicitors Acts 1954 to 1994, or with any regulations made thereunder or with any conditions specified in a direction relating to a practising certificate under section 59 of this Act, and the Society are of the opinion that such failure to comply is serious and warrants the making of an application under this section”, and
- (b) by the substitution of the following for subsection (3):
  - “(3) Any application made by the Society pursuant to subsection (1) shall be without prejudice to the right of the Society under—
    - (a) section 7 of the Act of 1960 to apply to the Disciplinary Tribunal for an inquiry into the conduct of the solicitor concerned on the ground of alleged misconduct, or
    - (b) section 14A to make an application to the Legal Practitioners Disciplinary Tribunal in respect of the conduct of the solicitor concerned for the holding of an inquiry under *section 81* of the *Legal Services Regulation Act 2015*.”.

**Amendment of section 59 of Act of 1994**

**205.** Section 59(2) of the Act of 1994 is amended by the substitution of “section 49(1)(c) to (v)” for “section 49(1)(c) to (p) (as substituted by this Act)”.

**Amendment of section 1 of Act of 2002**

**206.** Section 1 of the Act of 2002 is amended by the insertion of the following definition:

“ ‘the Authority’ means the Legal Services Regulatory Authority;”.

Not commenced  
at publication  
(Feb 2020).  
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**Amendment of section 5 of Act of 2002**

**207.** Section 5 of the Act of 2002 is amended by—

(a) the substitution of the following paragraph for paragraph (b):

“(b) which, if published or caused to be published by a solicitor, would contravene regulations made under *section 218* of the *Legal Services Regulation Act 2015*.”,

and

(b) by the substitution of the following subsection for subsection (2):

“(2) In subsection (1), ‘advertisement’ has the meaning assigned to it by *section 218(8)* of the *Legal Services Regulation Act 2015* with the substitution, where appropriate, of ‘a person who is not a solicitor’ for ‘a legal practitioner’.”.

**Amendment of section 19 of Act of 2002**

**208.** Section 19 of the Act of 2002 is amended—

(a) by the substitution of “Legal Practitioners Disciplinary Tribunal” for “Disciplinary Tribunal” in each place in which it occurs, and

(b) by the substitution of the following for subsection (7):

“(7) In this section, ‘misconduct’—

(a) means, in relation to an act or omission that occurred before the date on which *Part 6* of the *Legal Services Regulation Act 2015* comes into operation—

(i) the commission of an offence under section 55, 56 or 58 of the Principal Act or of an arrestable offence (within the meaning of the Criminal Law Act 1997),

(ii) conduct outside the State which constitutes an offence under the law of the jurisdiction concerned and which, if that conduct took place within the State, would constitute an arrestable offence (within that meaning), or

(iii) any other conduct which, if engaged in by a solicitor, would tend to bring the solicitors’ profession into disrepute,

and

- (b) in relation to an act or omission that occurred on or after the date on which *Part 6* of the *Legal Services Regulation Act 2015* comes into operation, shall be construed in accordance with *section 50* of that Act, in so far as that section relates to solicitors.”.

## PART 14

### MISCELLANEOUS

#### **Immunity**

- 209.** (1) Neither the Authority nor a member, or member of staff, of the Authority shall be liable in damages in respect of any act done or omitted to be done by it or him or her in the performance, or purported performance, of its or his or her functions under *Part 3* or *6*, unless the act or omission concerned was done in bad faith.
- (2) The State shall not be liable in damages in respect of any act done or omitted to be done by the Authority or a member, or member of staff, of the Authority in the performance, or purported performance, by the Authority or such member of its, his or her functions under *Part 3* or *6*, unless the act or omission concerned was done in bad faith.
- (3) Neither the State nor the Authority shall be liable in damages in respect of any act done or omitted to be done by the Law Society in the performance, or purported performance, by the Law Society of its functions under *Part 6* or the *Solicitors Acts 1954 to 2015*.
- (4) In this section—
- “Authority” includes a Review Committee established under *section 62*, the Complaints Committee and the Disciplinary Tribunal;
- “member of staff” includes an inspector appointed in accordance with *section 37(1)(b)*.

#### **No indemnification of Compensation Fund**

- 210.** (1) The State shall not indemnify the Compensation Fund in respect of any liability of that Fund howsoever arising and, accordingly, no public moneys shall be paid into that Fund for any purpose or be otherwise used to meet any liability of that Fund.
- (2) This section shall apply whether or not the moneys standing to the credit of the Compensation Fund are sufficient to meet the liabilities of that Fund.
- (3) In this section “public moneys” means moneys charged on or issued out of the Central Fund or the growing produce thereof or provided by the Oireachtas.

#### **Amendment of Courts Act 1971**

- 211.** The Courts Act 1971 is amended by substituting the following for section 17:

**“Right of audience of solicitors**

17. (1) Notwithstanding any other enactment or rule of law and subject to subsections (2) and (3), a solicitor who is acting for a party in an action, suit, matter or criminal proceedings in any court and a solicitor qualified to practise in the State (within the meaning of the Solicitors Acts 1954 to 2011) who is acting as his or her assistant shall have a right of audience in that court.
- (2) Subsection (1) shall apply notwithstanding that a solicitor referred to in that subsection has instructed a practising barrister in the action, suit, matter or criminal proceedings concerned.
- (3) (a) Subject to paragraph (b), in the circumstances referred to in subsection (2), it shall be a matter for agreement between the solicitor and the barrister concerned, with the consent of the party referred to in subsection (1), as to whether the right of audience shall, having due regard to the best interests of the party, be—
- (i) exercised by the solicitor or the barrister, or
  - (ii) partly exercised by the solicitor and partly exercised by the barrister.
- (b) Where the solicitor and the barrister referred to in paragraph (a) fail to reach agreement, the party shall determine the legal practitioner who is to take the lead role and the manner in which the right of audience shall be exercised on his or her behalf by the legal practitioners concerned.”.

**Barrister in employment may provide legal services to his or her employer**

212. (1) A barrister whose name is entered on the roll of practising barristers in accordance with *Part 9* may—
- (a) take up paid employment, and
  - (b) as part of that employment, provide legal services to his or her employer, including by appearing on behalf of that employer in a court, tribunal or forum for arbitration.
- (2) A professional body shall not, through its professional codes or otherwise, prevent or restrict a barrister who is a member of that body from working with, or otherwise doing business with, barristers providing legal services in accordance with *subsection (1)*.
- (3) In this section “employment” includes part-time employment.

**Amendment of Courts and Court Officers Act 1995**

213. The Courts and Court Officers Act 1995 is amended by substituting the following for section 49:

“49. A legal practitioner when appearing in any court shall not be required to wear a wig or a robe of the kind heretofore worn or any other wig or robe of a ceremonial type.”.

#### **Amendment of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010**

**214.** Section 60 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 is amended in subsection (2)—

(a) in paragraph (d), by the insertion of the words “who is a member of the Law Library” after “barrister”, and

(b) by the insertion of the following paragraph after paragraph (d):

“(da) in the case of a designated person who is a barrister who is not a member of the Law Library, the Legal Services Regulatory Authority;”.

#### **Restriction on withdrawal of legal practitioner from case where client in custody**

**215.** (1) A legal practitioner who has accepted instructions to appear in court on behalf of a client who is in custody may not withdraw from the client’s case without obtaining permission from the court before which that client is next scheduled to appear.

(2) The court, in deciding whether to grant a legal practitioner permission to withdraw from a case under *subsection (1)*, shall have regard to—

(a) the likely consequences of such action for the client notwithstanding that the client may have concurred in the legal practitioner’s withdrawal from the case,

(b) any delay or other adverse consequences which may arise for the proceedings concerned as a result of the legal practitioner’s withdrawal, and

(c) any matter which is the subject of legal professional privilege between the legal practitioner and the client.

(3) The court may hear an application for permission under *subsection (1) in camera* if it considers it necessary to do so in the interests of justice.

(4) A withdrawal by a legal practitioner from a case in contravention of *subsection (1)* shall be notified to the Authority by the court whose permission to withdraw from that case is required under that subsection and the Authority, on being so notified, shall investigate the matter and take any necessary action under *Part 6*.

#### **Service of notices**

**216.** Where a notice is required or authorised to be sent or given to a person by or under this Act, it shall be in writing and shall be addressed to the person concerned by name and shall be served on, sent or given to the person in one of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or carries on

business or, in a case in which an address for service has been furnished, to that address;

- (c) by sending it by post in a pre-paid registered letter or by any other form of recorded delivery to the address at which the person ordinarily resides or carries on business or, in a case in which an address for service has been furnished, to that address.

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### Regulations on movement between professions of barrister and solicitor

**217.** (1) Notwithstanding any other enactment, the Authority may by regulation provide that—

- (a) a barrister seeking to be admitted as a solicitor, or  
(b) a solicitor seeking to become a barrister,

be exempted from an admission requirement specified in the regulation, where the Authority is of the opinion that that admission requirement is, in the case of that barrister or solicitor, unnecessary.

- (2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide that a legal practitioner referred to in *paragraph (a)* or *(b)* of that subsection be exempted from an admission requirement that he or she—
- (a) attend at a course of education or training,  
(b) sit and pass an examination, or  
(c) serve a period of apprenticeship or pupillage, or a portion of such period.
- (3) Regulations under *subsection (1)* may provide different exemptions in relation to different legal practitioners or classes of legal practitioner.
- (4) For the purpose of this section, an admission requirement, in the case of a legal practitioner referred to in *paragraph (a)* or *(b)* of *subsection (1)*, is unnecessary where—
- (a) the admission requirement is in place for the purpose of ensuring that a person seeking to be admitted as a solicitor or to become a barrister, as the case may be, is in possession of particular knowledge, skill or experience, and  
(b) the legal practitioner concerned is already in possession of that knowledge, skill or experience by virtue of—
- (i) the educational qualifications and training that have previously been obtained by him or her, including those obtained in order for him or her to have become a barrister or to have been admitted as a solicitor, as the case may be, and  
(ii) the experience in the provision of legal services obtained by him or her as a practising barrister or a practising solicitor, as the case may be.
- (5) Before making regulations under *subsection (1)*, the Authority shall consult with—
- (a) the Law Society,

- (b) the Bar Council,
  - (c) the Honorable Society of King's Inns, and
  - (d) such other body or institution concerned with the provision of legal education which in the opinion of the Authority should be consulted.
- (6) The following shall ensure that the admission requirements concerned are consistent with regulations made under this section:
- (a) the Honorable Society of King's Inns and the Bar Council, in relation to the admission requirements relating to the barristers' profession;
  - (b) the Law Society, in relation to the admission requirements relating to the solicitors' profession;
  - (c) such other body, being empowered to establish admission requirements relating to the barristers' profession or the solicitors' profession, as the Minister may specify by regulation.
- (7) In this section—
- “admission requirements”—
- (a) in relation to the solicitors' profession, means the requirements (including those relating to education and training) that a person is required to fulfil before he or she can be admitted as a solicitor, and
  - (b) in relation to the barristers' profession, means the requirements (including those relating to education and training) that a person is required to fulfil before he or she becomes entitled to practise as a barrister,
- and, for the purpose of this definition, also includes any requirement under a Professional Code that a person undertake any training or serve a period of apprenticeship or pupillage following his or her admission as a solicitor or becoming a barrister, as the case may be.

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### Advertising of legal services

**218.** (1) No professional code shall operate to prevent—

- (a) a legal practitioner from advertising his or her legal services,
  - (b) a legal partnership, a multi-disciplinary practice or a limited liability partnership from advertising their legal services, or
  - (c) a group of legal practitioners, who share a facility, premises or cost of practice, from advertising themselves as such a group.
- (2) The Authority may make regulations in relation to the advertising of legal services, including in relation to the information that may be contained in advertisements published or caused to be published by legal practitioners in relation to legal services they provide and any areas of law to which those services relate.
- (3) Before making regulations under *subsection (2)*, the Authority shall consult, in such

manner as it considers appropriate, with—

- (a) a professional body, the members of which will be subject to the regulations when made, and
- (b) such other interested parties, including legal practitioners who are not members of a body referred to in *paragraph (a)* who will be subject to the regulations when made, as the Authority considers appropriate.

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- (4) Regulations made under *subsection (2)* may not restrict the advertising of legal services unless such restriction is—
  - (a) necessary for—
    - (i) the protection of the independence, dignity and integrity of the legal profession, and
    - (ii) an overriding reason relating to the public interest,and
  - (b) non-discriminatory and proportionate.
- (5) Without prejudice to the generality of *subsection (2)*, regulations made under that subsection may—
  - (a) specify the category or categories of legal practitioner to whom such regulations apply,
  - (b) make provision in relation to advertisements that may be published or caused to be published by or on behalf of a legal practitioner, including provision in respect of their content and size,
  - (c) provide for the manner in which the Authority is to determine whether any particular advertisement published or caused to be published by a legal practitioner is in contravention of this section or any regulations under this section, and
  - (d) restrict the publication by or on behalf of a legal practitioner of any advertisement which in the opinion of the Authority—
    - (i) is likely to bring the legal profession into disrepute,
    - (ii) is in bad taste,
    - (iii) reflects unfavourably on other legal practitioners,
    - (iv) is false or misleading in any material respect,
    - (v) is published in an inappropriate location,
    - (vi) subject to *subsection (7)*, expressly or impliedly solicits, encourages or offers any inducement to any person or group or class of persons to make claims for personal injuries or seek legal services in connection with such claims.
- (6) A legal practitioner shall not publish or cause to be published an advertisement which does not comply with regulations made under *subsection (2)*.

(7) Nothing in *subsection (5)(d)(vi)* shall be taken to authorise the Authority to impose a restriction on the inclusion in an advertisement published by or on behalf of a legal practitioner of the words “personal injuries” as part of the legal services provided by the legal practitioner.

(8) In this section—

“advertisement” means any communication (whether oral or in written or other visual form and whether produced by electronic or other means) which is intended to publicise or otherwise promote a legal practitioner in relation to the provision by him or her of legal services, including any—

- (a) brochure, notice, circular, leaflet, poster, placard, photograph, illustration, emblem, display, stationery, directory entry, article or statement for general publication,
- (b) electronic address or any information provided by the legal practitioner that is accessible electronically,
- (c) audio or video recording, or
- (d) presentation, lecture, seminar or interview,

which is so intended but excluding a communication which is primarily intended to give information on the law;

“inappropriate location” means a hospital, clinic, doctor’s surgery, funeral home, cemetery, crematorium or other physical location of a similar character.

## PART 15

### CLINICAL NEGLIGENCE ACTIONS

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#### **Clinical negligence actions**

**219.** (1) The Civil Liability and Courts Act 2004 is amended by inserting the following Part after Part 2:

#### “PART 2A

### CLINICAL NEGLIGENCE ACTIONS

#### **Interpretation of Part 2A**

**32A.** (1) In this Part—

‘clinical negligence’ means anything done or omitted to be done in the provision of a health service by a health service provider in circumstances which could give rise to liability for damages for negligence in respect of personal injury or death;

‘clinical negligence action’ means an action for the recovery of damages brought—

- (a) by or on behalf of a person alleging that he or she, or a deceased person of whom he or she is a personal representative, has suffered personal injury or death as a result of clinical negligence, and
- (b) against the health service provider alleged to have committed the act or omission giving rise to liability or any other person alleged to be liable in respect of that act or omission;

‘health service’ means—

- (a) the carrying out of a clinical investigation, diagnosis, procedure, treatment or research,
- (b) the provision of clinical advice or information, or
- (c) the provision of clinical care;

‘health service provider’ means a person whose name is on—

- (a) the register of medical practitioners,
- (b) a register maintained by the Dental Council,
- (c) a register maintained by the Optical Registration Board,
- (d) a register set up under section 13(1) of the Pharmacy Act 2007,
- (e) a register maintained under section 46 of the Nurses and Midwives Act 2011, or
- (f) a register maintained by any health and social care profession which has been designated for the purposes of the Health and Social Care Professionals Act 2005 and which the Minister has prescribed by regulations;

‘pre-action protocol’ means the pre-action protocol mentioned in section 32B.

### **Pre-action protocol**

**32B.** (1) There shall be a pre-action protocol relating to clinical negligence actions.

- (2) The pre-action protocol shall include requirements that must be complied with by the parties to clinical negligence actions before such actions are brought.
- (3) The Minister shall by regulations make provision specifying the terms of the pre-action protocol.

- (4) Before making regulations under subsection (3), the Minister shall consult—
  - (a) the Minister for Health,
  - (b) the State Claims Agency,
  - (c) any such bodies involved in the regulation of persons providing legal services as the Minister considers appropriate,
  - (d) any such bodies involved in the regulation or training of persons providing health services as the Minister considers appropriate,
  - (e) any such bodies representative of the interests of patients as the Minister considers appropriate, and
  - (f) any such other bodies as the Minister considers appropriate.
- (5) The Minister shall, in making regulations under subsection (3), have regard to the desirability of—
  - (a) encouraging the early resolution of enquiries or allegations relating to possible clinical negligence,
  - (b) promoting timely communication between persons who are enquiring into or making allegations about possible clinical negligence and those whom they consider may be liable in respect of it,
  - (c) reducing the number of cases in which clinical negligence actions are brought,
  - (d) facilitating the early identification of the issues in dispute in clinical negligence actions, and
  - (e) encouraging the early settlement of clinical negligence actions.
- (6) The terms of the pre-action protocol specified by regulations under subsection (3) shall in particular include provision relating to—
  - (a) the disclosure of medical and other records relating to persons enquiring into or alleging possible clinical negligence (including charges for disclosure),
  - (b) the giving of notifications of enquiries into, and allegations of, possible clinical negligence, the acknowledgement of notifications of enquiries and the giving of responses to notifications of allegations,
  - (c) the specification of the time at or within which records shall be disclosed and notifications given and acknowledged or responded to,
  - (d) the form of, and particulars to be included with, requests for disclosure or notifications of enquiries or allegations and

acknowledgements of and responses to such notifications,

- (e) the disclosure of material relevant to allegations and responses, and
- (f) agreements to submit issues for resolution otherwise than by a court.

#### **Powers of court**

**32C.** The court in which a clinical negligence action is brought, on hearing the action, may do any of the following:

- (a) direct that the action shall not proceed any further until steps which are required by the pre-action protocol to have been taken by any of the parties have been taken;
- (b) order that a party who has not complied with a requirement of the pre-action protocol pay the costs, or part of the costs, of the other party or parties (including, where appropriate, on an indemnity basis);
- (c) if an award of damages is made in favour of the plaintiff but the plaintiff either has not complied with a requirement of the pre-action protocol or has rejected an offer to settle made in accordance with the pre-action protocol for an amount equal to or greater than that awarded, order that the plaintiff shall be deprived of interest on all or part of the award or that all or part of the award shall carry interest at a lower rate than it otherwise would;
- (d) if an award of damages is made against a defendant but the defendant either has not complied with a requirement of the pre-action protocol or has rejected an offer to settle made in accordance with the pre-action protocol for an amount equal to or less than that awarded, order that the defendant pay interest on all or part of the award at a rate higher by no more than 10 percentage points than the rate for the time being standing specified under section 26 of the Debtors (Ireland) Act 1840.

#### **Apology not to constitute admission of liability or invalidate insurance**

**32D.** (1) An apology made in connection with an allegation of clinical negligence—

- (a) shall not constitute an express or implied admission of fault or liability, and
  - (b) shall not, despite any provision to the contrary in any contract of insurance and despite any other enactment, invalidate or otherwise affect any insurance coverage that is, or but for the apology would be, available in respect of the matter alleged.
- (2) Despite any other enactment, evidence of an apology referred to in subsection (1) is not admissible as evidence of fault or liability of any person in any proceedings in a clinical negligence action.”.

- (2) The amendment made by *subsection (1)* does not apply to clinical negligence actions where the cause of action accrues before the coming into operation of that subsection.

#### Other amendments of Civil Liability and Courts Act 2004

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confirm current  
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**220.** (1) Section 8 of the Civil Liability and Courts Act 2004 is amended—

- (a) in subsection (1), by substituting “Subject to subsection (3), where” for “Where”, and

- (b) by inserting the following subsection after subsection (2):

“(3) This section does not apply to a clinical negligence action within the meaning of Part 2A.”.

(2) Section 17 of the Civil Liability and Courts Act 2004 is amended—

- (a) in subsection (1), by substituting “Subject to subsection (6A), the” for “The”, and

- (b) by inserting the following subsection after subsection (6):

“(6A) This section does not apply to a clinical negligence action within the meaning of Part 2A if an offer to settle the claim had, before the bringing of the action, been made by any party to the action in accordance with the pre-action protocol.”.

(3) The Civil Liability and Courts Act 2004 is amended by inserting the following section after section 17:

#### “Pre-action offers of settlement in clinical negligence claims

**17A.** (1) In a case of an action to which section 17 does not apply by virtue of subsection (6A) of that section, a copy of the offer of settlement shall be lodged in court by, or on behalf of, the party by which it was made.

- (2) The terms of the offer of settlement shall not be communicated to the judge in the trial of the clinical negligence action until after he or she has delivered judgment in the action.

- (3) The court shall, when considering the making of an order as to the payment of the costs in the action, have regard to—

- (a) the terms of the offer of settlement, and

- (b) the reasonableness of the conduct of the party by whom the offer was made in making the offer.

- (4) This section is in addition to and not in substitution for any rule of court providing for the payment into court of a sum of money in satisfaction of a cause of action or the making of an offer of tender of payment to the other party or parties to an action.”.

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at publication  
(Feb 2020).  
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confirm current  
status.

#### Amendments of Statute of Limitations (Amendment) Act 1991

**221.** (1) The Statute of Limitations (Amendment) Act 1991 is amended—

- (a) in section 3, by substituting the following subsection for subsection (1):
- “(1) An action, other than one to which section 6 of this Act applies, claiming damages in respect of personal injuries to a person caused by negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under a statute or independently of any contract or any such provision) shall not be brought after the expiration of—
- (a) in the case of a clinical negligence action within the meaning of Part 2A of the Civil Liability and Courts Act 2004, 3 years, or
- (b) otherwise, 2 years,
- from the date on which the cause of action accrued or the date of knowledge (if later) of the person injured.”,
- (b) in section 4(1), by substituting “the period so specified” for “2 years”,
- (c) in section 5(1), by substituting “the period specified in the said section 3 from the date when he ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period so specified” for “2 years from the date when he ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period specified in the said section 3”, and
- (d) in section 6—
- (i) in subsection (1), by substituting “the relevant period” for “2 years”, and
- (ii) by inserting the following subsection after subsection (1):
- “(1A) In subsection (1) ‘the relevant period’ means—
- (a) in the case of a clinical negligence action within the meaning of Part 2A of the Civil Liability and Courts Act 2004, 3 years, and
- (b) otherwise, 2 years.”.
- (2) The amendments made by *subsection (1)* do not have effect where the date of accrual of the cause of action, or the date of knowledge of the person concerned as respects that cause of action, is before the coming into operation of that subsection.”.

## SCHEDULE 1

Sections 150(4) and 155.

## PRINCIPLES RELATING TO LEGAL COSTS

1. A Legal Costs Adjudicator shall apply the following principles in adjudicating on a bill of costs pursuant to an application pursuant to *section 154*:
  - (a) that the costs have been reasonably incurred, and
  - (b) that the costs are reasonable in amount.
2. In determining whether the costs are reasonable in amount a Legal Costs Adjudicator shall consider each of the following matters, where applicable:
  - (a) the complexity and novelty of the issues involved in the legal work;
  - (b) the skill or specialised knowledge relevant to the matter which the legal practitioner has applied to the matter;
  - (c) the time and labour that the legal practitioner has reasonably expended on the matter;
  - (d) the urgency attached to the matter by the client and whether this requires or required the legal practitioner to give priority to that matter over other matters;
  - (e) the place and circumstances in which the matter was transacted;
  - (f) the number, importance and complexity of the documents that the legal practitioner was required to draft, prepare or examine;
  - (g) where money, property or an interest in property is involved, the amount of the money, or the value of the property or the interest in the property concerned;
  - (h) whether or not there is an agreement to limit the liability of the legal practitioner pursuant to *section 48*;
  - (i) whether or not the legal practitioner necessarily undertook research or investigative work and, if so, the timescale within which such work was required to be completed;
  - (j) the use and costs of expert witnesses or other expertise engaged by the legal practitioner and whether such costs were necessary and reasonable.

## SCHEDULE 2

## Section 5.

## ENACTMENTS REPEALED

(1) Number and Year	(2) Short Title	(3) Extent of repeal
12 & 13 Vict., c. 54	Solicitors (Ireland) Act 1849	The whole Act
1954, No. 36	Solicitors Act 1954	Section 71(2), (3), (4), (5), (6) and (10)
1994, No. 27	Solicitors (Amendment) Act 1994	Sections 68 and 74
2009, No. 8	Legal Services Ombudsman Act 2009	The whole Act

Commenced at publication (Feb 2020) other than insofar as it relates to the repeal of section 71(2), (3), (4), (5), (6) and (10), Solicitors Act 1954. See Section 5 of the LSRA 2015 at [page 253](#). Go to [eLSB](#) to confirm current status.

**RELEVANT EXTRACT FROM THE COURTS ACT 2019**

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An Act... to amend the Legal Services Regulation Act 2015;...  
[23rd July, 2019]

**Amendment of Legal Services Regulation Act 2015**

3. The Legal Services Regulation Act 2015 is amended—

(a) in section 141, by the insertion of the following subsection after subsection (5):

“(6) For the purposes of subsection (3)(f), a County Registrar need not publish the reasons for a determination where he or she is of the opinion that the taxation concerned does not involve a matter of legal importance.”,

(b) in section 154(10)—

(i) in paragraph (c), by the substitution of “adjudication,” for “adjudication, and”,

(ii) in paragraph (d), by the substitution of “attempt,” for “attempt.”, and

(iii) by the insertion of the following paragraphs after paragraph (d):

“(e) a procedure whereby a party to an adjudication may, upon notice to another party—

(i) pay into court a sum of money, or

(ii) make an offer by way of tender to the other party,

in satisfaction of the costs of the other party that are the subject of the adjudication, and

(f) the respective liability of the parties referred to in paragraph (e) for the costs of the adjudication where the amount of a payment or offer referred to in that paragraph is equal to or greater than the amount of the costs concerned that, in the adjudication, are determined to be paid.”,

- (c) in section 160(2)(a), by the substitution of “section 163” for “section 166”, and
- (d) in section 172—
  - (i) in subsection (2), by the insertion of the following paragraph after paragraph (a):
    - “(aa) the President of the Court of Appeal;”,
  - and
  - (ii) by the insertion of the following subsection after subsection (6):
    - “(6A) On the death or retirement of the President of the Court of Appeal, the senior ordinary judge of the Court of Appeal who is for the time being available shall be a member of the Committee until the appointment of a President of the Court of Appeal.”.