Changes to legislation: *The Solicitors (Amendment) (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 09 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1989 No. 1343 (N.I. 14)

The Solicitors (Amendment) (Northern Ireland) Order 1989

- - - - - - *2nd August 1989*

Title and commencement

1.—(1) This Order may be cited as the Solicitors (Amendment) (Northern Ireland) Order 1989.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "the Solicitors Order" means the Solicitors (Northern Ireland) Order 1976[F2].

F1 1954 c. 33 (NI)
F2 1976 NI 12

The roll of solicitors

3. For Articles 8 and 9 of the Solicitors Order there shall be substituted—

"**Keeping and custody of the roll**

8.—(1) The registrar shall continue to keep the roll in the form of an alphabetical list of all solicitors.

(2) The Society shall have the custody of the roll and of all documents relating thereto.

(3) The roll shall be kept in accordance with the provisions of this Order and of regulations and may be kept by means of a computer.

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

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

(6) The Society, on the application of a solicitor, may cause his name to be removed from the roll.

(7) Regulations under paragraph (3) may—

(a) provide for the Society, at such intervals as may be specified in the regulations, to enquire of solicitors of any class so specified whether they wish to have their names retained on the roll;

(b) require solicitors of any such class, at such intervals as aforesaid, to pay to the Society a fee in respect of the retention of their names on the roll of such amount as may be prescribed;

(c) authorise the Society to remove from the roll the name of any solicitor who—

(i) fails to reply to any enquiry made in pursuance of sub#paragraph (a) or to pay any fee payable by virtue of sub#paragraph (b); or

(ii) replies to any such enquiry by indicating that he does not wish to have his name retained on the roll; and

(d) authorise the Society to remove from the roll the name of any solicitor who has died.

Entry of name on roll

9.—(1) On production—

(a) of an admission of any person as a solicitor signed by the Lord Chief Justice; or

(b) of an order for the replacement on the roll of the name of a person whose name has been struck off it,

and on payment to the Society of such fee as may be prescribed, the registrar shall enter the name of that person on the roll.

(2) The Society, on the application of a former solicitor whose name is not on the roll because it has been removed from it, may cause his name to be entered on the roll on payment by him to the Society of such fee as may be prescribed.".

Keeping of the register

4. In Article 10 of the Solicitors Order (register of practising solicitors)—

(a) in paragraph (2) the words from "and any person" onwards shall cease to have effect;

(b) after paragraph (2) there shall be inserted—

"(2A) The register may be kept by means of a computer.

(2B) If the register is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.

(2C) If the register is not kept by means of a computer, any person may inspect it during office hours without payment." .

Refusal of practising certificates

5. In Article 13(1) of the Solicitors Order (discretion of registrar to refuse certificate in special cases)—

(a) after sub#paragraph (c) there shall be inserted—

"(cc) where he applies for a practising certificate after a finding by the Tribunal on a complaint under Article 10(3) that he made a false statement material to an application for a previous practising certificate; or" ;

(b) in sub#paragraph (d) for "of his suspension or his re#admission to" there shall be substituted " or termination of his suspension or the replacement of his name on ";

(c) after sub#paragraph (d) there shall be inserted—

"(dd) where, having had a practising certificate suspended under Article 15(2), he first applies for a practising certificate after the expiration of the suspended practising certificate; or" ;

(d) after sub#paragraph (g) there shall be inserted—

"(gg) where he has been invited by the Society to satisfy them that he has complied with any regulations made under Article 6 in relation to education or training, and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed;" ;

(e) in sub#paragraph (h) for "affecting" there shall be substituted " relating to "; and

(f) after sub#paragraph (h) there shall be inserted—

"(hh) where, having been required by Article 35(1) to deliver an accountant's report to the Society—

(a) he has not delivered that report within the period allowed by Article 35(2); or

(b) he has been invited by the Society to satisfy them that, in relation to any report delivered to the Society, he has complied with regulations made under Article 35, and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed;" .

Practising certificates—conditions, appeals and suspension

6. For Articles 14 to 17 of the Solicitors Order there shall be substituted—

"**Appeals in connection with issue of practising certificates**

14.—(1) A solicitor who has been refused a practising certificate under Article 13(3) may, within one month from the date on which notice of such refusal is served on him, apply to the Council to review the refusal; and on such application the Council may in their discretion direct the registrar—

(a) to grant or refuse the application;

(b) to issue—

(i) the certificate; or

(ii) the certificate and any subsequent practising certificate issued to the solicitor,

subject to such terms and conditions as the Council think fit.

(2) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm the decision; or

(b) give to the registrar any direction which could have been given to him by the Council under paragraph (1).

(3) For the purposes of this Article a solicitor who has not received a practising certificate within three weeks after he applied to the registrar for it or, as the case may be, applied to the Council to review the refusal of a practising certificate, shall be deemed to have received notice at the expiration of that period that the certificate has been refused.

Imposition of terms and conditions on current and subsequent practising certificates

14A.—(1) Subject to the provisions of this Article, the Council may in the case of any solicitor direct that—

(a) his practising certificate for the time being in force (his "current certificate"); or

(b) his current certificate and any subsequent practising certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Council think fit.

(2) The power to give a direction under this Article in the case of any solicitor shall be exercisable by the Society at any time during the period for which his current certificate is in force if—

(a) in the event of an application for a practising certificate being made by him at that time, Article 13 would have effect in relation to him by reason of any such circumstances as are mentioned in sub#paragraph (e), (g), (h), (hh), (i) or (j) of paragraph (1) of that Article;

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

(c) Schedule 1 applies in relation to him, by virtue of any provision of this Order.

(3) Subject to paragraph (4), the terms and conditions specified in a direction under this Article shall have effect as from the time when the solicitor concerned is notified of the Council's decision to give the direction.

(4) The Council may, if they think fit, provide in a direction under this Article that the terms and conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under paragraph (6).

(5) Where there is pending against any judgment, order or decree an appeal by a solicitor which, if successful, would result in paragraph (2) no longer being applicable to him, the Council shall not give a direction under this Article in his case so long as the appeal is pending, unless in the opinion of the Council the proceedings on that appeal have been unduly protracted by him or are unlikely to be successful.

(6) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm or revoke the decision;

(b) give any direction which could have been given by the Council under paragraph (1).

Suspension of practising certificate

15.—(1) The making of an order suspending a solicitor from practice and the adjudication of bankruptcy of a solicitor shall operate to suspend any practising certificate of that solicitor for the time being in force.

(2) Where, under any provision of this Order, Schedule 1 applies in relation to a solicitor, the Council may in their discretion suspend any practising certificate of that solicitor for the time being in force.

(3) For the purposes of this Order a practising certificate shall be deemed not to be in force at any time while it is suspended.

(4) A solicitor aggrieved by a decision of the Council under paragraph (2) suspending his practising certificate may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm or revoke the decision;

(b) direct that—

(i) the certificate; or

(ii) the certificate and any subsequent certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Lord Chief Justice thinks fit.

(5) The registrar shall be entitled without payment of any fee to inspect the file of proceedings in bankruptcy relating to any solicitor against whom proceedings in bankruptcy have been taken and to be supplied with office copies of those proceedings on payment of the usual charges for the copies.

Duration of suspension of practising certificate

16.—(1) Subject to the provisions of this Article, the suspension of a practising certificate by virtue of Article 15 shall continue until the certificate expires.

(2) The suspension of a practising certificate by virtue of Article 15(1) by reason of an adjudication in bankruptcy shall terminate if—

(a) the adjudication is annulled; and

(b) an office copy of the order annulling the adjudication has been served on the Society.

(3) Where a solicitor's practising certificate is suspended—

(a) by virtue of Article 15(1) by reason of his adjudication in bankruptcy;

(b) by virtue of Article 15(1) by reason of his suspension from practice and the period of his suspension from practice expires or is terminated under Article 51(1)(f) before the date of expiry of the certificate; or

(c) under Article 15(2),

the solicitor may at any time before the certificate expires (and, in the case of adjudication in bankruptcy, while the adjudication remains unannulled) apply to the Council to terminate the suspension.

(4) On an application under paragraph (3) the Council may in their discretion—

(a) refuse the application;

(b) by order terminate the suspension; or

(c) by order terminate the suspension and direct that—

(i) the practising certificate of the solicitor; or

(ii) the practising certificate of the solicitor and any subsequent practising certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Council think fit.

(5) Subject to paragraph (6), the terms and conditions specified in a direction under paragraph (4)(c) shall have effect as from the time when the solicitor concerned is notified of the Council's decision to give the direction.

(6) The Council may, if they think fit, provide in a direction under paragraph (4)(c) that the terms and conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under paragraph (7).