



STATUTORY INSTRUMENTS.

**S.I. No. 196 of 2021**



RULES OF THE SUPERIOR COURTS (REGULATION OF LEGAL  
SERVICES) 2021

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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, and reconstituted pursuant to the provisions of the Courts of Justice Act 1953, section 15, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, the Courts of Justice Act, 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Solicitors (Amendment) Act, 1960, section 25(2), the Courts (Supplemental Provisions) Act 1961, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 23<sup>rd</sup> day of September 2020.

Frank Clarke (Chairperson)

George Birmingham

Mary Irvine

Elizabeth Dunne

John A. Edwards

Brian R. Murray

Deirdre Murphy

Richard Humphreys

Gráinne Larkin

Stuart Gilhooly

Liam Kennedy

James Finn

Mary Cummins

John Mahon

I concur in the making of the following Rules of Court.

Dated this 23<sup>rd</sup> day of April 2021.

HELEN MCENTEE

Minister for Justice

S.I. No. 196 of 2021

RULES OF THE SUPERIOR COURTS (REGULATION OF LEGAL SERVICES) 2021

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Regulation of Legal Services) 2021, shall come into operation on the 5th day of May 2021.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2021.

2. The Rules of the Superior Courts are amended by the substitution for Order 53 the Orders set out in Schedule 1.

## Schedule 1

### “Order 53

#### Admission of Solicitors

1. In this Order:
  - “**Law Society**” means the Law Society of Ireland;
  - “**President**” means the President of the High Court, provided that a reference to the President shall, where the function or power in question stands delegated under section 6 (as amended by section 5 of and the First Schedule to the Solicitors (Amendment) Act 1960 and as varied by section 25 of the Solicitors (Amendment) Act 1960) of the Solicitors Act 1954, or under section 13 of the Solicitors (Amendment) Act 1960, to an ordinary judge of the High Court, be construed as a reference to such judge;
  - “**Registrar of Solicitors**” means the registrar of solicitors or his or her deputy appointed under section 8 of the Solicitors Act 1954;
  - “**roll of solicitors**” means the roll of solicitors maintained by the Registrar of Solicitors under section 9 (as substituted by section 65 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954.
2. Every person desiring to apply to be admitted by the President, and to be enrolled, as a solicitor may do so by duly applying to the Registrar of Solicitors to that effect and paying the prescribed fees.
3. If the applicant has complied with the requirements of the Solicitors Acts 1954 to 2015 concerning admission and the regulations made thereunder by the Law Society, the Registrar of Solicitors shall cause a certificate of admission, with the applicant’s name inserted therein, to be lodged in the Central Office and thereupon the President shall, unless cause to the contrary is shown, admit the applicant as a solicitor by signing the certificate of admission which shall then, as soon as practicable, be returned by the proper officer of the Central Office to the Registrar of Solicitors. The certificate of admission shall be in the Form No 1 in Appendix H.
4. Upon receipt of the certificate of admission signed by the President, the Registrar of Solicitors shall enter the name of the applicant on the roll of solicitors and shall so acknowledge that fact by signing the certificate of admission and inserting therein the date of enrolment and shall thereupon notify the applicant of that fact.

**Order 53A****Applications relating to the property of clients of solicitors**

- 1.(1) Where the relationship of solicitor and client exists, or has existed, an application to the Court may be brought by or on behalf of the client or former client, by notice of motion returnable to the President, with the solicitor or solicitors concerned named as respondent or respondents, and supported by an affidavit sworn by or on behalf of the applicant, for the delivery to the applicant of a cash account, or the payment of moneys or the delivery of securities to the applicant, and the President may from time to time order the respondent or respondents (or any of them) to deliver to the applicant a list of the moneys or securities which he or she or they has or have in his or her or their custody or control on behalf of the applicant, or to bring into Court the whole or any part of same within such time as the Court may order. In the event of the respondent or respondents (or any of them) alleging that he himself or she herself or they themselves has or have a claim for costs, the President may make a provision for the payment or security thereof or the protection of the lien (if any) of the respondent or respondents (or any of them) as the President thinks fit.
  
- (2) In this Order, "**President**" has the same meaning as in Order 53.

**Order 53B**

**Professional disciplinary proceedings concerning Solicitors (Solicitors Acts 1954 to 2011)**

**Professional disciplinary proceedings concerning Trainee Solicitors (Solicitors Acts 1954 to 2011)**

**I. Application and Definitions**

1.(1) The provisions of this Order apply only to:

(i) proceedings relating to the conduct of a solicitor, arising under the Solicitors Acts 1954 to 2011, arising from an application under section 7 of the Act of 1960 made by a person (other than the Law Society) before the date of entry into operation of Part 6 of the Legal Services Regulation Act 2015 or from such application made by the Law Society before or after such date, and

(ii) proceedings relating to the conduct of a trainee solicitor, arising under the Solicitors Acts 1954 to 2011, commenced before the date of entry into operation of section 208 of the Legal Services Regulation Act 2015.

Order 53C applies to:

(i) proceedings relating to the conduct of a solicitor under the Solicitors Acts 1954 to 2015 commenced on or after the date of entry into operation of Part 6 of the Legal Services Regulation Act 2015, and

(ii) proceedings relating to the conduct of a trainee solicitor, arising under the Solicitors Acts 1954 to 2015, commenced on or after the date of entry into operation of section 208 of the Legal Services Regulation Act 2015.

Order 53D applies to proceedings relating to the conduct of a legal practitioner under the Legal Services Regulation Act 2015.

(2) In this Order:

“**Act of 1954**” means the Solicitors Act 1954 [No 36 of 1954];

“**Act of 1960**” means the Solicitors (Amendment) Act 1960 [No 37 of 1960];

“**Act of 1994**” means the Solicitors (Amendment) Act 1994 [No 27 of 1994];

“**Act of 2002**” means the Solicitors (Amendment) Act 2002 [No 19 of 2002];

“**Acts**” means the Solicitors Acts 1954 to 2011;

“**Court**” means the High Court;

“**Disciplinary Tribunal**” means the Solicitors Disciplinary Tribunal established by section 6 (as substituted by section 16 of the Act of 1994 and as amended by section 8 of the Act of 2002) of the Act of 1960:

“**Law Society**” means the Law Society of Ireland;

“**President**” means the President of the High Court, provided that a reference to the President shall, where the function or power in question stands delegated under section 6 (as amended by section 5 of and the First Schedule to the Act of 1960 and as varied by section 25 of the Act of 1960) of the Act of 1954, or under section 13 of the Act of 1960, to an ordinary judge of the High Court, be construed as a reference to such judge;

“**Registrar of Solicitors**” means the registrar of solicitors or his or her deputy appointed under section 8 of the Act of 1954;

“**respondent solicitor**” means a solicitor who is the subject matter of a report to the Court by the Disciplinary Tribunal pursuant to section 7 (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) of the Act of 1960 or who has appealed to the Court under the said section 7 (as so substituted and amended) of the Act of 1960 or in respect of whom there is an appeal or application by the Law Society or any other person entitled under the said section 7 (as so substituted and amended) of the Act of 1960;

“**respondent trainee solicitor**” means a trainee solicitor who is the subject matter of a report to the Court by the Disciplinary Tribunal pursuant to section 19 of the Act of 2002 or who has appealed to the Court under the said section 19 of the Act of 2002 or in respect of whom there is an appeal or application by the Law Society under the said section 19 of the Act of 2002:

“**roll of solicitors**” means the roll of solicitors maintained by the Registrar of Solicitors under section 9 (as substituted by section 65 of the Act of 1994) of the Act of 1954:

“**solicitor concerned**” means a solicitor who is the subject matter of an appeal or application to the Court pursuant to the Acts, other than a respondent solicitor;

“**trainee solicitor**” means a person seeking to be admitted as a solicitor who by indentures of apprenticeship with a training solicitor is provided with training pursuant to such indentures and who is referred to in the Acts as an apprentice, who is the subject matter of an appeal or application to the Court pursuant to the Acts, other than a respondent trainee solicitor;

“**training solicitor**” means a practising solicitor to whom a respondent trainee solicitor or a trainee solicitor is or has been bound by indentures of apprenticeship;

“**Tribunal Registrar**” means the person appointed by the Disciplinary Tribunal from time to time to act as registrar to the Disciplinary Tribunal, or the person nominated by such person to act as his or her deputy in his or her temporary absence.

- (3) Other words and phrases in this Order shall, where applicable, have the meanings assigned to them in the Acts.
- 2.(a) Service of any document upon the Law Society under this Order may be effected by serving it on the Registrar of Solicitors or by sending it by prepaid registered post addressed to: “The Registrar of Solicitors, Law Society of Ireland, George’s Court, George’s Lane, Dublin 7, D07 E98Y”.

- (b) Service of any document upon any other person under this Order may be effected in the manner provided in section 30 of the Act of 1960.
- 3. An attested copy of every order made by the Court under the Acts shall (as soon as practicable after receipt thereof by the Law Society) be provided by the Law Society to the Registrar of Solicitors and, insofar as any such order relates to the functions of the Disciplinary Tribunal under the Acts, shall also be provided by the Law Society to the Tribunal Registrar.

**II. Report of the Disciplinary Tribunal under section 7 (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) of the Act of 1960**

- 4. Every report of the Disciplinary Tribunal under section 7(3)(c) (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) of the Act of 1960 shall be delivered by the Tribunal Registrar to the Central Office by post or by hand addressed to the President within 21 days of the making of such report. A copy of the report shall at the same time be furnished to the Law Society, to the respondent solicitor and (if applicable) to any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal.
- 5. Where the Disciplinary Tribunal has made a finding or findings that there has been misconduct on the part of a respondent solicitor and the Disciplinary Tribunal has not made, and does not intend to make, an order under section 7(9) (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) of the Act of 1960, the report of the Disciplinary Tribunal as provided for under section 7(3)(c)(iv) (as so substituted and amended) of the Act of 1960 shall (whether or not the respondent solicitor is appealing to the Court against such finding or findings of misconduct on his or her part) be formally brought before the President by the Law Society by being filed in the Central Office (as soon as practicable after the Law Society has been furnished with a copy of same by the Tribunal Registrar) together with a notice of motion seeking such order under section 8 (as substituted by section 18 of the Act of 1994 and as amended by section 10 of the Act of 2002) of the Act of 1960 as may be deemed by the Law Society to be appropriate and reasonable having regard to the opinion of the Disciplinary Tribunal as to the fitness or otherwise of the respondent solicitor to be a member of the solicitors' profession and having regard to such finding or findings and the recommendations of the Disciplinary Tribunal as to the sanction which in their opinion should be imposed. The motion shall be supported by an affidavit or affidavits sworn by a person or persons for and on behalf of and with the authority of the Law Society averring to the relevant facts or alleged facts and exhibiting true copies of all documents delivered to and produced before the Disciplinary Tribunal including but not necessarily limited to true copies of such documents as may be listed as having been so produced in the report of the Disciplinary Tribunal. The motion shall be served on the respondent solicitor and (if applicable) on any person



other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal.

- 6.(a) (i) Where the respondent solicitor is appealing to the Court against such finding or findings of misconduct on his or her part, the President shall not thereupon enter upon a hearing of the motion of the Law Society but shall first direct that the appeal shall proceed as a full rehearing of the evidence laid before the Disciplinary Tribunal, unless a less than full rehearing is contended for by the respondent solicitor and concurred in by the Law Society and (if applicable) concurred in by any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal and unless agreed to by the President.
- (ii) Where an appeal before the President proceeds as provided for in sub-paragraph (i), the President shall thereafter proceed to deal with the motion of the Law Society having regard to the outcome of such appeal.
- (b) Upon the hearing of the motion of the Law Society or the hearing of the appeal of the respondent solicitor, as the case may be, the President may require that any notice, affidavit, or other document not then before the Court that was delivered to and produced in evidence before the Disciplinary Tribunal or a transcript or other record of any oral evidence given before the Disciplinary Tribunal be made available by the Law Society or by the Disciplinary Tribunal to the Court in such manner as the President may direct.
- (c) Subject as provided in paragraph (a)(i), the President may remit the matter to the Disciplinary Tribunal to take further evidence for submission to the Court and to make a supplementary report thereon to the Court.
- (d) The President may, following the hearing of an appeal by the respondent solicitor or the motion of the Law Society, as the case may be, and subject to the provisions of the Acts, give any decision or make any order as the President thinks fit.
- (e) An attested copy of every order made by the President under this rule shall be served by or on behalf of the Law Society on the respondent solicitor and (if applicable) on any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal.

### **III. Report of the Disciplinary Tribunal under section 19 of the Act of 2002**

- 7.(1) Where the Disciplinary Tribunal has made a finding or findings that there has been misconduct on the part of a respondent trainee solicitor, its report under section 19(3)(d) of the Act of 2002 shall (whether or not the respondent trainee solicitor is appealing to the Court against such finding or findings of misconduct on his or her part) be formally brought before the President by the Law Society by being filed in the Central Office (as soon as practicable after the Law Society have been furnished with a copy of same by the Tribunal Registrar) together with a notice of motion seeking

such order under section 19 of the Act of 2002 as may be deemed by the Law Society to be appropriate and reasonable having regard to the opinion of the Disciplinary Tribunal as to the fitness or otherwise of the respondent trainee solicitor to be admitted as a solicitor and the recommendations of the Disciplinary Tribunal as to the sanction which in their opinion should be imposed.

- (2) The motion shall be supported by an affidavit or affidavits sworn by a person or persons for and on behalf of and with the authority of the Law Society averring to the relevant facts or alleged facts and exhibiting true copies of all documents delivered to and produced before the Disciplinary Tribunal including but not necessarily limited to true copies of such documents as may be listed as having been so produced in the report of the Disciplinary Tribunal. The motion shall be served on the respondent trainee solicitor and on the training solicitor concerned.
- 8.(a)
    - (i) Where the respondent trainee solicitor is appealing to the Court against such finding or findings of misconduct on his or her part, the President shall not thereupon enter upon a hearing of the motion of the Law Society but shall first direct that the appeal shall proceed as a full rehearing of the evidence laid before the Disciplinary Tribunal, unless a less than full rehearing is contended for by the respondent trainee solicitor and concurred in by the Law Society and unless agreed to by the President.
      - (ii) Where an appeal before the President proceeds as provided for in sub-paragraph (i), the President shall thereafter proceed to deal with the motion of the Law Society having regard to the outcome of such appeal.
    - (b) Upon the hearing of the motion of the Law Society or the hearing of the appeal of the respondent trainee solicitor, as the case may be, the President may require that any notice, affidavit, or other document not then before the Court that was delivered to and produced in evidence before the Disciplinary Tribunal or a transcript or other record of any oral evidence given before the Disciplinary Tribunal be made available by the Law Society or by the Disciplinary Tribunal to the Court in such manner as the President may direct.
    - (c) Subject as provided in paragraph (a)(i), the President may remit the matter to the Disciplinary Tribunal to take further evidence for submission to the Court and to make a supplementary report thereon to the Court.
    - (d) The President may, following the hearing of an appeal by the respondent trainee solicitor or the motion of the Law Society, as the case may be, and subject to the provisions of the Acts, give any decision or make any order as the President thinks fit.
    - (e) An attested copy of every order made by the President under this rule shall be served by or on behalf of the Law Society on the respondent trainee solicitor and on the training solicitor concerned.

**IV. Appeals to the High Court under section 7 (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) of the Act of 1960**

- 9.(a) Every appeal to the Court against a finding of the Disciplinary Tribunal, either that there was no prima facie case for inquiry into the conduct of a respondent solicitor or that there was no misconduct on the part of a respondent solicitor in relation to an allegation of misconduct, brought by the Law Society or by any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal under section 7(12A)(a) or (b) (as substituted by section 17 of the Act of 1994 and as inserted by section 9(g) of the Act of 2002) of the Act of 1960, shall be brought within the period of 21 days of the receipt by the appellant of written notification from the Tribunal Registrar of such finding and shall be by notice of motion returnable to the President and shall be entitled in the matter of the respondent solicitor and in the matter of the Acts, and:
- (i) shall be supported by an affidavit or affidavits sworn by or on behalf of the appellant averring to the relevant facts or alleged facts and exhibiting true copies of all documents produced before the Disciplinary Tribunal by or on behalf of the appellant;
  - (ii) shall be served (together with copies of the supporting affidavit or affidavits and exhibits thereto) on the Law Society (where the Law Society is not the appellant) and on the respondent solicitor and on the Tribunal Registrar;
  - (iii) may be responded to by an affidavit or affidavits sworn by or on behalf of the respondent solicitor;
  - (iv) shall (if applicable) be responded to by affidavit of the Tribunal Registrar on behalf of the Disciplinary Tribunal limited to exhibiting true copies of any documents not exhibited by the appellant that were delivered to and produced before the Disciplinary Tribunal when it was making such a finding and true copies of any documents recording such a finding by the Disciplinary Tribunal;
  - (v) shall be read by the President in chambers, in the first instance, and then shall be listed by the President for a hearing in open court when submissions may be made by or on behalf of the appellant and responded to by or on behalf of the respondent solicitor; and
  - (vi) such appeal shall then be decided by the President, who may:
    - (I) confirm the finding concerned, or
    - (II) where the appeal is under section 7(12A)(a) (as so substituted and inserted) of the Act of 1960, 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 in relation to such allegation or allegations, or
    - (III) where the appeal is under section 7(12A)(b) (as so substituted and inserted) of the Act of 1960, 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 the allegation of misconduct and, in relation to the respondent solicitor, by order do one or more of the things specified in section 8(1)(a) (as substituted by section 18 of the Act of 1994 and as amended by section 10 of the Act of 2002) of the Act of 1960.

- (b) Every appeal to the Court other than an appeal referred to in paragraph (a) of this rule from a finding or order of the Disciplinary Tribunal, whether the appeal is by the respondent solicitor or by the Law Society or (if applicable) by any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal (or any one or more of them), as the case may be, brought under section 7 (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) of the Act of 1960 shall be brought by the appellant within the period of 21 days beginning on the date of the service by the Tribunal Registrar on the appellant of a copy of the order or of the report, whichever date is the later, and shall be by notice of motion returnable to the President on a date to be assigned by the proper officer in the Central Office and shall be entitled in the matter of the respondent solicitor and in the matter of the Acts.
- (c) The notice of motion shall state the order or finding or (if more than one) each order or finding of the Disciplinary Tribunal in respect of which the appeal is brought, the grounds of the appeal and the order sought by the appellant on such appeal.
- (d) The motion shall be supported by an affidavit or affidavits sworn by or on behalf of the appellant averring to the relevant facts or alleged facts and exhibiting true copies of all documents delivered to and produced before the Disciplinary Tribunal including but not necessarily limited to true copies of such documents as may be listed as having been so produced in the report of the Disciplinary Tribunal.
- (e) The notice of motion shall be served by or on behalf of the appellant on the Registrar of Solicitors or on the respondent solicitor or (if applicable) on any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal, as the case may be.
- (f) The appeal shall be entered by or on behalf of the appellant by filing a copy of the notice of motion (with the date or respective dates of service thereof endorsed), together with any affidavit or affidavits intended to be used in support thereof, in the Central Office, at the latest within three days after the date of service thereof on the Registrar of Solicitors or on the respondent solicitor or (if applicable) on any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal, as the case may be, provided that, where service is required to be effected on more than one such person, the appeal shall be so entered within three days after the latest date of such service.

- (g) The President shall have power, upon the hearing of any such appeal, to add other parties to the motion before the Court, where it appears just so to do.
- (h)
  - (I) Where the respondent solicitor is appealing to the Court against a finding or findings of misconduct on his or her part, the President shall direct that the appeal shall proceed as a full rehearing of the evidence laid before the Disciplinary Tribunal, unless a less than full rehearing is contended for by the respondent solicitor and concurred in by the Law Society and (if applicable) concurred in by any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal and unless agreed to by the President.
  - (II) Upon the hearing of the appeal of the respondent solicitor, the President may require that any notice, affidavit, or other document not then before the Court that was delivered to and produced in evidence before the Disciplinary Tribunal or a transcript or other record of any oral evidence given before the Disciplinary Tribunal be made available by the Law Society or by the Disciplinary Tribunal to the Court in such manner as the President may direct.
  - (III) Subject as provided in sub-paragraph (I) of this paragraph of this rule, the President may remit the matter to the Disciplinary Tribunal to take further evidence for submission to the Court and to make a supplementary report thereon to the Court.
- (i) The President may, following the hearing of such appeal and subject to the provisions of the Acts, give any decision or make any order as the President thinks fit.
- (j) An attested copy of every order made by the President under this rule shall be served by or on behalf of the Law Society on the respondent solicitor and (if applicable) on any person other than the Law Society who made the application in relation to the respondent solicitor to the Disciplinary Tribunal.

#### **V. Appeals to the High Court under section 19 of the Act of 2002**

- 10.(a) Every appeal to the Court by a respondent trainee solicitor or by the Law Society from a finding of the Disciplinary Tribunal under section 19(4)(a) or (b) of the Act of 2002 shall be brought by the appellant within the period of 21 days of the receipt by the appellant of written notification from the Tribunal Registrar of such finding and shall be by notice of motion returnable to the President on a date to be assigned by the proper officer in the Central Office and shall be entitled in the matter of the respondent trainee solicitor and in the matter of the Acts.
- (b) The notice of motion shall state the finding or (if more than one) each finding of the Disciplinary Tribunal in respect of which the appeal is brought, the grounds of the appeal and the order sought by the appellant on such appeal.

- (c) The motion shall be supported by an affidavit or affidavits sworn by or on behalf of the appellant averring to the relevant facts or alleged facts and exhibiting true copies of all documents delivered to and produced before the Disciplinary Tribunal including but not necessarily limited to true copies of such documents as may be listed as having been so produced in the report of the Disciplinary Tribunal.
- (d) The notice of motion shall be served by or on behalf of the appellant on the Registrar of Solicitors or on the respondent trainee solicitor, as the case may be, and on the training solicitor concerned.
- (e) The appeal shall be entered by or on behalf of the appellant by filing a copy of the notice of motion (with the date or respective dates of service thereof endorsed), together with any affidavit or affidavits intended to be used in support thereof, in the Central Office, at the latest within three days after the date of service thereof on the Registrar of Solicitors or on the respondent trainee solicitor, as the case may be, and on the training solicitor concerned, provided that, where service is required to be effected on more than one such person, the appeal shall be so entered within three days after the latest date of such service.
- (f) The President shall have power, upon the hearing of any such appeal, to add other parties to the motion before the Court where it appears just so to do.
- (g)
  - (I) Where the respondent trainee solicitor is appealing to the Court against a finding or findings of misconduct on his or her part, the President shall direct that such appeal shall proceed as a full rehearing of the evidence laid before the Disciplinary Tribunal, unless a less than full rehearing is contended for by the respondent trainee solicitor and concurred in by the Law Society and unless agreed to by the President.
  - (II) Upon the hearing of the appeal of the respondent trainee solicitor, the President may require that any notice, affidavit, or other document not then before the Court that was delivered to and produced in evidence before the Disciplinary Tribunal or a transcript or other record of any oral evidence given before the Disciplinary Tribunal be made available by the Law Society or the Disciplinary Tribunal to the Court in such manner as the President may direct.
  - (III) Subject as provided in sub-paragraph (I), the President may remit the matter to the Disciplinary Tribunal to take further evidence for submission to the Court and to make a supplementary report thereon to the Court.
- (h) The President may, following the hearing of such appeal and subject to the provisions of the Acts, give any decision or make any order as the President thinks fit.
- (i) An attested copy of every order made by the President under this rule shall be served by or on behalf of the Law Society on the respondent trainee solicitor and on the training solicitor concerned.

**VI. Applications under section 20 (as substituted by section 28 of the Act of 1994) of the Act of 1960**

- 11.(a) Every application by the Law Society to the Court under section 20 (as substituted by section 28 of the Act of 1994) of the Act of 1960 shall be heard by the President and shall be brought by motion supported by an affidavit or affidavits (as hereinafter in this rule provided).
- (b) The application may be made ex parte in the first instance, or may be made by notice of motion returnable to the President, grounded on an affidavit (or affidavits) of the Registrar of Solicitors or other officer of the Law Society duly authorised, entitled in the matter of the solicitor concerned to whose bank account or accounts or to the bank account or accounts of whose firm the application relates and in the matter of the Acts.
- (c) Any order of the Court directing that no bank shall, without leave of the Court, make any payment out of a bank account in the name of the solicitor concerned or of his or her firm shall be served on the bank or banks concerned in such manner (if any) as shall be specified in the order.
- (d) Any order of the Court directing that a specified bank shall not, without leave of the Court, make any payment out of a bank account in the name of the solicitor concerned or of his or her firm shall be served on such specified bank concerned in such manner (if any) as shall be specified in the order.
- (e) Any order made as aforesaid shall be served upon the solicitor concerned or the firm of such solicitor the bank account or accounts of whom or of which is or are affected thereby within such time as may be specified in the order or within such extended time as may be fixed by any subsequent order unless the President shall dispense with such service.
- (f) The solicitor concerned or his or her firm whose bank account or accounts is or are affected by any such order as aforesaid or any bank on which any such order has been served may at any time apply by notice of motion returnable to the President to discharge, set aside or vary such order, which motion shall be served on the Registrar of Solicitors, and the President may, on the hearing of such motion, discharge, set aside or vary such order upon such terms as the President thinks fit or may dismiss such application.
- (g) An application by or on behalf of the solicitor concerned or his or her firm for leave to make any payment out of a bank account affected by any such order as aforesaid may be made at any time by notice of motion returnable to the President, which motion shall be served on the Registrar of Solicitors, and the President may, on the hearing of such motion, grant or refuse such leave as the President thinks fit.
- (h) The Law Society or any other interested party may at any time apply by notice of motion returnable to the President, to discharge, set aside or vary any such order as aforesaid in this rule, which motion shall be served on the solicitor concerned and on any other person affected thereby (unless the President shall dispense with such notice), and the President may, on the hearing of such motion, grant or refuse such application as the President thinks fit.

### **VII. Applications under section 18 of the Act of 2002**

- 12.(a) Every application by the Law Society to the Court under section 18 of the Act of 2002 to prohibit a solicitor or other person from contravening a provision of the Acts or regulations made thereunder shall be heard by the President and shall be brought by motion supported by an affidavit or affidavits (as hereinafter in this rule provided).
- (b) The application may be made ex parte in the first instance, or may be made by notice of motion returnable to the President, grounded on an affidavit or affidavits of the Registrar of Solicitors or other officer of the Law Society duly authorised, entitled in the matter of the solicitor concerned or other person concerned, as the case may be.
- (c) The President may, following the hearing of such application and subject to the provisions of the Acts, give any decision or make any order as the President thinks fit.
- (d) Any order of the Court prohibiting the solicitor concerned or other person concerned, as the case may be, from contravening a provision of the Acts or regulations made thereunder shall be served on the solicitor concerned or other person concerned, and (if applicable) on any other person affected thereby, in such manner (if any) as shall be specified in the order.
- (e) The solicitor concerned or other person concerned who is affected by any such order may at any time apply by notice of motion returnable to the President to discharge, set aside or vary such order, which motion shall be served on the Law Society, and the President may, on the hearing of such motion, discharge, set aside or vary such order upon such terms as the President thinks fit or may dismiss such application.
- (f) The Law Society may at any time apply by notice of motion returnable to the President, to discharge, set aside or vary any such order as aforesaid in this rule, which motion shall be served on the solicitor concerned or other person concerned and (if applicable) on any other person affected thereby (unless the President shall dispense with such notice) and the President may, on the hearing of such motion, grant or refuse such application as the President thinks fit.

### **VIII. Appeals or applications to the High Court under other provisions of the Acts**

- 13.(a) This rule, insofar as is appropriate and reasonable in the particular circumstances, shall apply to any appeal or application to the Court made by the Law Society or by the solicitor concerned or by the trainee solicitor concerned or by the training solicitor concerned or by any other person entitled and having legal standing under the Acts to do so, as the case may be, under the following provisions of the Acts and regulations thereunder:

*Under the Act of 1954 (as amended)*

- (i) section 24(2)(b) (as substituted by section 40 of the Act of 1994) of the Act of 1954 [Requirements for admission as solicitor];



- (ii) section 27(4) (as substituted by section 43 of the Act of 1994) of the Act of 1954 [Evidence of education, employment and character];
- (iii) section 33(3) (as substituted by section 46 of the Act of 1994) of the Act of 1954 [General power to discharge indentures];
- (iv) section 45 of the Act of 1954 [Appeals under Part IV];
- (v) section 47(6) (as substituted by section 54 of the Act of 1994) of the Act of 1954 [Application for practising certificate];
- (vi) section 48(3) (as amended by section 55 of the Act of 1994) of the Act of 1954 [Date and period of validity of practising certificate];
- (vii) section 49(3) (as substituted by section 61 of the Act of 1994 and amended by section 2 of the Act of 2002) of the Act of 1954 [Direction to grant or refuse practising certificate];
- (viii) section 51(2) of the Act of 1954 [Termination of suspension of practising certificate];
- (ix) section 60(3) and (4) (as substituted by section 20 of the Act of 1994) of the Act of 1954 [Restriction on employment of person struck off roll or suspended];
- (x) section 61(2), (3) and (4) (as substituted by section 31 of the Act of 1994) of the Act of 1954 [Intervention in practice of sole practitioner in cases of death, incapacity, bankruptcy or abandonment];
- (xi) section 63(2) (as substituted by section 21 of the Act of 1994) of the Act of 1954 [Disclosure of having been struck off roll, etc];
- (xii) section 66(12) (as substituted by section 76 of the Act of 1994 and as amended by section 3 of the Act of 2002) of the Act of 1954 [Regulations for accounts];

*Under the Act of 1960 (as amended)*

- (xiii) section 9(2)(b) of the Act of 1960 [Removal at his or her own request of name of solicitor from the roll];
- (xiv) section 10(2) (as amended by section 19 of the Act of 1994) of the Act of 1960 [Restoration of name of solicitor to the roll];
- (xv) section 15(1E) (as substituted by section 25 of the Act of 1994 and as amended by section 11 of the Act of 2002) of the Act of 1960 [Powers of Disciplinary Tribunal as to taking evidence, etc];
- (xvi) section 19(2)(b) and (4) (as substituted by section 27 of the Act of 1994) of the Act of 1960 [Power of Law Society to deal with documents of certain solicitors];
- (xvii) section 20(1) (as substituted by section 28 of the Act of 1994) of the Act of 1960 [Control of banking accounts of solicitors];

*Under the Act of 1994 (as amended)*

- (xviii) section 10A (as inserted by section 13 of the Act of 2002) of the Act of 1994 [Application concerning alleged obstruction of investigation];

(xix) section 11(1), (3) and (4) of the Act of 1994 [Appeals to the High Court against determinations, directions or requirements of the Law Society];

(xx) section 14(3) (as amended by section 15 of the Act of 2002) of the Act of 1994 [Power to inspect documents];

(xxi) section 15(10) of the Act of 1994 [Investigation of complaints];

(xxii) section 32(3), (4), (6) and (8) of the Act of 1994 [Intervention in practice of solicitor who has died];

(xxiii) section 33(1), (2), (5) and (6) of the Act of 1994 [Sale of solicitor's practice in certain circumstances];

(xxiv) section 34(3) of the Act of 1994 [Ancillary provisions in relation to certain applications or orders];

(xxv) section 37(4) of the Act of 1994 [Restriction following admission as solicitor on practising as a sole practitioner];

(xxvi) section 58(1) of the Act of 1994 [Suspension of practising certificates];

(xxvii) section 59(4) of the Act of 1994 [Imposition of conditions while practising certificates are in force];

*Under the Solicitors Accounts Regulations 2001*

(xxviii) regulation 35(3) of the Solicitors Accounts Regulations 2014 (SI No 516 of 2014) [Investigation by authorised person].

- (b) Every appeal or application to the High Court under the provisions of the Acts and regulations set forth in paragraph (a) by the Law Society or by the solicitor concerned or by the trainee solicitor concerned or by the training solicitor concerned or by any other person entitled and having legal standing under the Acts to do so, as the case may be, shall be brought by notice of motion returnable to the President and shall be entitled in the matter of the solicitor concerned or the trainee solicitor concerned or the training solicitor concerned or any other person concerned, as the case may be, and in the matter of the Acts.
- (c) The notice of motion shall state the grounds of the appeal or application and the order sought by the appellant or applicant on such appeal or application.
- (d) The notice of motion shall be served by or on behalf of the appellant or applicant on:
- (i) the Registrar of Solicitors, or
  - (ii) on the solicitor concerned, or
  - (iii) on the trainee solicitor concerned, or
  - (iv) on the training solicitor concerned, or
  - (v) on any other person concerned,

as the case may be, within the time prescribed by the applicable provision or provisions of the Acts or, if no time is so prescribed, within a period of

21 days beginning on the date when the particular circumstances giving rise to the appeal or application came or should, with reasonable care in his or her own interest, have come to the notice of the appellant or applicant.

- (e) The appeal or application shall be entered by or on behalf of the appellant or applicant by filing a copy of the notice of motion (with the date or respective dates of service thereof endorsed), together with any affidavit or affidavits intended to be used in support thereof, in the Central Office, at the latest within three days after the date of service thereof provided that, where service is required to be effected on more than one person, the appeal or application shall be entered within three days after the latest date of such service.
- (f) The President shall have power, upon the hearing of any such appeal or application, to add other parties to the motion before the Court where it appears just so to do.
- (g) The evidence upon the hearing of any such appeal or application shall be by affidavit, except insofar as the President may direct oral evidence to be given.
- (h) The President may, following the hearing of such appeal or application and subject to the provisions of the Acts, give any decision or make any order as the President thinks fit.
- (i) An attested copy of every order made by the President under this rule shall be served by or on behalf of the appellant or applicant on the Registrar of Solicitors or on the solicitor concerned or on the trainee solicitor concerned or on the training solicitor concerned or on any other person concerned, as the case may be.

**Order 53C**

**Professional disciplinary proceedings concerning Solicitors (Solicitors Acts 1954 to 2015, as amended by Legal Services Regulation Act 2015)**

**Professional disciplinary proceedings concerning Trainee Solicitors (Solicitors Acts 1954 to 2015, as amended by Legal Services Regulation Act 2015)**

**I. Application and Definitions**

1.(1) This Order applies only to:

(i) proceedings relating to the conduct of a solicitor arising under the Solicitors Acts 1954 to 2015 commenced on or after the date of entry into operation of Part 6 of the Legal Services Regulation Act 2015 (but not including proceedings arising from an application under section 7 of the Act of 1960 made by the Law Society after such date), and

(ii) proceedings relating to the conduct of a trainee solicitor, arising under the Solicitors Acts 1954 to 2015, commenced on or after the date of entry into operation of section 208 of the Legal Services Regulation Act 2015.

Order 53B applies to:

(i) proceedings relating to the conduct of a solicitor, arising under the Solicitors Acts 1954 to 2011, arising from an application under section 7 of the Act of 1960 made by a person (other than the Law Society) before the date of entry into operation of Part 6 of the Legal Services Regulation Act 2015 or from such application made by the Law Society before or after such date, and

(ii) proceedings relating to the conduct of a trainee solicitor, arising under the Solicitors Acts 1954 to 2015, commenced on or after the date of entry into operation of section 208 of the Legal Services Regulation Act 2015.

Order 53D applies to proceedings relating to the conduct of a legal practitioner under the Legal Services Regulation Act 2015.

(2) In this Order:

“**Act of 1954**” means the Solicitors Act 1954 [No 36 of 1954];

“**Act of 1960**” means the Solicitors (Amendment) Act 1960 [No 37 of 1960];

“**Act of 1994**” means the Solicitors (Amendment) Act 1994 [No 27 of 1994];

“**Act of 2002**” means the Solicitors (Amendment) Act 2002 [No 19 of 2002];

“**Act of 2015**” means the Legal Services Regulation Act 2015 [No 65 of 2015];

“**Authority**” means the Legal Services Regulatory Authority;

“**Court**” means the High Court;

“**Law Society**” means the Law Society of Ireland;

“**legal practitioner**” has the same meaning as in section 2 of the Act of 2015;

“**Legal Practitioners Disciplinary Tribunal**” means the Legal Practitioners Disciplinary Tribunal established by section 74 of the Act of 2015;

“**President**” means the President of the High Court, provided that where: (i) the function or power in question under the Solicitors Acts stands delegated under section 6 (as amended by section 5 of and the First Schedule to the Act of 1960 and as varied by section 25 of the Act of 1960) of the Act of 1954, or under section 13 of the Act of 1960 to an ordinary judge of the High Court, or (ii) the jurisdiction in question under section 84, section 85, section 115 or, as the case may be, section 128 of the Act of 2015 is for the time being directed by the President of the High Court in accordance with section 86, section 115(5) or, as the case may be, section 128(6) of the Act of 2015, to be exercised by an ordinary judge of the High Court assigned in that behalf by the President of the High Court, a reference to the President shall be construed as a reference to such judge;

“**Registrar of Solicitors**” means the registrar of solicitors or his or her deputy appointed under section 8 of the Act of 1954;

“**Solicitors Acts**” means the Solicitors Acts 1954 to 2015;

“**respondent legal practitioner**” means a legal practitioner:

- (i) who is the subject matter of a recommendation to the Court by the Legal Practitioners Disciplinary Tribunal pursuant to section 82(2) of the Act of 2015, or
- (ii) who has appealed to the Court under section 83(2)(a) or section 83(3) of the Act of 2015, or
- (iii) in respect of whom there is an appeal or application by the Authority or the Law Society under section 83(1) or section 83(2)(b) of the Act of 2015;

“**respondent trainee solicitor**” means a trainee solicitor:

- (i) who is the subject matter of a report to the Court by the Legal Practitioners Disciplinary Tribunal pursuant to section 19 of the Act of 2002 [(as amended by section 208 of the Act of 2015)], or
- (ii) who has appealed to the Court under section 19 of the Act of 2002 [(as so amended)], or
- (iii) in respect of whom there is an appeal or application by the Law Society under section 19 of the Act of 2002 [(as so amended)];

“**roll of solicitors**” means the roll of solicitors maintained by the Registrar of Solicitors under section 9 (as substituted by section 65 of the Act of 1994) of the Act of 1954;

“**solicitor concerned**” means a solicitor who is the subject matter of an appeal or application to the Court pursuant to the Solicitors Acts, other than a respondent legal practitioner;

“**trainee solicitor**” means a person seeking to be admitted as a solicitor who by indentures of apprenticeship with a training solicitor is provided with training pursuant to such indentures and who is referred to in the Solicitors Acts as an apprentice, who is the subject matter of an appeal or application to the Court pursuant to the Solicitors Acts, other than a respondent trainee solicitor;

“**training solicitor**” means a practising solicitor to whom a respondent trainee solicitor or a trainee solicitor is or has been bound by indentures of apprenticeship;

“**Tribunal Registrar**” means the person appointed by the Legal Practitioners Disciplinary Tribunal from time to time to act as registrar to the Legal Practitioners Disciplinary Tribunal, or the person for the time being performing such functions in relation to the Legal Practitioners Disciplinary Tribunal in accordance with any regulations made by the Legal Practitioners Disciplinary Tribunal.

- (3) Other words and phrases in this Order shall, where applicable, have the meanings assigned to them in the Act of 2015 or, as the case may be, in the Solicitors Acts.
- 2.(1) Service of any document upon the Authority under this Order may be effected by serving it on the Secretary to the Authority or by sending it by prepaid registered post addressed to the Secretary to the Authority at the Authority’s principal office.
- (2) Service of any document upon the Law Society under this Order may be effected by serving it on the Registrar of Solicitors or by sending it by prepaid registered post addressed to the said Registrar: “The Registrar of Solicitors, Law Society of Ireland, George’s Court, George’s Lane, Dublin 7, D07 E98Y”.
- (3) Service of any document upon any other person under this Order may be effected in the manner provided in section 30 of the Act of 1960.
- 3.(1) An attested copy of every order made by the Court under the Solicitors Acts shall (as soon as practicable after receipt thereof by the Law Society) be provided by the Law Society to the Registrar of Solicitors.
- (2) An attested copy of every order made by the Court under the Act of 2015 shall, insofar as any such order relates to the functions of the Legal Practitioners Disciplinary Tribunal under the Act of 2015, (as soon as practicable after receipt thereof by the Authority):
- (a) where the Authority is party to the proceedings before the Court, be provided by the Authority to the Tribunal Registrar;
- (b) in any other case, be provided by the Court registrar to the Tribunal Registrar.

## **II. Report of the Legal Practitioners Disciplinary Tribunal under section 19 of the Act of 2002**

- 4.(1) Where the Legal Practitioners Disciplinary Tribunal have made a finding or findings that there has been misconduct on the part of a respondent trainee solicitor, their report under section 19(3)(d) of the Act of 2002 shall (whether or not the respondent trainee solicitor is appealing to the Court against such finding or findings of misconduct on his or her part) be formally brought before the President by the Law Society by being filed in the Central Office together with a notice of motion seeking such order under section 19 of the Act of 2002 as may be deemed appropriate and reasonable having regard to the opinion of the Legal Practitioners Disciplinary Tribunal as to the fitness or otherwise of the respondent trainee solicitor to be admitted as a solicitor and the recommendations of the Legal Practitioners Disciplinary Tribunal as to the sanction which in their opinion should be imposed.
  - (2) The motion shall be supported by an affidavit averring to the relevant facts or alleged facts and exhibiting true copies of all documents delivered to and produced before the Legal Practitioners Disciplinary Tribunal including but not necessarily limited to true copies of such documents as may be listed as having been so produced in the report of the Legal Practitioners Disciplinary Tribunal. The motion shall be served on the respondent trainee solicitor and on the training solicitor concerned and on the Authority.
- 5.(1) Where the respondent trainee solicitor is appealing to the Court against such finding or findings of misconduct on his or her part, the President shall not thereupon enter upon a hearing of the motion of the Tribunal Registrar but shall first direct that the appeal shall proceed as a full rehearing of the evidence laid before the Legal Practitioners Disciplinary Tribunal, unless a less than full rehearing is contended for by the respondent trainee solicitor and concurred in by the Law Society and the Authority and unless agreed to by the President.
  - (2) Where an appeal before the President proceeds as provided for in sub-rule (1), the President shall thereafter proceed to deal with the motion of the Law Society having regard to the outcome of such appeal.
  - (3) Upon the hearing of the motion of the Law Society or the hearing of the appeal of the respondent trainee solicitor, as the case may be, the President may require that any notice, affidavit, or other document not then before the Court that was delivered to and produced in evidence before the Legal Practitioners Disciplinary Tribunal or a transcript or other record of any oral evidence given before the Legal Practitioners Disciplinary Tribunal be made available by the Legal Practitioners Disciplinary Tribunal to the Court in such manner as the President may direct.
  - (4) Subject as provided in sub-rule (1), the President may remit the matter to the Legal Practitioners Disciplinary Tribunal to take further evidence for submission to the Court and to make a supplementary report thereon to the Court.

- (5) The President may, following the hearing of an appeal by the respondent trainee solicitor or the motion of the Law Society, as the case may be, and subject to the provisions of the Solicitors Acts, give any decision or make any order as the President thinks fit.
- (6) An attested copy of every order made by the President under this rule shall be served by or on behalf of the Authority on the respondent trainee solicitor and on the training solicitor concerned.

### **III. Appeals to the High Court under section 19 of the Act of 2002**

- 6.(1) Every appeal to the Court by a respondent trainee solicitor or by the Law Society from a finding of the Legal Practitioners Disciplinary Tribunal under section 19(4)(a) or (b) of the Act of 2002 shall be brought by the appellant within the period prescribed by section 19(4)(a) or, as the case may be, section 19(4)(b) of the Act of 2002 and by originating notice of motion of appeal returnable to the President and shall be entitled in the matter of the respondent trainee solicitor and in the matter of the Solicitors Acts.
- (2) The notice of motion shall state the finding or (if more than one) each finding of the Legal Practitioners Disciplinary Tribunal in respect of which the appeal is brought, the grounds of the appeal and the order sought by the appellant on such appeal.
- (3) The motion shall be supported by an affidavit or affidavits sworn by or on behalf of the appellant averring to the relevant facts or alleged facts and exhibiting true copies of all documents delivered to and produced before the Legal Practitioners Disciplinary Tribunal including but not necessarily limited to true copies of such documents as may be listed as having been so produced in the report of the Legal Practitioners Disciplinary Tribunal.
- (4) The notice of motion shall be served by or on behalf of the appellant on the Tribunal Registrar and on the Law Society or on the respondent trainee solicitor, as the case may be, and on the training solicitor concerned.
- (5) The appeal shall be entered by or on behalf of the appellant by filing a copy of the notice of motion, together with any affidavit intended to be used in support thereof, in the Central Office, within the time prescribed by section 19(4) of the Act of 2002.
- (6) A copy of the notice of motion (and copies of any affidavit or affidavits and any exhibits thereto) shall be served by or on behalf of the appellant:
  - (i) on the Authority and on the Law Society, or as the case may be,
  - (ii) on the respondent trainee solicitor, and on the training solicitor concernednot later than seven days after the filing of the appeal.
- (7) The President shall have power, upon the hearing of any such appeal, to add other parties to the motion before the Court where it appears just so to do.



- (8) Where the respondent trainee solicitor is appealing to the Court against a finding or findings of misconduct on his or her part, the President shall direct that such appeal shall proceed as a full rehearing of the evidence laid before the Legal Practitioners Disciplinary Tribunal, unless a less than full rehearing is contended for by the respondent trainee solicitor and concurred in by the Law Society and the Authority and unless agreed to by the President.
- (9) Upon the hearing of the appeal of the respondent trainee solicitor, the President may require that any notice, affidavit, or other document not then before the Court that was delivered to and produced in evidence before the Legal Practitioners Disciplinary Tribunal or a transcript or other record of any oral evidence given before the Legal Practitioners Disciplinary Tribunal be made available by the Legal Practitioners Disciplinary Tribunal to the Court in such manner as the President may direct.
- (10) Subject as provided in sub-rule (8), the President may remit the matter to the Legal Practitioners Disciplinary Tribunal to take further evidence for submission to the Court and to make a supplementary report thereon to the Court.
- (11) The President may, following the hearing of such appeal and subject to the provisions of the Solicitors Acts, give any decision or make any order as the President thinks fit.
- (12) An attested copy of every order made by the President under this rule shall be served by or on behalf of the Tribunal Registrar on the Law Society and on the respondent trainee solicitor and on the training solicitor concerned.

#### **IV. Applications under section 20 (as substituted by section 28 of the Act of 1994) of the Act of 1960**

- 7.(1) Every application by the Law Society or the Authority (by virtue of section 94 of the Act of 2015) to the Court under section 20 (as substituted by section 28 of the Act of 1994) of the Act of 1960 shall be heard by the President and shall be brought by motion supported by affidavit (as hereinafter in this rule provided).
- (2) The application may be made *ex parte* in the first instance, or may be made by notice of motion returnable to the President, grounded on an affidavit of the Registrar of Solicitors or other duly authorised officer of the Law Society or, as the case may be, by a duly authorised officer of the Authority, entitled in the matter of the solicitor concerned to whose bank account or accounts or to the bank account or accounts of whose firm the application relates and in the matter of the Solicitors Acts.
- (3) Any order of the Court directing that no bank shall, without leave of the Court, make any payment out of a bank account in the name of the solicitor concerned or of his or her firm shall be served on the bank or banks concerned in such manner (if any) as shall be specified in the order.
- (4) Any order of the Court directing that a specified bank shall not, without leave of the Court, make any payment out of a bank account in the name of the solicitor concerned or of his or her firm shall be served on such

specified bank concerned in such manner (if any) as shall be specified in the order.

- (5) Any order made as aforesaid shall be served upon the solicitor concerned or the firm of such solicitor the bank account or accounts of whom or of which is or are affected thereby within such time as may be specified in the order or within such extended time as may be fixed by any subsequent order unless the President shall dispense with such service.
- (6) The solicitor concerned or his or her firm whose bank account or accounts is or are affected by any such order as aforesaid or any bank on which any such order has been served may at any time apply by notice of motion returnable to the President to discharge, set aside or vary such order, which motion shall be served on the Registrar of Solicitors or, as the case may be, the Authority, and the President may, on the hearing of such motion, discharge, set aside or vary such order upon such terms as the President thinks fit or may dismiss such application.
- (7) An application by or on behalf of the solicitor concerned or his or her firm for leave to make any payment out of a bank account affected by any such order as aforesaid may be made at any time by notice of motion returnable to the President, which motion shall be served on the Registrar of Solicitors or, as the case may be, the Authority, and the President may, on the hearing of such motion, grant or refuse such leave as the President thinks fit.
- (8) The Law Society or the Authority or any other interested party may at any time apply by notice of motion returnable to the President to discharge, set aside or vary any such order as aforesaid in this rule, which motion shall be served on the solicitor concerned and on any other person affected thereby (unless the President shall dispense with such notice), and the President may, on the hearing of such motion, grant or refuse such application as the President thinks fit.

#### **V. Applications under section 18 of the Act of 2002**

- 8.(1) Every application by the Law Society or the Authority (by virtue of section 94 of the Act of 2015) to the Court under section 18 of the Act of 2002 to prohibit a solicitor or (in the case of the Law Society) another person from contravening a provision of the Solicitors Acts or regulations made thereunder shall be heard by the President and shall be brought by motion supported by affidavit (as hereinafter in this rule provided).
- (2) The application may be made *ex parte* in the first instance, or may be made by notice of motion returnable to the President, grounded on an affidavit of the Registrar of Solicitors or another duly authorised officer of the Law Society or, as the case may be, by a duly authorised officer of the Authority, entitled in the matter of the solicitor concerned or other person concerned, as the case may be.
- (3) The President may, following the hearing of such application and subject to the provisions of the Solicitors Acts, give any decision or make any order as the President thinks fit.

- (4) Any order of the Court prohibiting the solicitor concerned or other person concerned, as the case may be, from contravening a provision of the Solicitors Acts or regulations made thereunder shall be served on the solicitor concerned or other person concerned, and (if applicable) on any other person affected thereby, in such manner (if any) as shall be specified in the order.
- (5) The solicitor concerned or other person concerned who is affected by any such order may at any time apply by notice of motion returnable to the President to discharge, set aside or vary such order, which motion shall be served on the Law Society or, as the case may be, the Authority, and the President may, on the hearing of such motion, discharge, set aside or vary such order upon such terms as the President thinks fit or may dismiss such application.
- (6) The Law Society or, as the case may be, the Authority, may at any time apply by notice of motion returnable to the President, to discharge, set aside or vary any such order as aforesaid in this rule, which motion shall be served on the solicitor concerned or other person concerned and (if applicable) on any other person affected thereby (unless the President shall dispense with such notice) and the President may, on the hearing of such motion, grant or refuse such application as the President thinks fit.

## **VI. Appeals or applications to the High Court under other provisions of the Solicitors Acts**

- 9.(1) This rule shall apply to any appeal or application to the Court made by the Law Society or by the Authority (by virtue of section 94 of the Act of 2015); by the solicitor concerned; by the trainee solicitor concerned; by the training solicitor concerned or by any other person entitled and having legal standing under the Solicitors Acts to do so, as the case may be, under the following provisions of the Solicitors Acts and regulations thereunder:

### *Under the Act of 1954 (as amended)*

- (i) section 24(2)(b) (as substituted by section 40 of the Act of 1994) of the Act of 1954 [Requirements for admission as solicitor];
- (ii) section 27(4) (as substituted by section 43 of the Act of 1994) of the Act of 1954 [Evidence of education, employment and character];
- (iii) section 33(3) (as substituted by section 46 of the Act of 1994) of the Act of 1954 [General power to discharge indentures];
- (iv) section 45 of the Act of 1954 [Appeals under Part IV];
- (v) section 47(6) (as substituted by section 54 of the Act of 1994) of the Act of 1954 [Application for practising certificate];
- (vi) section 49(3) (as substituted by section 61 of the Act of 1994 and amended by section 2 of the Act of 2002) of the Act of 1954 [Direction to grant or refuse practising certificate];
- (vii) section 51(2) of the Act of 1954 [Termination of suspension of practising certificate];

(viii) section 60(3) and (4) (as substituted by section 20 of the Act of 1994) of the Act of 1954 [Restriction on employment of person struck off roll of solicitors or suspended];

(ix) section 61(2), (3) and (4) (as substituted by section 31 of the Act of 1994) of the Act of 1954 [Intervention in practice of sole practitioner in cases of death, incapacity, bankruptcy or abandonment];

(x) section 63(2) (as substituted by section 21 of the Act of 1994) of the Act of 1954 [Disclosure of having been struck off roll of solicitors, etc];

(xi) section 66(12) (as substituted by section 76 of the Act of 1994 and as amended by section 3 of the Act of 2002) of the Act of 1954 [Regulations for accounts];

*Under the Act of 1960 (as amended)*

(xii) section 9(2)(b) of the Act of 1960 [Removal at his or her own request of name of solicitor from the roll of solicitors];

(xiii) section 10(2) (as amended by section 19 of the Act of 1994) of the Act of 1960 [Restoration of name of solicitor to the roll of solicitors];

(xiv) section 15(1E) (as substituted by section 25 of the Act of 1994 and as amended by section 11 of the Act of 2002) of the Act of 1960 [Powers of Disciplinary Tribunal as to taking evidence, etc];

(xv) section 19(2)(b) and (4) (as substituted by section 27 of the Act of 1994) of the Act of 1960 [Power of Law Society to deal with documents of certain solicitors];

*Under the Act of 1994 (as amended)*

(xvi) section 10A (as inserted by section 13 of the Act of 2002) of the Act of 1994 [Failure to respond to correspondence or attend meeting];

(xvii) section 11(1), (3) and (4) of the Act of 1994 [Appeals to the High Court against determinations, directions or requirements of the Law Society];

(xviii) section 14(3) (as amended by section 15 of the Act of 2002) of the Act of 1994 [Power to inspect documents];

(xix) section 15(10) of the Act of 1994 [Investigation of complaints];

(xx) section 32(3), (4), (6) and (8) of the Act of 1994 [Intervention in practice of solicitor who has died];

(xxi) section 33(1), (2), (5) and (6) of the Act of 1994 [Sale of solicitor's practice in certain circumstances];

(xxii) section 34(3) of the Act of 1994 [Ancillary provisions in relation to certain applications or orders];

(xxiii) section 37(4) of the Act of 1994 [Restriction following admission as solicitor on practising as a sole practitioner];

(xxiv) section 58(1) of the Act of 1994 [Suspension of practising certificates];

(xxv) section 59(4) of the Act of 1994 [Imposition of conditions while practising certificates are in force];

*Under the Solicitors Accounts Regulations 2001*

(xxvi) regulation 28(3) of the Solicitors Accounts Regulations 2001 (SI No 421 of 2001) [Investigation by authorised person].

(2) Every appeal or application to the High Court under the provisions of the Solicitors Acts and regulations set forth in sub-rule (1) by:

(i) the Law Society, or

(ii) the Authority, or

(iii) the solicitor concerned, or

(iv) the trainee solicitor concerned, or

(v) the training solicitor concerned, or

(vi) any other person entitled and having legal standing under the Solicitors Acts to do so,

as the case may be, shall be brought by originating notice of motion returnable before the President and shall be entitled in the matter of the solicitor concerned or the trainee solicitor concerned or the training solicitor concerned or any other person concerned, as the case may be, and in the matter of the Solicitors Acts.

(3) The notice of motion shall state the grounds of the appeal or application and the order sought by the appellant or applicant on such appeal or application.

(4) The appeal or application shall be issued by or on behalf of the appellant or applicant by filing a copy of the notice of motion, together with any affidavit intended to be used in support thereof, in the Central Office, within the time prescribed by the applicable provision or provisions of the Acts or, if no time is so prescribed, within a period of 21 days beginning on the date when the particular circumstances giving rise to the appeal or application came or should, with reasonable care in his or her own interest, have come to the notice of the appellant or applicant.

(5) A copy of the notice of motion (and copies of any affidavit or affidavits and any exhibits thereto) shall be served by or on behalf of the appellant or applicant:

(i) on the Registrar of Solicitors or, where the appeal or application arises from or in relation to the exercise by the Authority under section 94 of the Act of 2015 of a power conferred on the Law Society by the Solicitors Acts, on the Authority;

(ii) on the solicitor concerned;

(iii) on the trainee solicitor concerned;

(iv) on the training solicitor concerned, and

(v) on any other person concerned, as the case may be,

within the time prescribed by the applicable provision or provisions of the Solicitors Acts or, if no time is so prescribed, not later than seven days after the filing of the application or appeal concerned.

- (6) The President shall have power, upon the hearing of any such appeal or application, to add other parties to the motion before the Court where it appears just so to do.
- (7) The evidence upon the hearing of any such appeal or application shall be by affidavit, except insofar as the President may direct oral evidence to be given.
- (8) The President may, following the hearing of such appeal or application and subject to the provisions of the Solicitors Acts, give any decision or make any order as the President thinks fit.
- (9) An attested copy of every order made by the President under this rule shall be served by or on behalf of the appellant or applicant on each person served with the motion.

## Order 53D

### Professional disciplinary proceedings concerning Legal Practitioners (Legal Services Regulation Act 2015)

#### I. Application and Definitions

- 1.(1) This Order applies to proceedings relating to the conduct of a legal practitioner under the Legal Services Regulation Act 2015. Orders 53B and 53C apply to proceedings under the Solicitors Acts relating to the conduct of a solicitor or of a trainee solicitor.
- (2) In this Order:
  - “**Act of 2015**” means the Legal Services Regulation Act 2015 [No 65 of 2015];
  - “**Authority**” means the Legal Services Regulatory Authority;
  - “**Bar Council**” means the General Council of the Bar of Ireland;
  - “**Court**” means the High Court;
  - “**Law Society**” means the Law Society of Ireland;
  - “**legal practitioner**” has the same meaning as in section 2 of the Act of 2015;
  - “**Legal Practitioners Disciplinary Tribunal**” means the Legal Practitioners Disciplinary Tribunal established by section 74 of the Act of 2015;
  - “**President**” means the President of the High Court, provided that where the jurisdiction in question under section 84, section 85, section 115 or, as the case may be, section 128 of the Act of 2015 is for the time being directed by the President of the High Court in accordance with section 86, section 115(5) or, as the case may be, section 128(6) of the Act of 2015, to be exercised by an ordinary judge of the High Court assigned in that behalf by the President of the High Court, a reference to the President shall be construed as a reference to such judge;
  - “**Registrar of Solicitors**” means the registrar of solicitors or his or her deputy appointed under section 8 of the Act of 1954;
  - “**respondent legal practitioner**” means a legal practitioner:
    - (i) who is the subject matter of a recommendation to the Court by the Legal Practitioners Disciplinary Tribunal pursuant to section 82(2) of the Act of 2015, or
    - (ii) who has appealed to the Court under section 83(2)(a) or section 83(3) of the Act of 2015, or
    - (iii) in respect of whom there is an appeal or application by the Authority or the Law Society under section 83(1) or section 83(2)(b) of the Act of 2015;
  - “**Tribunal Registrar**” means the person appointed by the Legal Practitioners Disciplinary Tribunal from time to time to act as registrar to the Legal Practitioners Disciplinary Tribunal, or the person for the time

being performing such functions in relation to the Legal Practitioners Disciplinary Tribunal in accordance with any regulations made by the Legal Practitioners Disciplinary Tribunal.

- (3) Other words and phrases in this Order shall, where applicable, have the meanings assigned to them in the Act of 2015.
- 2.(1) Service of any document upon the Authority under this Order may be effected by serving it on the Secretary to the Authority or by sending it by prepaid registered post addressed to the Secretary to the Authority at the Authority's principal office.
- (2) Service of any document upon the Law Society under this Order may be effected by serving it on the Registrar of Solicitors or by sending it by prepaid registered post addressed to the said Registrar: "The Registrar of Solicitors, Law Society of Ireland, George's Court, George's Lane, Dublin 7, D07 E98Y".
- (3) Service of any document upon the Bar Council under this Order may be effected by serving it on the Honorary Secretary of the Bar Council or by sending it by prepaid registered post addressed to the said Honorary Secretary.
- (4) Service of any document upon the Honorable Society of King's Inns under this Order may be effected by serving it on the Registrar of the Honorable Society of King's Inns or by sending it by prepaid registered post addressed to the said Registrar.
- (5) Service of any document upon any other person under this Order may be effected in the manner provided in section 216 of the Act of 2015.
3. An attested copy of every order made by the Court under the Act of 2015 shall, insofar as any such order relates to the functions of the Legal Practitioners Disciplinary Tribunal under the Act of 2015, (as soon as practicable after receipt thereof by the Authority):
  - (a) where the Authority is party to the proceedings before the Court, be provided by the Authority to the Tribunal Registrar;
  - (b) in any other case, be provided by the Court registrar to the Tribunal Registrar.

## **II. Recommendation of the Legal Practitioners Disciplinary Tribunal under section 82(2) of the Act of 2015**

4. Every recommendation of the Legal Practitioners Disciplinary Tribunal under section 82(2) of the Act of 2015 shall be delivered by the Tribunal Registrar to the Central Office by post or by hand addressed to the President within 21 days of the making of such recommendation. The recommendation shall include or have appended the determination of the Legal Practitioners Disciplinary Tribunal under section 81(8) of the Act of 2015. A copy of the recommendation shall at the same time be furnished:
  - (i) to the Authority;



- (ii) to the Law Society, where the respondent legal practitioner is a solicitor;
  - (iii) to the Bar Council and to the Honorable Society of King's Inns, where the respondent legal practitioner is a barrister;
  - (iv) to the respondent legal practitioner, and
  - (v) if applicable, to the complainant.
- 5.(1) Upon delivering a recommendation in accordance with rule 4, the Tribunal Registrar shall, as soon as practicable thereafter, issue a notice of motion seeking such order under section 85(7) of the Act of 2015 as may be deemed appropriate and reasonable having regard to the determination and the recommendations of the Legal Practitioners Disciplinary Tribunal as to the sanction which in their opinion should be imposed. The motion shall be supported by an affidavit averring to the relevant facts or alleged facts and exhibiting true copies of all documents delivered to and produced before the Legal Practitioners Disciplinary Tribunal.
- (2) The motion shall be served on each party who participated in the Inquiry of the Legal Practitioners Disciplinary Tribunal.

### **III. Appeals to the Court under section 83(2) or 83(3) of the Act of 2015**

- 6.(1) Where the respondent legal practitioner appeals to the Court under section 83(2)(a) or section 83(3) of the Act of 2015 against a determination of misconduct on his or her part, the President shall make directions for the conduct of the proceedings in accordance with section 85(1) of the Act of 2015, which may include a direction that the appeal shall proceed as a full rehearing of the evidence laid before the Legal Practitioners Disciplinary Tribunal, or a direction for a less than full rehearing.
- (2) Where an appeal mentioned in sub-rule (1) proceeds, any motion for relief under section 85(7) of the Act of 2015 shall not be determined until the determination of such appeal, and thereafter shall be determined having regard to the outcome of such appeal.
- (3) Upon the hearing of an appeal under section 83(2)(a) or section 83(3) of the Act of 2015 or, as the case may be, a motion for relief under section 85(7) of the Act of 2015, the President may require that any notice, affidavit, or other document not then before the Court that was delivered to and produced in evidence before the Legal Practitioners Disciplinary Tribunal or a transcript or other record of any oral evidence given before the Legal Practitioners Disciplinary Tribunal be made available by Legal Practitioners Disciplinary Tribunal to the Court in such manner as the President may direct.
- (4) Subject as provided in sub-rule (1), the President may, in accordance with section 85(5) of the Act of 2015, remit the matter to the Legal Practitioners Disciplinary Tribunal to take further evidence for submission to the Court and to make a supplementary report thereon to the Court.
- (5) An attested copy of every order made by the President under this rule shall be served by or on behalf of the Legal Practitioners Disciplinary Tribunal

on each party who participated in the Inquiry of the Legal Practitioners Disciplinary Tribunal.

- 7.(1) Every appeal to the Court brought under section 83 of the Act of 2015, shall be by originating notice of motion, returnable to the President and shall be entitled in the matter of the respondent legal practitioner and in the matter of the Act of 2015.
- (2) The motion shall be supported by an affidavit sworn by or on behalf of the appellant averring to the relevant facts or alleged facts and exhibiting true copies of all documents produced before the Legal Practitioners Disciplinary Tribunal by or on behalf of the appellant.
- (3) The notice of motion shall state the determination of, or (as the case may be) sanction imposed by, the Legal Practitioners Disciplinary Tribunal in respect of which the appeal is brought, the grounds of the appeal and the order sought by the appellant on such appeal.
- (4) The appeal shall be issued by or on behalf of the appellant by filing a copy of the notice of motion, together with any affidavit intended to be used in support thereof, in the Central Office, within the time prescribed by section 83(5) of the Act of 2015.
- (5) A copy of the notice of motion shall be served (together with copies of every supporting affidavit and exhibits thereto) on each party who participated in the Inquiry of the Legal Practitioners Disciplinary Tribunal.
- (6) The appellant shall lodge an indexed book of papers in the Central Office not later than seven days before the return date of the motion of appeal.
- (7) The appeal may be responded to by affidavit sworn by or on behalf of any party opposing the appeal.
- (8) On the return date of the motion, the President may give such directions as to the hearing of the appeal as he thinks just and convenient.
- (9) An attested copy of every order made by the President under section 84 of the Act of 2015 shall be served by or on behalf of the appellant on the Tribunal Registrar and on each party who participated in the Inquiry of the Legal Practitioners Disciplinary Tribunal, unless the Court dispenses with the need for such service.

#### **IV. Appeals or applications to the High Court under other provisions of the Act of 2015**

- 8.(1) This rule shall apply to any appeal or application to the Court by any person entitled and having legal standing under the Act of 2015 to do so, under the following provisions of the Act of 2015 and regulations made thereunder:
  - (i) section 12(7) of the Act of 2015 Appeal [Removal of a member of the Authority];
  - (ii) section 19(5) of the Act of 2015 [Application for determination of a matter relating to confidential information];

- (iii) section 22(6) of the Act of 2015 [Application to revoke or vary a code of practice];
- (iv) section 23(4) of the Act of 2015 [Application for an order directing a professional body to comply with a notice under section 23(1)];
- (v) section 23(5) of the Act of 2015 [Application by a professional body for an order revoking or varying a notice under section 23(1)];
- (vi) section 30(4) of the Act of 2015 [Application for determination of a question of whether a matter is one in respect of which the Authority Chief Executive is or is not required to account to an Oireachtas Committee];
- (vii) section 35(1) of the Act of 2015 [Application by Authority to prohibit a contravention of the 2015 Act or Regulations made thereunder];
- (viii) section 41(1) of the Act of 2015 [Application for an order directing a person to comply with a requirement of an inspector];
- (ix) section 61(9) of the Act of 2015 [Application by a legal practitioner for an order in respect of a direction not to proceed on a bill of costs without the Authority's consent];
- (x) section 63(1) of the Act of 2015 [Application for an order directing the Review Committee to rescind or vary a determination];
- (xi) section 72(1) of the Act of 2015 [Appeal by legal practitioner against determination and/or direction of Divisional Committee];
- (xii) section 72(2) of the Act of 2015 [Appeal by Authority against determination and/or direction of Divisional Committee or failure to apply under section 71(7)];
- (xiii) section 80(6) of the Act of 2015 [Appeal against order of Legal Practitioners Disciplinary Tribunal to pay witness expenses];
- (xiv) section 83(1) of the Act of 2015 [Appeal by Authority against determination of Legal Practitioners Disciplinary Tribunal that an act or omission does not constitute misconduct];
- (xv) section 90(1) of the Act of 2015 [Application for enforcement of order of Legal Practitioners Disciplinary Tribunal];
- (xvi) section 92(2) of the Act of 2015 [Application by Authority for sanction of person previously disbarred];
- (xvii) section 107(5) of the Act of 2015 [Application for permission to participate in multi-disciplinary practice];
- (xviii) section 114(5) of the Act of 2015 [Appeal against Authority's notice to multi-disciplinary practice];
- (xix) section 115(1) of the Act of 2015 [Application for order suspending or ceasing provision of legal services by multi-disciplinary practice];

(xx) section 127(4) of the Act of 2015 [Appeal of Authority direction for failure to comply with statutory requirements];

(xxi) section 128(1) of the Act of 2015 [Application for order in respect of failure to comply with direction under section 127];

(xxii) section 175(9) of the Act of 2015 [Appeal against revocation of grant of Patent].

- (2) Every application to the High Court under the provisions of the Act of 2015 set out in sub-rule (1), shall be brought and conducted in accordance with Order 84B.
- (3) Every appeal to the High Court under the provisions of the Act of 2015 set out in sub-rule (1), shall be brought and conducted in accordance with Order 84C.
9. An application to the Court by an inspector under section 40 of the Act of 2015 for 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) of the Act of 2015 shall be made *ex parte* grounded on an information on oath and in writing of the inspector.

### Order 53E

#### Appeals under the European Communities (Lawyers' Establishment Regulations 2003)

- 1.(1) In this Order:
  - “**2003 Regulations**” means the European Communities (Lawyers’ Establishment) Regulations 2003 (as amended).
  - (2) Other words and phrases shall, where applicable, have the meanings assigned to them in the 2003 Regulations.
- 2.(1) An appeal by a lawyer against a decision made by a competent authority under Regulation 6(3)(c) of the 2003 Regulations shall be brought by notice of motion, which motion shall, save where the Court gives leave for it to be brought later, be brought within a period of 42 days from the date upon which the decision is communicated in writing to the lawyer pursuant to Regulation 6(3)(c) of the 2003 Regulations.
  - (2) An appeal by a lawyer against a decision deemed to have been made by a competent authority under Regulation 6(3)(d) of the 2003 Regulations shall be brought by notice of motion, which motion shall, save where the Court gives leave for it to be brought later, be brought within a period of 42 days from the date upon which the competent authority is deemed to have rejected the lawyer’s application pursuant to Regulation 6(3)(d) of the 2003 Regulations.
- 3.(1) A notice of motion brought under rule 2 shall be served, as appropriate, on:
  - (a) the Honorary Secretary of the Bar Council, where the competent authority whose decision or deemed decision is appealed against is the Bar Council, or
  - (b) the Registrar of Solicitors where the competent authority whose decision or deemed decision is appealed against is the Law Society.
- (2) The said notice of motion shall be entitled in the matter of the European Communities (Lawyers’ Establishment) Regulations 2003 and 2004 on the application of the lawyer bringing the appeal. The notice of motion shall state the relief sought; the name and place of residence or address for service of the lawyer seeking relief, and the date upon which it is proposed to apply to the Court for relief and shall be filed in the Central Office.
4. If it shall appear to the Court at any stage that any other person to whom notice has not been given ought to have had such notice, the Court may adjourn the hearing thereof in order that such notice may be given, upon such terms (if any) as the Court may think fit to impose.
5. Unless the Court gives leave to the contrary, there must be at least 10 clear days between the service of the notice and the day named therein for the hearing of the motion.
- 6.(1) Unless the Court otherwise directs, evidence at the hearing of a motion brought under rule 2 shall be given by affidavit.

- (2) Any affidavit to be used in support of the motion shall be filed in the Central Office and a copy of any such affidavit shall be served with the notice. Any affidavit used in opposition to the application shall be filed in the Central Office by the respondent or any notice party within 21 days of the service of the applicant's affidavit and the respondent or notice party, as the case may be, must within such period serve a copy of any such affidavit intended to be used by it on the applicant."

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

The Rules amend Order 53 and insert new Orders 53A, 53B, 53C, 53D and 53E to facilitate the regulatory regime for legal practitioners introduced by the Legal Services Regulatory Act 2015

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