
SOLICITORS DISCIPLINARY TRIBUNAL RULES, 2003

[These Rules dated the 27 day of February 2003

Concurrence of President of the High Court on the 27 day of February
2003

Joseph Finnegan

Rules in operation from 1 day of March 2003]

SOLICITORS DISCIPLINARY TRIBUNAL RULES, 2003

TABLE OF CONTENTS

RULES

	Page(s)
PART I – PRELIMINARY	
1. Definitions	1 – 4
2. Conformity of these Rules with Solicitors Acts, 1954 to 2002	4 – 6
3. Composition of, and functions of members of, Tribunal	6 – 7
4. Tribunal Registrar	7
PART II – APPLICATION FOR AN INQUIRY INTO THE ALLEGED MISCONDUCT OF A SOLICITOR	
5. Procedure on application for inquiry into conduct of a solicitor	8
6. Respondent solicitor's right to respond by affidavit	8 – 9
7. Further affidavit by applicant	9
8. Furnishing of additional responding affidavit by respondent solicitor in exceptional cases	9 – 10
9. Decision by Tribunal on whether or not there is <i>prima facie</i> case for inquiry	10 – 11
10. Notification of time of inquiry and documents to be furnished to each party	11 – 12
11. Application for adjournment of an inquiry	12
12. Procedure at inquiry	12
13. On completion of inquiry	12
14. Tribunal report	12
15. Where misconduct not found against respondent solicitor	13
16. Where Tribunal find misconduct but do not make order under section 7	13
17. Where Tribunal make order pursuant to section 7	13 – 14
18. Service of order of Tribunal under section 7	14
19. To whom report of Tribunal furnished	14
20. Where Society bring Tribunal report before High Court	14
21. Where application to Tribunal may be postponed or withdrawn	14
PART III – APPLICATION BY A SOLICITOR TO HAVE HIS OR HER NAME REMOVED FROM THE ROLL	
22. Making application for removal from the Roll	15
23. Tribunal proceeding without inquiry or report to High Court or by means of an inquiry and report to High Court	15 – 16
24. Procedure where an inquiry is held	16
25. Where Tribunal grant application	16
26. Where Tribunal refuse application	16 – 17
27. Report to the High Court	17
28. Service of order of Tribunal	17
29. To whom report of Tribunal is furnished	17
30. Where Society bring Tribunal report before High Court	17
31. Where application to Tribunal for removal from the Roll may be postponed or withdrawn	18

PART IV – GENERAL

32.	Tribunal Registrar to furnish documents to interested parties	18
33.	Service of documents	18 – 19
34.	Powers of Tribunal as to taking evidence, etc	19 – 20
35.	Evidence before Tribunal	20
36.	Power of Tribunal to regulate procedures	20
37.	Cross-examination of a deponent	20
38.	Witness summons	20 – 22
39.	Discovery of documents	22 – 24
40.	Third-party discovery	24
41.	Regard to be had by Tribunal to Rules of the Superior Courts	24
42.	Extension of time	24
43.	Amendment by Tribunal of defective or insufficient document	25
44.	Deviation from forms	25
45.	Mistakes or errors in judgments or orders	25
46.	Legal representation	25
47.	Absence of party	25
48.	Transcript of evidence and submissions	25
49.	Tribunal may direct Society to prosecute	25 – 26
50.	Society may apply to Tribunal to intervene	26
51.	No withdrawal except by leave of Tribunal	26
52.	Notice to admit documents or facts	26 – 27
53.	Custody of documents	27
54.	Date, venue and time for an inquiry or any adjournment thereof	27 – 28
55.	Persons appointed to make application to Tribunal on behalf of Society	28
56.	Where High Court remits case back to Tribunal to take further evidence	28 – 29
57.	Orders of Tribunal	29
58.	Orders for removal from Roll to be sent to Registrar	29
59.	Publication of Tribunal orders	29 – 30
60.	Where report to be made by Society to Director of Company Law Enforcement	30
61.	Inquiry into alleged misconduct by apprentice	30

SCHEDULE OF FORMS

PART II – APPLICATION FOR AN INQUIRY INTO THE ALLEGED MISCONDUCT OF A SOLICITOR

DT1	Form of application to the Tribunal for an inquiry into the conduct of a solicitor on the ground of alleged misconduct [Rule 5]	31
DT2	Form of affidavit by or on behalf of applicant grounding an application to the Tribunal for an inquiry into the conduct of a solicitor on the ground of alleged misconduct [Rule 5]	32 – 33
DT3	Form of affidavit by or on behalf of respondent solicitor in response to the affidavit by or on behalf of the applicant grounding an application to the Tribunal for an inquiry into the conduct of a solicitor on the ground of alleged misconduct [Rule 6(a)]	34 – 35
DT4	Form of notice by the Tribunal to the respondent solicitor of determination of the Tribunal to hold an inquiry into the conduct of the respondent solicitor on the ground of alleged misconduct [Rule 10]	36 – 37
DT5	Form of notice by the Tribunal to the applicant of the determination of the Tribunal to hold an inquiry into the conduct of a solicitor on the ground of alleged misconduct [Rule 10]	38 – 39
DT6	Form of report of the Tribunal to the High Court [Rule 14]	40 – 43
DT7	Form of order of the Tribunal where the Tribunal have found misconduct and have imposed a sanction on the respondent solicitor [Rule 17(a)]	

DT8	Form of order of the Tribunal where the Tribunal have found misconduct but have not and do not intend to impose a sanction on the respondent solicitor but are requiring the Law Society of Ireland to bring the report of the Tribunal before the High Court [Rule 20]	44 – 45
		46 – 47

PART III – APPLICATION BY A SOLICITOR TO HAVE HIS OR HER NAME REMOVED FROM THE ROLL

DT9	Form of application by a solicitor for the removal of his or her name from the roll of solicitors [Rule 22]	48
DT10	Form of affidavit by a solicitor to accompany an application for the removal of his or her name from the roll of solicitors [Rule 22]	49 – 50
DT11	Notice of objection by the Registrar of Solicitors or other person interested to the application by a solicitor to have his or her name removed from the roll of solicitors [Rule 22 and Rule 23(c)]	51
DT12	Form of notice of inquiry by the Tribunal of an application by a solicitor for the removal of his or her name from the roll of solicitors [Rule 23(c)]	52 – 53
DT13	Form of order of the Tribunal in respect of an application by a solicitor to have his or her name removed from the roll of solicitors [Rule 25 and Rule 26(a)]	54 – 55
DT14	Form of report of the Tribunal to the High Court following upon an inquiry by the Tribunal in relation to an application by a solicitor to have his or her name removed from the roll of solicitors [Rule 25 and Rule 26(a)]	56 – 58

PART IV – GENERAL

DT15	Form of notice of cross-examination of a deponent at an inquiry in respect of an affidavit tendered in evidence to the Tribunal [Rule 37]	59
DT16	Form of request to the Tribunal Registrar for the issue of a witness summons [Rule 38(a)]	60
DT17	Form of witness summons ‘ad testificandum’ [Rule 38(a)]	61
DT18	Form of witness summons ‘duces tecum’ [Rule 38(a)]	62
DT19	Form of notice requesting the production for inspection and the taking of copies of the originals of specified documents [Rule 39(c)]	63
DT20	Form of notice responding to a request for the production of documents for inspection and the taking of copies [Rule 39(d)]	64
DT21	Form of notice from the Tribunal to the Registrar of Solicitors relating to an application for an inquiry into the conduct of a respondent solicitor on the ground of alleged misconduct made by an applicant other than the Law Society of Ireland [Rule 50(a)]	65 – 66
DT22	Form of notice by the Law Society of Ireland to the Tribunal in response to a notice from the Tribunal relating to an application for an inquiry into the conduct of a respondent solicitor on the ground of alleged misconduct made by an applicant other than the Law Society of Ireland [Rule 50(b)]	67 – 68
DT23	Form of notice to admit documents [Rule 53(a)]	69 – 70
DT24	Form of notice to admit facts [Rule 53(a)]	71
DT25	Form of notice of non-admission of documents [Rule 53(a)]	72
DT26	Form of notice of non-admission of facts [Rule 53(a)]	73

APPENDICES

Appendix 1

Page(s)

From Part I of Solicitors (Amendment) Act, 1960 (as amended by the Act of 1994 and the Act of 2002) entitled "Preliminary and General"

(i)	<u>Section 3</u> (as amended by section 24 of the Act of 1994 and by section 7 of the Act of 2002) <u>of the Act of 1960</u>	74
(ii)	<u>Section 6</u> (as substituted by section 16 of the Act of 1994 and as amended by section 8 of the Act of 2002) <u>of the Act of 1960</u>	74 – 76
(iii)	<u>Section 7</u> (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) <u>of the Act of 1960</u>	76 – 83
(iv)	<u>Section 8</u> (as substituted by section 18 of the Act of 1994 and as amended by section 10 of the Act of 2002) <u>of the Act of 1960</u>	83 – 87
(v)	<u>Section 9 of the Act of 1960</u>	87 – 88
(vi)	<u>Section 10</u> (as amended by section 19 of the Act of 1994) <u>of the Act of 1960</u>	88 – 89
(vii)	<u>Section 11 of the Act of 1960</u>	89
(viii)	<u>Section 12</u> (as substituted by section 39 of the Act of 1994) <u>of the Act of 1960</u>	89 – 90
(ix)	<u>Section 13 of the Act of 1960</u>	90
(x)	<u>Section 14 of the Act of 1960</u>	90 – 91
(xi)	<u>Section 15</u> (as substituted by section 25 of the Act of 1994) <u>of the Act of 1960</u>	91 – 93
(xii)	<u>Section 16 of the Act of 1960</u>	93
(xiii)	<u>Section 17 of the Act of 1960</u>	93 – 94
(xiv)	<u>Section 18 of the Act of 1960</u>	94

From Part VI of Solicitors (Amendment) Act, 1954 (as amended by the Act of 1994) entitled "Practice"

(xv)	<u>Section 60</u> (as substituted by section 20 of the Act of 1994) <u>of the Act</u>	95 – 96
(xvi)	<u>Section 63</u> (as substituted by section 21 of the Act of 1994) <u>of the Act</u>	96 – 97

From Part III of Solicitors (Amendment) Act, 1994 (as amended by the Act of 2002) entitled "Investigation of Complaints"

(xvii)	<u>Section 22 of the Act of 1994</u>	97 – 98
(xviii)	<u>Section 23</u> (as amended by section 17 of the Act of 2002) <u>of the Act of 1994</u>	98 – 99

Appendix 2

<u>Section 19 of the Act of 2002</u>	100 – 102
--------------------------------------	-----------

Appendix 3

Order 53 (as amended by S.I. No 14 of 1998) of the Rules of the Superior Courts, 1986 (S.I. No 15 of 1986)	103 - 108
--	-----------

SOLICITORS DISCIPLINARY TRIBUNAL RULES, 2003

PART I – PRELIMINARY

The Solicitors Disciplinary Tribunal **HEREBY MAKE**, pursuant to section 16 of the Solicitors (Amendment) Act, 1960 and with the concurrence of the President of the High Court, with effect from 1 March 2003, the following **RULES** regulating –

- (a) the making of applications to the Solicitors Disciplinary Tribunal, and
- (b) the proceedings of the Solicitors Disciplinary Tribunal under the Solicitors Acts, 1954 to 2002 and generally as to procedure in relation to these matters.

Definitions

1. These Rules shall apply to any application made to the Solicitors Disciplinary Tribunal after 28 February 2003, and the Solicitors Disciplinary Tribunal Rules 1998 (dated 13 February 1998) shall, subject to the provisions of the Solicitors Acts, 1954 to 2002, continue to apply to any application made to the Solicitors Disciplinary Tribunal prior to 28 February 2003.

- (a) In these Rules –

“Act of 1954” means the Solicitors Act, 1954 and, in the context of references to this Act in the Act of 1960, the Act of 1994 and the Act of 2002 are referred to therein as the “Principal Act”;

“Act of 1960” means the Solicitors (Amendment) Act, 1960;

“Act of 1994” means the Solicitors (Amendment) Act, 1994;

“Act of 2002” means the Solicitors (Amendment) Act, 2002;

“Acts” means the Solicitors Acts, 1954 to 2002;

“applicant” means the Society or other applicant to the Tribunal for an inquiry under section 7 relating to one or more complaints alleging misconduct on the part of a respondent solicitor in accordance with Part II of these Rules or a solicitor making application to the Tribunal for the removal of his or her name from the Roll in accordance with Part III of these Rules; and a reference to the applicant furnishing documents to the Tribunal includes a solicitor or other person doing so for and on behalf of and with the authority of the applicant;

“apprentice” includes a person who has completed the term of his or her indentures of apprenticeship but who has not yet been admitted as a solicitor;

“Chairperson” means the chairperson of the Tribunal appointed (after consultation with the Society) by the President of the High

Court pursuant to section 6(1) (as substituted by section 8(a) of the Act of 2002) of the Act of 1960;

“chairperson” means the member of the Tribunal who is in the chair at any meeting of a division of the Tribunal;

“Compensation Fund” means the fund maintained by the Society pursuant to sections 21 and 22 (as substituted by sections 29 and 30 of the Act of 1994) of the Act of 1960;

“Council” means the Council of the Society;

“days” means Monday to Friday inclusive, including bank holidays and public holidays that fall on a day between a Monday and a Friday;

“Form” followed by a reference “DT1”, “DT2”, or as the case may be, means a reference to the applicable form set out in the Schedule to these Rules;

“furnished” in relation to the provision of documents by or to the Tribunal means served in a manner provided for in Rule 33 and “transmission” shall be likewise construed;

“inquiry” means a sitting (including an adjourned sitting) of a division of the Tribunal at which a complaint of alleged misconduct against a solicitor is heard, as provided for under Part II of the Rules, or at which an application at the instance of a solicitor for the removal of his or her name from the Roll is heard, as provided for under Part III of the Rules;

“lay member” means a person who is not a solicitor or barrister who is appointed by the President of the High Court (following his or her nomination by the Minister for Justice, Equality and Law Reform to represent the interests of the general public) pursuant to section 6(1) (as substituted by section 8(a) of the Act of 2002) of the Act of 1960;

“member of the Tribunal” means a member, whether a solicitor member or a lay member, of the Tribunal;

“misconduct” includes –

- (i) the commission of treason or a felony or a misdemeanour,
- (ii) the commission, outside the State, of a crime or an offence which would be a felony or a misdemeanour if committed in the State,
- (iii) the contravention of a provision of the Acts, or any order or

- regulation made thereunder,
- (iv) in the course of practice as a solicitor –
- (I) having any direct or indirect connection, association or arrangement with any person other than a client whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of sections 55, 56 or 58 (which prohibits an unqualified person from drawing or preparing certain documents), as amended by the Act of 1994, of the Act, or section 5 of the Act of 2002, or
 - (II) accepting instructions to provide legal services to a person from another person whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of those enactments,
- (v) any other conduct tending to bring the solicitors' profession into disrepute.

“Order 53” means Order 53 (as amended by S.I. No 14 of 1998) of the Rules of the Superior Courts, 1986 (S.I. No 15 of 1986);

“Register of Practising Solicitors” means the register maintained by the Registrar under section 47 (as substituted by section 54 of the Act of 1994) of the Act of 1954;

“Registrar” means the registrar of solicitors appointed pursuant to section 8 of the Act of 1954;

“respondent solicitor” means a solicitor who is the subject of an application to the Tribunal made by the Society or other applicant relating to one or more complaints of alleged misconduct against the solicitor; and a reference to the respondent solicitor furnishing documents to the Tribunal includes a solicitor or other person doing so for and on behalf of and with the authority of the respondent solicitor;

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

“Rule” followed by a number, means a rule in these Rules;

“section 7” means 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;

“Society” means the Law Society of Ireland;

“Solicitors Disciplinary Tribunal” means the tribunal established by section 6(1) (as substituted by section 8(a) of the Act of 2002) of the Act of 1960; and references to the Disciplinary Tribunal or the Disciplinary Committee in the Acts or in any previous rules made pursuant to section 16 of the Act of 1960 or in any documents issued pursuant to or in consequence of such rules shall be construed as a reference to the Solicitors Disciplinary Tribunal unless the context otherwise requires;

“solicitor member” means a person who is a practising solicitor of not less than 10 years standing who is appointed (after consultation with the Society) by the President of the High Court to be a member of the Tribunal pursuant to section 6(1) (as substituted by section 8(a) of the Act of 2002) of the Act of 1960;

“trainee solicitor” means an apprentice;

“Tribunal” means the Solicitors Disciplinary Tribunal;

“Tribunal Registrar” means the person appointed by the Tribunal from time to time to act as registrar to the Tribunal and includes any other member of staff of the Tribunal delegated by that person, or, in respect of the furnishing of documents as provided for in these Rules, a summons server delegated by that person;

- (b) Other words and phrases in these Rules shall have the meanings assigned to them in the Acts.
- (c) In these Rules, unless the context otherwise requires, the singular includes the plural.
- (d) The Interpretation Acts, 1937 to 1997 shall apply for the purposes of the interpretation of these Rules as they apply for the purposes of the interpretation of an Act of the Oireachtas, except insofar as they may be inconsistent with the provisions of the Acts or these Rules.

Conformity of these
Rules with Solicitors
Acts, 1954 to 2002

- 2. (a) These Rules shall at all times be applied so as to be in conformity with the Acts. Where a provision of these Rules is being applied by the Tribunal or by a party to an application to the Tribunal in the context of a particular matter and where there appears to be a conflict between that provision and a provision of the Acts, the provision of the Rules shall be so construed as to conform with the provision of the Acts.
- (b) The texts (including composite texts incorporating amendments) of the following provisions of the Acts relevant to or consequential on the functioning of the Tribunal are set out, respectively, in **Appendix 1** and **Appendix 2** to

these Rules and the text of Order 53 is set out in Appendix 3, as follows:

Appendix 1:

From Part I of Solicitors (Amendment), Act 1960 (as amended by the Act of 1994 and the Act of 2002) entitled "Preliminary and General"

- (i) section 3 (as amended by section 24 of the Act of 1994 and by section 7 of the Act of 2002) of the Act of 1960;

From Part II of Solicitors (Amendment) Act, 1960 (as amended by the Act of 1994 and the Act of 2002), comprising sections 6 to 18 (inclusive), entitled "Disciplinary Provisions in Relation to Solicitors"

- (ii) 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;
- (iii) 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;
- (iv) 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;
- (v) section 9 of the Act of 1960;
- (vi) section 10 (as amended by section 19 of the Act of 1994) of the Act of 1960;
- (vii) section 11 of the Act of 1960;
- (viii) section 12 (as substituted by section 39 of the Act of 1994) of the Act of 1960;
- (ix) section 13 of the Act of 1960;
- (x) section 14 of the Act of 1960;
- (xi) section 15 (as substituted by section 25 of the Act of 1994) of the Act of 1960;
- (xii) section 16 of the Act of 1960;
- (xiii) section 17 of the Act of 1960;
- (xiv) section 18 of the Act of 1960;

From Part VI of Solicitors Act, 1954 (as amended by the Act of 1994) entitled "Practice"

- (xv) section 60 (as substituted by section 20 of the Act of 1994) of the Act;
- (xvi) section 63 (as substituted by section 21 of the Act of 1994) of the Act;

From Part III of Solicitors (Amendment) Act, 1994 (as amended by the Act of 2002) entitled "Investigation of Complaints"

- (xvii) section 22 of the Act of 1994;

- (xviii) section 23 (as amended by section 17 of the Act of 2002) of the Act of 1994.

Appendix 2:

Section 19 of the Act of 2002.

Appendix 3:

Order 53 (as amended by S.I. No 14 of 1998) of the Rules of the Superior Courts 1986 (S.I. No 15 of 1986).

- (c) The texts (including composite texts incorporating amendments) of the provisions of the Acts as set out in **Appendix 1** and **Appendix 2** to these Rules and the text of Order 53 as set out in **Appendix 3** are for convenience of reference only; and, for greater particularity and legal interpretation, the Acts themselves and Order 53 itself should be referred to.

Composition of, and
functions of members
of, Tribunal

3. (a) The Tribunal is comprised of –
- (i) not more than twenty solicitor members, and
 - (ii) not more than ten lay members.
- (b) The functions of a member of the Tribunal shall be -
- (i) to sit as one of three members of a division of the Tribunal to hear and to adjudicate on matters coming before them, as provided for in the Acts and these Rules;
 - (ii) not to sit to hear and adjudicate on any matter in which he or she has an interest or where in the interests of justice and fairness he or she should not sit;
 - (iii) to sign on behalf of the Tribunal, summonses requiring the attendance of witnesses, when requested to do so by the Tribunal Registrar, save for reasonable cause shown; and
 - (iv) to attend general meetings of the members of the Tribunal when requested to do so by the Chairperson.
- (c) (i) The Tribunal shall sit in divisions, each of which shall comprise three members of whom one shall be a lay member and two shall be solicitor members;
- (ii) At the outset of a sitting of a division of the Tribunal in relation to a particular matter, the three members of that division shall decide amongst themselves (whether unanimously or by majority decision) which of them should be chairperson for the duration of that sitting.

- (d) The Chairperson shall, in addition to his or her functions as a member of the Tribunal, be responsible for -
 - (i) co-ordinating, in conjunction with the Tribunal Registrar, the administrative functions of the Tribunal;
 - (ii) liaising with the President of the High Court in relation to the efficient administration of the Tribunal; and
 - (iii) convening and presiding at general meetings of members of the Tribunal held from time to time.

Tribunal Registrar

- 4. The Tribunal shall from time to time appoint a Tribunal Registrar and may, if they think fit, remove the Tribunal Registrar.

PART II - APPLICATION FOR AN INQUIRY INTO THE ALLEGED MISCONDUCT OF A SOLICITOR

Procedure on application for inquiry into conduct of a solicitor

- 5. An application to the Tribunal by the Society or by or on behalf of a person (not being a person who has made a complaint to an independent adjudicator under section 15 of the Act of 1994 about the conduct of the respondent solicitor referred to in the application) for an inquiry under section 7 into the conduct of a respondent solicitor on the ground of alleged misconduct shall be in writing, signed by or on behalf of the applicant, in the form of Form DT1, and shall be furnished by or on behalf of the applicant to the Tribunal Registrar together with a grounding affidavit sworn by or on behalf of the applicant (and any documents exhibited thereto), in the form of Form DT2, stating the matter or matters and document or documents on which the applicant relies in support of the application. Where the Society is not the applicant, the Tribunal Registrar shall inform the Society as soon as practicable of the receipt of the application and shall furnish to the Society a copy of the application and the grounding affidavit sworn by or on behalf of the applicant (and any documents exhibited thereto). Where the application is made by the Society, the affidavit shall be made by the Registrar or by such other person as the Council may from time to time appoint to act for the Society in making such applications and the matters relied on as constituting misconduct, as alleged, may be shown by correspondence or unsworn statements or information received by the Society exhibited to or set forth in such affidavit. The application may relate to one or more complaints of alleged misconduct against the respondent solicitor.

Respondent solicitor's right to respond by affidavit

- 6. (a) As soon as practicable after the receipt by the Tribunal Registrar from an applicant of the application and grounding affidavit (and

any documents exhibited thereto) as referred to in Rule 5, the Tribunal Registrar shall furnish copies of such documents to the respondent solicitor and (where the Society is not the applicant) to the Society together with a request that any observations which the respondent solicitor may wish to make on the application be furnished to the Tribunal Registrar within 28 days (commencing from the date of transmission by the Tribunal Registrar to the respondent solicitor of such documents) in the form of a responding affidavit. The respondent solicitor may then, within that period of 28 days, furnish to the Tribunal Registrar a responding affidavit, in the form of Form DT3, sworn by or on behalf of the respondent solicitor (and any documents exhibited thereto) making the observations of the respondent solicitor on the application. The respondent solicitor may, within that period of 28 days, indicate to the Tribunal Registrar his or her intention to seek from the Tribunal, as soon as is convenient to the Tribunal, an extension of time for the furnishing of a responding affidavit. The Tribunal may, if they think fit, grant such an extension of time for a period not exceeding a further 21 days (commencing either from the expiration of the initial 28 day period or commencing from such later date as the Tribunal think fit); and, where the Tribunal do so grant such an extension of time, the Tribunal Registrar shall, as soon as practicable thereafter, notify the applicant and (where the Society is not the applicant) the Society of that fact.

- (b) Where, within the aforesaid period of 28 days or any such extension of time granted by the Tribunal, as referred to in clause (a) of this Rule, the respondent solicitor does not furnish to the Tribunal Registrar a responding affidavit making his or her observations on the application, the Tribunal may thereafter proceed, without further notice to the respondent solicitor, to make a finding whether or not there is a *prima facie* case of misconduct on the part of the respondent solicitor on the basis of the application and grounding affidavit (and any documents exhibited thereto) furnished to the Tribunal Registrar by the applicant.

Further affidavit by applicant

- 7. The Tribunal Registrar shall, as soon as practicable after receipt of a responding affidavit sworn by or on behalf of the respondent solicitor, furnish a copy of that responding affidavit (and any documents exhibited thereto) to the applicant and (where the Society is not the applicant) to the Society; and at the same time shall inform the applicant that the applicant may (if the applicant so wishes), within a period of 28 days (commencing from the date of transmission by the Tribunal Registrar to the applicant of such responding affidavit) furnish to the Tribunal Registrar a further affidavit by or on his or her behalf, which shall be confined to addressing matters raised in the responding affidavit. The applicant may, within that period of 28 days, indicate to the Tribunal Registrar his or her intention to seek from the Tribunal, as soon as is convenient to the Tribunal, an

extension of time for the furnishing of such a further affidavit. The Tribunal may, if they think fit, grant such an extension of time for a period not exceeding a further 21 days (commencing either from the expiration of the initial 28 day period or commencing from such later date as the Tribunal think fit); and, where the Tribunal do so grant such an extension of time, the Tribunal Registrar shall, as soon as practicable, thereafter, notify the respondent solicitor and (where the Society is not the applicant) the Society of that fact and shall, as soon as practicable after receipt of same, furnish to the respondent solicitor and (where the Society is not the applicant) the Society a copy of that further affidavit of the applicant (and any documents exhibited thereto).

Furnishing of
additional responding
affidavit by
respondent solicitor
in exceptional cases

8. (a) Save as provided in clause (b) of this Rule in exceptional cases, the further affidavit of the applicant that may be furnished to the Tribunal Registrar as provided for in Rule 7 shall be the final affidavit furnished for the purpose of the Tribunal making a finding whether or not there is a *prima facie* case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal.
- (b) In exceptional cases and where a further affidavit has been furnished by or on behalf of the applicant pursuant to Rule 7 and a copy thereof (and any documents exhibited thereto) has or have been furnished by the Tribunal Registrar to the respondent solicitor and (where the Society is not the applicant) the Society, the respondent solicitor may, within a period of 28 days (commencing from the date of transmission by the Tribunal Registrar to the applicant of such further affidavit), indicate to the Tribunal Registrar his or her intention to seek from the Tribunal, as soon as is convenient to the Tribunal, permission to furnish to the Tribunal Registrar an additional responding affidavit sworn by him or her on his or her behalf, which shall be confined to addressing matters raised in such further affidavit furnished by or on behalf of the applicant. Where the respondent solicitor is so permitted, the Tribunal Registrar shall so notify the applicant and shall furnish to the applicant and (where the Society is not the applicant) the Society a copy of such additional responding affidavit, as soon as practicable, after receipt of same from the respondent solicitor. Where the respondent solicitor is so permitted, the Tribunal shall at the same time also permit the applicant (if the applicant so wishes after his or her receipt of and consideration of such additional responding affidavit) to furnish to the Tribunal Registrar a third affidavit in reply to be confined to addressing matters raised in such additional responding affidavit; a copy of which third affidavit shall also be furnished to the respondent solicitor and (where the Society is not the applicant) the Society. The time to be permitted within which such an additional responding affidavit by or on behalf of the respondent solicitor shall be furnished to the Tribunal Registrar and the subsequent time permitted within which

the third affidavit by or on behalf of the applicant shall be furnished to the Tribunal Registrar shall each be determined by the Tribunal in their discretion having regard to the circumstances of the particular exceptional case. Such exceptional cases shall be confined to circumstances where the overriding interests of justice require that such an additional responding affidavit by or on behalf of the respondent solicitor should be permitted by the Tribunal to be furnished to the Tribunal Registrar and, in consequence, such a third affidavit by or on behalf of the applicant (if the applicant so wishes) should be permitted by the Tribunal to be furnished to the Tribunal Registrar.

Decision by
Tribunal on
whether or not there
is *prima*
facie case for
inquiry

9. (a) The decision by the Tribunal as to whether or not there is a *prima facie* case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal shall be made on the basis of and upon due consideration of the affidavit or affidavits (and any documents exhibited thereto) furnished to the Tribunal Registrar by or on behalf of the applicant and by or on behalf of the respondent solicitor. Where, upon due consideration of each affidavit (and any documents exhibited thereto) furnished by or on behalf of the applicant and by or on behalf of the respondent solicitor, the Tribunal find that there is no *prima facie* case of misconduct on the part of the respondent solicitor for inquiry, the Tribunal shall so inform in writing the applicant, the respondent solicitor and (where the Society is not the applicant) the Society of its decision and the reason or reasons therefor and shall take no further action in relation to the application.
- (b) Where, upon due consideration of each affidavit (and any documents exhibited thereto) furnished by or on behalf of the applicant and by or on behalf of the respondent solicitor, the Tribunal find that there is a *prima facie* case of misconduct on the part of the respondent solicitor for inquiry, the Tribunal shall proceed to hold an inquiry.

Notification of time of
inquiry and
documents to be
furnished to each
party

10. Where the Tribunal decide to hold an inquiry, the Tribunal Registrar shall designate a date, time and place for the holding of that inquiry. The Tribunal Registrar shall then furnish a notification in writing to the respondent solicitor, in the form of Form DT4, and the applicant, in the form of Form DT5, and (where the Society is not the applicant) the Society, not less than 14 days prior to such date. Such notification shall include:
- (a) a statement of the fact that the Tribunal find that there is a *prima facie* case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal and the ground or grounds of such alleged misconduct set out in the form of a complaint or a set of complaints, and the date, time and place designated for the

commencement of the inquiry;

- (b) a reference to each affidavit (and any documents exhibited thereto) together with any correspondence or other documents relating to the application that has been furnished to the Tribunal Registrar by or on behalf of the applicant and by or on behalf of the respondent solicitor which has previously been copied by the Tribunal Registrar to the applicant or respondent solicitor, as the case may be;
- (c) a copy of each affidavit (and any documents exhibited thereto) together with any correspondence or other documents relating to the application that has or have been furnished to the Tribunal Registrar by or on behalf of the applicant or by or on behalf of the respondent solicitor, whether or not they have previously been copied by the Tribunal Registrar to the applicant or respondent solicitor, as the case may be; and
- (d) a copy of any other document or documents received by or issued by the Tribunal Registrar that is or are relevant to the application.

Application for adjournment of inquiry

11. An applicant or a respondent solicitor seeking an adjournment of an inquiry shall make a formal application to that effect to any sitting division of the Tribunal, with prior written notice to the other party. Good cause shall be shown to the Tribunal for any such adjournment. Where an application by one party for an adjournment is made prior to or on the date fixed for the inquiry and where the other party is not present or represented on the application, the consent of the other party to the making of the adjournment application must previously have been sought from the other party by the applying party before that application will be considered by the Tribunal.

Procedure at inquiry

12. An inquiry by the Tribunal shall in the first instance proceed upon the application and the affidavit or affidavits (and any documents exhibited thereto) furnished by or on behalf of the applicant in support thereof together with any responding affidavit or affidavits (and any documents exhibited thereto) furnished by or on behalf of the respondent solicitor and together with such oral evidence and such documentary evidence tendered by either party as the Tribunal deem relevant; and the inquiry may be adjourned from time to time by the Tribunal for the purpose of hearing further evidence or receiving submissions (or both) or otherwise as the Tribunal see fit.

On completion of inquiry

13. On the completion of the hearing of an inquiry, the Tribunal shall, as soon as practicable-
- (a) consider each complaint of misconduct made against the respondent solicitor;

- (b) make a separate finding in respect of each such complaint; and
- (c) make a report to the High Court (which shall include a verbatim note of the evidence given and submissions made).

Tribunal report

14. The report of the Tribunal made to the High Court, in the form of Form DT6, shall address, insofar as they are applicable and appropriate, the following matters:

- (a) the nature of the application and the evidence laid before the Tribunal;
- (b) the finding made by the Tribunal on each complaint of misconduct and the reason or reasons therefor;
- (c) (where applicable) the Tribunal's opinion or recommendation as provided for in Rule 16;
- (d) (where applicable) the terms of the order made by the Tribunal as provided for in Rule 17;
- (e) any other matters in relation to the application or the applicant or the respondent solicitor which the Tribunal may think fit to report.

Where misconduct not found against respondent solicitor

15. Where, on the completion of an inquiry, the Tribunal, on due consideration of the complaint (or each complaint, if more than one) of misconduct made by the applicant against the respondent solicitor, find that there has been no misconduct on the part of the respondent solicitor in respect of the complaint (or any of the complaints, if more than one) of misconduct made against the respondent solicitor, the Tribunal Registrar shall so inform in writing the respondent solicitor, the applicant and (where the Society is not the applicant) the Society of their finding and the reason or reasons therefor; and the Tribunal thereafter shall take no further action in relation to the application other than making a report to the High Court addressing, insofar as they are applicable and appropriate, the matters specified in Rule 14.

Where Tribunal find misconduct but do not make order under section 7

16. Where the Tribunal find that there has been misconduct on the part of the respondent solicitor and they have not made, and do not intend to make, an order under section 7 as provided for in Rule 17, the report of the Tribunal made to the High Court shall include -

- (a) The Tribunal's opinion as to the fitness or otherwise of the respondent solicitor to be a member of the solicitors' profession, having regard to their findings; and
- (b) The Tribunal's recommendations as to the sanction which in their opinion should be imposed, having regard to their findings, to any finding of misconduct on the part of the respondent solicitor previously made by them (or by their predecessors, the Disciplinary Committee or the Disciplinary Tribunal) and not rescinded by the Court, and to any order made by the Court under the Acts, in respect of the respondent solicitor;

AND, in that case, the Society, on receipt of same from the Tribunal as provided for in Rule 18, shall bring the report before the Court as provided for in Rule 19.

Where Tribunal
make order pursuant
to section 7

17. (a) Where the Tribunal find that there has been misconduct on the part of the respondent solicitor and are of opinion that it is appropriate in the particular circumstances of the case to do so, they may, by order pursuant to section 7, in the form of Form DT7, do one or more of the following things, namely:
- (i) advise and admonish or censure the respondent solicitor;
 - (ii) direct payment of a sum, not exceeding €15,000, to be paid by the respondent solicitor to the Compensation Fund;
 - (iii) direct that the respondent solicitor shall pay a sum, not exceeding €15,000, as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;
 - (iv) direct that the whole or part of the costs of the Society or of any person appearing before the Tribunal, as taxed by a Taxing Master of the High Court in default of agreement, shall be paid by the respondent solicitor.
- (b) Where the Tribunal make an order pursuant to section 7 as provided for in clause (a) of this Rule the Tribunal shall include in their report made to the High Court the reasons for the Tribunal's opinion that it is appropriate to make such an order. In making any such order, the Tribunal shall take account of any finding of misconduct on the part of the respondent solicitor previously made by them (or by their predecessors, the Disciplinary Committee or the Disciplinary Tribunal) and not rescinded by the Court, and of any order made by the Court under the Acts, in respect of the respondent solicitor.

Service of order of
Tribunal under
section 7

18. On the making of an order by the Tribunal under section 7 as provided for in Rule 17, a certified copy of such order shall, as soon as practicable and not later than 21 days thereafter, be furnished by the Tribunal Registrar to the respondent solicitor, the applicant and (where the Society is not the applicant) the Society.

To whom report of
Tribunal furnished

19. The report of the Tribunal made to the High Court shall be signed and dated on behalf of the Tribunal by the chairperson, or by any two members, of the division of the Tribunal who conducted the inquiry and shall be furnished by the Tribunal Registrar to the High Court by being addressed to and furnished to the President of the High Court at the Four Courts, Dublin 7 within 21 days of such signing and dating. A copy of the report shall at the same time be furnished by the Tribunal Registrar to the respondent solicitor, the applicant and (where the Society is not the applicant) the Society.

Where Society bring Tribunal report before High Court

20. Where the Tribunal find that there has been misconduct on the part of the respondent solicitor and do not make or intend to make an order under section 7, the Tribunal shall by order, direct the Society, in the form of Form DT8, to bring the report of the Tribunal before the High Court on notice to the respondent solicitor and (where the Society is not the applicant) the applicant, as provided for in Order 53.

Where application to Tribunal may be postponed or withdrawn

21. Where an application is made to the Tribunal, the Tribunal may, at any stage of the proceedings in relation to the application and before the completion of any inquiry by the Tribunal, postpone the taking of any steps or further steps in the matter for a specified period and, if they do so, then, if, before the expiration of that period, the applicant applies to the Tribunal for leave to withdraw the application, the Tribunal may, if they think fit (and whether or not in their discretion they seek the views of the respondent solicitor concerned on such request before making a decision in relation to it), allow the application to be withdrawn; and, if the Tribunal do so, no further action shall be taken by them in relation to the application.

PART III – APPLICATION BY A SOLICITOR TO HAVE HIS OR HER NAME REMOVED FROM THE ROLL

Making application for removal from the Roll

22. An application by a solicitor to have his or her name removed from the Roll shall be made to and heard by the Tribunal. Such an application shall be brought to the Tribunal by means of a notice to the Registrar and to the Tribunal Registrar giving his or her reason or reasons for the application, in the form of Form DT9, accompanied by an affidavit of the applicant (including any documents exhibited thereto) in the form of Form DT10. The applicant shall furnish the original of such notice and affidavit to the Tribunal Registrar and shall furnish a copy of each to the Registrar. The Registrar, or any other person interested who may be notified by the Registrar of the fact of such application, may object to the granting by the Tribunal of the application by giving notice in writing in the form of Form DT11 to the Tribunal Registrar and to the applicant and (where the objection is made by a person interested other than the Registrar) to the Registrar.

Tribunal proceeding without inquiry or report to High Court or by means of an inquiry and report to High Court

23. (a) Where an application is made by a solicitor pursuant to Rule 22, the Tribunal shall consider the application and where no objection is made to it by the Registrar or any other person interested and where the Tribunal are of the opinion that the application should be granted without an inquiry and without making a report to the High Court, the Tribunal shall order accordingly, with or without, as they think fit, requiring the personal attendance before them of the applicant.
- (b) Where an application is made by a solicitor pursuant to Rule 22 and the Tribunal, after due consideration and whether or not

objection is made to it pursuant to Rule 22 by the Registrar or any other person interested, are not of the opinion that the application should be granted without an inquiry and without making a report to the High Court, the Tribunal shall proceed to hold an inquiry.

- (c) Where the Tribunal proceed to hold an inquiry, the Tribunal Registrar shall designate a date, time and place for the inquiry. The Tribunal Registrar shall then, in the form of Form DT12, give at least 21 days' notice of such date, time and place to the applicant, to the Registrar and (if applicable) to any other person interested who has made an objection pursuant to Rule 22. The Tribunal may, if they think fit, direct the applicant to give public notice by newspaper advertisement or otherwise as they direct of the fact that the applicant has made such application and of the date appointed for the inquiry. Where (whether consequent on any such public notice of the fact of such application and such inquiry, or otherwise) any person interested wishes to object to the granting of the application by the Tribunal who has not already made an objection pursuant to Rule 22, that person shall give notice in writing, specifying the ground or grounds of such objection and furnishing such documents (if any) alleged to support such ground or grounds, in the form of Form DT11, to the Tribunal Registrar, to the applicant and to the Registrar of at least seven days before the date designated by the Tribunal Registrar for the inquiry, or any adjournment thereof. The applicant may, if he or she wishes, furnish to the Tribunal Registrar, before or on the day of the inquiry, a further affidavit (and any documents exhibited thereto) sworn by or on behalf of the applicant, confined to addressing matters raised by the ground or grounds of any such objection.

Procedure where an inquiry is held

24. On the date designated by the Tribunal Registrar for such inquiry (or on the date of any adjournment thereof granted by the Tribunal and notified to all persons interested), the Tribunal shall in the first instance proceed upon and consider the application and the affidavit or affidavits (and any documents exhibited thereto) furnished by or on behalf of the applicant together with any notice or notices of objection (and any documents furnished to the Tribunal alleged to be in support of the ground or grounds of such objection) which have been furnished to the Tribunal Registrar pursuant to Rule 22 or Rule 23(c) and together with any oral evidence relevant thereto and any submissions made thereon by the applicant and by any objector or objectors (or by solicitor or counsel, respectively, on their behalf). Where after such consideration the Tribunal are of opinion that the application should be the subject of further inquiry, whether by way of further evidence (oral or documentary) or otherwise, the Tribunal shall, as they think fit, either thereupon proceed to receive such further evidence as they deem relevant or shall adjourn the inquiry to a designated future date; and, in the latter event, shall give such directions relating to such adjourned inquiry as they think fit.

Where Tribunal grant application

25. Where, after due inquiry pursuant to Rule 24, the Tribunal are of opinion that the application should be granted, the Tribunal shall order, in the form of Form DT13, that the name of the solicitor be removed from the Roll and shall, as soon as practicable after the completion of such inquiry, make a report on the application to the High Court, in the form of Form DT14.

Where Tribunal refuse application

26. (a) Where, after due inquiry pursuant to Rule 24, the Tribunal are of opinion that the application should be refused, the Tribunal shall order, in the form of Form DT13, that the application by the applicant solicitor to have his or her name removed from the Roll be refused; and shall, as soon as practicable after the completion of such inquiry, make a report on the application to the High Court, in the form of Form DT14.

(b) Where the Tribunal refuse the application pursuant to clause (a) of this Rule, the Tribunal may request the Society to investigate or investigate further any matter arising from any objection to such application which the Tribunal state in their report to the High Court has given rise, in whole or in part, to the Tribunal being of opinion that such application should be refused.

Report to the High Court

27. The report of the Tribunal to the High Court made pursuant to Rule 25 or Rule 26(a) shall include a verbatim note of the evidence given and submissions made; and shall address, insofar as they are applicable and appropriate, the following matters:

(a) The nature of the application and the evidence laid before the Tribunal;

(b) The name of each objector to the application;

(c) The finding made by the Tribunal on each objection made to the application;

(d) The finding made by the Tribunal on the application itself; and

(e) Any other matters in relation to the application which the Tribunal may think fit to report.

Service of order of Tribunal

28. On the making of an order by the Tribunal pursuant to Rule 25 or Rule 26(a), a certified copy of such order shall, as soon as practicable and not later than 21 days thereafter, be furnished by the Tribunal Registrar to the applicant, the Registrar and (if applicable) each person (other than the Registrar) who objected to the granting of the application.

To whom report of Tribunal furnished

29. The report of the Tribunal to the High Court made pursuant to Rule 25 or

Rule 26(a) shall be dated and signed on behalf of the Tribunal by the chairperson, or by any two members, of the division of the Tribunal who conducted the inquiry and shall be furnished by the Tribunal Registrar to the High Court by being addressed to and furnished to the President of the High Court at the Four Courts, Dublin 7 within 21 days of such dating and signing. A copy of the report shall at the same time be furnished by the Tribunal Registrar to the applicant, the Registrar and (if applicable) each person (other than the Registrar) who objected to the granting of the application.

Where Society bring
Tribunal report
before High Court

30. Where the Tribunal make an order refusing the application that the name of the solicitor be removed from the Roll, the report of the Tribunal shall be brought before the High Court by the Society on notice to the applicant, the Registrar and, (if applicable) each person (other than the Registrar) who objected to the granting of the application, as provided for in Order 53.

Where application to
Tribunal for removal
from the Roll may be
postponed or
withdrawn

31. Where an application by a solicitor to have his or her name removed from the Roll is made to the Tribunal, the Tribunal may, at any stage of the proceedings in relation to the application and before the completion of any inquiry by the Tribunal, postpone the taking of any steps or further steps in the matter for a specified period and, if they do so, then, if, before the expiration of that period, the applicant applies to the Tribunal for leave to withdraw the application, the Tribunal may, if they think fit (and whether or not in their discretion they seek the views of the Registrar, or (if applicable) of any other person interested who has objected to the granting of such application, on such request before making a decision in relation to it), allow the application to be withdrawn; and, if the Tribunal do so, no further action shall be taken by them in relation to the application.

PART IV – GENERAL

Tribunal Registrar to
furnish documents to
interested parties

1. In the case of any application to the Tribunal made under these Rules, the Tribunal Registrar shall furnish to the applicant and –
- (i) in the case of an application made under Part II of these Rules, shall furnish to the respondent solicitor and (where the Society is not the applicant) the Society, and
 - (ii) in the case of an application made under Part III of these Rules, shall furnish to the Registrar and (if applicable) any person interested who is an objector to the granting of the application,

copies of all documents furnished to the Tribunal; and any such applicant and any such respondent solicitor may at any time before the functions of the Tribunal under these Rules have concluded (by prior arrangement with the Tribunal Registrar) inspect all the documents in the possession of the

Tribunal Registrar that have been furnished to the Tribunal in respect of the application concerned.

Service of documents

33. (a) Where any document is required or authorised by or under these Rules to be furnished to any person, unless otherwise expressly provided under a Rule, such document may be furnished—
- (i) by delivering it to that person, or
 - (ii) by sending it by registered post in an envelope addressed to that person at his or her last known place of business or residence in the State or, if he or she is a solicitor, at the last address appearing in the Register of Practising Solicitors.
- (b) Where a person to whom a document is required or authorised by these Rules to be furnished is absent from the State, or his or her whereabouts are unknown and cannot be ascertained by reasonable enquiries, or where the document, having been sent by registered post in the manner specified in sub-clause (ii) of clause (a) of this Rule has been returned undelivered, the High Court, on application by the Society or other applicant, may make such order for substituted or other service, or for the substitution for service of notice of the content of the document, by advertisement or otherwise, as may seem just.

Powers of Tribunal as to taking evidence, etc

34. (a) The Tribunal shall, for the purposes of any inquiry held by them pursuant to Part II of these Rules or the consideration by them of an application pursuant to Part III of these Rules or the taking by them of further evidence where remitted to them by the High Court for that purpose, have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action, in respect of –
- (i) the enforcement of the attendance of witnesses and their examination on oath or otherwise,
 - (ii) the compelling of the production of documents, and
 - (iii) the compelling of the discovery under oath of documents,
- and a summons signed by a member of the Tribunal may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production and the discovery under oath of documents.
- (b) If a person -

- (i) on being duly summoned as a witness before the Tribunal, without just cause or excuse disobeys the summons, or
- (ii) being in attendance as a witness before the Tribunal, refuses to take an oath or to make an affirmation when legally required by the Tribunal to do so, or to produce or discover under oath any documents (which said word shall be construed as including things) in his or her possession or under his or her control and within his or her procurement legally required by the Tribunal to be produced or discovered under oath by him or her or to answer any question to which the Tribunal may legally require an answer, or
- (iii) wilfully gives evidence to the Tribunal which is material to their inquiry which he or she knows to be false or does not believe to be true, or
- (iv) by act or omission, obstructs or hinders the Tribunal in the performance of their functions, or
- (v) fails, neglects or refuses to comply with the provisions of an order made by the Tribunal, or
- (vi) does or omits to do any other thing which would, if the Tribunal had been the High Court, have been contempt of that court,

the person shall be guilty of an offence under section 15 (as substituted by section 25 of the Act of 1994) of the Act of 1960.

- (c) A witness before the Tribunal shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

Evidence before
Tribunal

35. (a) Subject to these Rules, the evidence of witnesses at any inquiry before the Tribunal shall be given on oath or by affirmation; and witnesses shall be sworn or their affirmation shall be taken by the chairperson or by another member of the division of the Tribunal conducting the inquiry.
- (b) In an inquiry before the Tribunal, any judgment or conviction by any court, or any findings as to fact by any court, judge or jury, or any process, summons, affidavit or other document on the file of any court forming the basis of a judgment in any civil proceedings against the applicant concerned or against the respondent solicitor concerned may, if the Tribunal think fit and consider relevant, be received as evidence of matters stated therein or appearing

therefrom.

Power of Tribunal to regulate procedures

36. Subject to any express provision in these Rules, the Tribunal may regulate the procedure at any inquiry and, in particular, may determine in what order the parties or their respective solicitors or counsel should be heard.

Cross-examination of a deponent

37. Where evidence is furnished to the Tribunal by means of an affidavit and an inquiry is being held to which such evidence is, or purports to be, relevant in the interest of the party who furnished it, the other party may by notice, in the form of Form DT15, to the deponent and (if different) the furnishing party, indicate his or her intention to cross-examine the deponent in respect of the contents of that affidavit; provided that the issuing of such a notice shall be without prejudice to the right of the Tribunal to rule on the admissibility or relevance of all or any part of the contents of that affidavit and to restrict or limit such cross-examination accordingly.

Witness summons

38. (a) Any party to an application to the Tribunal which is the subject of an inquiry may apply to the Tribunal Registrar by a request, in the form of Form DT16, for the issue of a summons to a witness directing a named person to attend at the inquiry to give evidence on behalf of the requesting party. The Tribunal Registrar shall on receipt of such a request prepare the necessary summons which shall then be dated and signed by a member of the Tribunal. The Tribunal Registrar shall then furnish the summons to the requesting party. Service of such a summons on the witness named therein shall be invalid if not made by or on behalf of the requesting party within twelve weeks (that is 84 days) from its date. A witness summons may be 'ad testificandum', in the form of Form DT17, or 'duces tecum', in the form of Form DT18.
- (b) The Tribunal may require the applicant and -
- (i) in the case of an application made under Part II of these Rules, the respondent solicitor and (where the Society is not the applicant) the Society, and
 - (ii) in the case of an application made under Part III of these Rules, the Registrar and (if applicable) any person interested who is an objector to the granting of the application,
- to submit in writing an outline of the evidence expected to be given by each witness whom the requesting party proposes to have summoned to attend the inquiry.
- (c) The Tribunal may, if of opinion that the evidence expected to be given by a witness at an inquiry is irrelevant or does not add

materially to that proposed to be given by other witnesses and that accordingly the attendance of the witness at the inquiry is likely to give rise to unnecessary delay or expense, so inform the applicant or respondent solicitor, as the case may be, and draw his or her attention to the provisions of clause (d) of this Rule.

- (d) On the completion of an inquiry, the Tribunal, whether or not they have acted in accordance with clause (c) of this Rule, may, if of opinion that the attendance of any witness or witnesses summoned at the request of the applicant or respondent solicitor was unnecessary and thereby involved the witness in avoidable expense, by order direct that the applicant or respondent solicitor, as the case may be, shall pay a sum or sums (specified by the Tribunal in respect of each witness concerned) not exceeding a total of €10,000 to the witness or witnesses concerned in respect of the expense, and the witness or witnesses may each recover the sum or sums so specified by the Tribunal in respect of him or her from the applicant or respondent solicitor, as the case may be, as a liquidated debt.
- (e) Before making an order under clause (d) of this Rule, the Tribunal shall notify the applicant or respondent solicitor, as the case may be, that they propose to do so and to consider any representations that may be made to them in writing by that person within 14 days after the notification.
- (f) The applicant or respondent solicitor in respect of whom an order has been made under clause (d) of this Rule may, pursuant to Order 53, appeal to the High Court against the order within 21 days of the receipt by him or her of the notification in writing of it.

Discovery of documents

39. (a) The Tribunal may, on the application of any party to an inquiry on notice to any other party to the inquiry, order that the other party do make discovery on oath of documents which are or have been in that other party's possession or power which are relevant to an issue arising or likely to arise out of the inquiry. Such an application may be made to a division of the Tribunal and the applying party shall do so grounded on an affidavit verifying the fact that voluntary discovery has previously been requested in writing by the applying party from the other party (a copy of such written request to be an exhibit to such affidavit); and that such request for voluntary discovery had specified the precise categories of documents in respect of which discovery is being sought and the reasons why each category of documents is being required to be discovered; and had verified that such discovery of documents being sought was and is necessary for disposing fairly of the issues arising or likely to arise out of the inquiry; and deposing (as the case may be) that such request for voluntary

discovery has been refused or ignored by the other party or that the terms of such voluntary discovery have not been agreed between the parties (including the extent to which there has been agreement and the extent to which there has not been agreement).

- (b) If any party fails to comply with an order of the Tribunal to make discovery of documents, that party (if an applicant) shall, if the Tribunal think fit, have his or her application dismissed or (if a respondent solicitor) shall, if the Tribunal think fit, have his or her response to the application struck out and be placed in the same position as if he or she had not responded at all to the application; and orders may be made accordingly by the Tribunal.
- (c) Any party to an inquiry before the Tribunal may, in due and sufficient time prior to the date of the inquiry or any adjournment thereof, furnish notice in writing, in the form of Form DT19, to any other party to the inquiry requesting the production for inspection of the originals of the documents specified in such notice as are in the possession or power of that other party and in respect of which either copies have been furnished by that other party to the Tribunal Registrar by way of affidavit or exhibits thereto or to which reference has been made in such affidavit or exhibits; and to permit photocopies of such specified documents to be taken by or on behalf of the requesting party. If the other party does not respond positively and fully to the notice of the requesting party, he or she shall not afterwards at the inquiry be at liberty to put any such specified documents in evidence on his or her own behalf, unless he or she shall satisfy the Tribunal that such documents relate only to his or her own title or that he or she has other cause or excuse which the Tribunal deem sufficient for not complying with such notice. Where the Tribunal in such circumstances do permit any such specified documents to be put in evidence they may do so on such terms as to costs or otherwise as they think fit.
- (d) The other party to whom a notice by the requesting party pursuant to clause (c) of this Rule is furnished shall, within four days after the receipt of such notice, furnish to the requesting party, in the form of Form DT20, a notice in response specifying a time within ten days after such receipt when the originals of the documents in question, or such of them as the other party does not object to producing, will be produced for inspection by the requesting party (or his or her solicitor) at the office of the other party (or of his or her solicitor) or at their usual place of custody; and (if applicable) stating which (if any) of the documents in question the other party objects to so producing and on what grounds.
- (e) Where the other party, to whom a notice by the requesting party as

furnished pursuant to clause (c) of this Rule, fails to furnish a notice in response, within the time provided for in clause (d) of this Rule or at all, that specifies a time and place when the originals of the documents in question will be provided by the other party for inspection by the requesting party or objects to give inspection of all or any of such documents or offers a place for inspection other than at a place provided for in clause (d) of this Rule, the Tribunal may, on the application of the requesting party, make an order for inspection of such documents at such place and time and in such manner as they think fit. Such an application shall be grounded on an affidavit of the requesting party specifying the documents in question and deposing to the basis on which the requesting party contends that he or she is entitled to inspect them (and, as the case may be, to have photocopies taken of them) and to his or her belief that they are in the possession or power of the other party.

- (f) An order shall not be made by the Tribunal under this Rule where the Tribunal are of opinion that such an order is not necessary either for disposing fairly of a matter in issue at the inquiry in question or for saving costs.

Third-party discovery

- 40. (a) Any person not a party to an inquiry (hereinafter in this Rule referred to as the “third party”), who appears to the Tribunal to be likely to have or to have had in his or her possession or power documents which are relevant to an issue arising or likely to arise out of the inquiry or is or is likely to be in a position to give evidence relevant to any such issue, may upon the application of any party to the inquiry, on notice to the third party and to any other party to the inquiry and the Tribunal Registrar, be directed by order of the Tribunal to make discovery of such documents or to permit inspection of such documents. Such an application may be made to a division of the Tribunal and the applying party shall do so grounded on an affidavit verifying the fact that voluntary discovery has previously been requested in writing by the applying party from the third party (a copy of such written request to be an exhibit to such affidavit); and that such request for voluntary discovery had specified the precise categories of documents in respect of which discovery is being sought and the reasons why each category of documents is being required to be discovered; and had verified that such discovery of documents being sought was and is necessary for disposing fairly of the issues arising or likely to arise out of the inquiry; and deposing (as the case may be) that such request for voluntary discovery has been refused or ignored by the third party or that the terms of such voluntary discovery have not been agreed between the applying party and the third party (including the extent to which there has been agreement and the extent to which there has not been agreement).

- (b) The provisions of clause (a) of this Rule shall apply ‘mutatis mutandis’ as if the said order of the Tribunal had been directed to a party to the inquiry, provided always that the applying party shall indemnify the third party in respect of all costs thereby reasonably incurred by the third party.

Regard to be had by Tribunal to Rules of the Superior Courts

41. Insofar as these Rules herein do not provide for the exercise of the powers and functions vested in the Tribunal pursuant to section 15 (as amended by substitution by section 25 of the Act of 1994) of the 1960 Act, the Tribunal shall, in the exercise of such powers and functions, have regard, as appropriate and reasonable, to the Rules of the Superior Courts for the time being.

Extension of time

42. The Tribunal may extend the time for the furnishing of any notice, affidavit, or document under these Rules or for doing anything thereunder and may receive any application or document notwithstanding any irregularity in its form where it appears to the Tribunal to be just and reasonable to do so.

Amendment by Tribunal of defective or insufficient document

43. Where it appears to the Tribunal that any notice, affidavit or other document furnished under these Rules is defective or insufficient, the Tribunal may permit such notice, affidavit or other document to be amended or supplemented on such terms as to the adjournment of an inquiry or otherwise as the Tribunal think fit, or may require the filing by one or other of the parties of a further affidavit or the service of a further document; provided that if any such amendment or addition shall be such as to take any party by surprise or prejudice in the conduct of his or her case the Tribunal shall grant an adjournment of the inquiry on such terms as the Tribunal think fit.

Deviation from forms

44. The forms in the Schedule to these Rules shall be used as far as practicable, where appropriate and reasonable, but a deviation from such forms shall not, by reason only of such deviation, make invalid any application to the Tribunal, or any notice, affidavit or other document in connection therewith.

Mistakes or errors in judgments or orders

45. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal on the application of any party, on due written notice to the other party or other person interested, as the case may be.

Legal representation

46. At any inquiry, any party may appear in person or by solicitor or by solicitor and counsel.

Absence of party

47. (a) If a respondent solicitor does not appear at an inquiry, the Tribunal may, upon proof of service on him or her of notice of such inquiry, proceed with the inquiry in his or her absence or adjourn the

inquiry on such terms as the Tribunal think fit.

- (b) If an applicant does not appear at an inquiry, the Tribunal may strike out the application or adjourn the inquiry on such terms as the Tribunal think fit.

Transcript of evidence and submissions

48. A verbatim note of the evidence and submissions made at an inquiry before the Tribunal may be taken by a person appointed by the Tribunal either by means of a stenographic note or by means of a mechanical sound recording or by a mechanical sound and vision recording; and any party to the inquiry before the Tribunal shall be entitled to a transcript on payment of the reasonable charges therefor.

Tribunal may direct Society to prosecute

49. (a) The Tribunal may, at any stage in the processing of an application to the Tribunal for an inquiry under section 7 into the conduct of a respondent solicitor on the ground of alleged misconduct made by an applicant other than the Society, direct the furnishing by the Tribunal Registrar of notice of the application, in the form of Form DT21, to the Registrar requesting the Society to consider (at its option) either making a new such application in relation to the respondent solicitor or undertaking on behalf of the original applicant the prosecution of the existing application; and the Tribunal may, in order that such a notice may be furnished to the Society, adjourn the further processing of such existing application on such terms as the Tribunal think fit. A copy of the notice to the Registrar shall at the same time be furnished to the original applicant and to the respondent solicitor.
- (b) Where the Society, following receipt by the Registrar of a notice as provided for in clause (a) of this Rule, decides either to make a new such application in relation to the respondent solicitor in question or to undertake on behalf of the original applicant the prosecution of the existing application, the Society shall furnish to the Tribunal Registrar and to the original applicant and the respondent solicitor a notice of the Society's intention so to do in the form of Form DT22.

Society may apply to Tribunal to intervene

50. The Society may, at any stage of the processing of an application to the Tribunal for an inquiry under section 7 into the conduct of a respondent solicitor on the ground of alleged misconduct made by an applicant other than the Society, make application to the Tribunal for leave either to make a new such application in relation to the respondent solicitor or to undertake on behalf of the original applicant the prosecution of the existing application; and, where the Tribunal think fit, the Tribunal shall grant such leave to the Society and the Tribunal Registrar shall, as soon as practicable after such leave is granted, notify both the original applicant and the respondent solicitor of that fact; and the Tribunal may adjourn the further processing of such existing application on such terms as the

Tribunal think fit to enable the Society to proceed pursuant to such leave and the Society shall, as soon as practicable after such leave is granted, so proceed.

No withdrawal except
by leave of Tribunal

51. An application to the Tribunal shall not be withdrawn except by leave of the Tribunal and on such terms as the Tribunal think fit.

Notice to admit
documents or facts

52. (a) Any party may, by notice in writing, in the form of DT23 or in the form of Form DT24, as the case may be, at any time not later than seven days before the date fixed for an inquiry (or any adjournment thereof), request the other party to admit a specified document (Form DT23) or a specified purported fact as a fact without formal proof of same (Form DT24), saving all just exceptions as to the admissibility of such document or fact as evidence at the inquiry; and, if the other party wishes to challenge such specified document or such specified purported fact, he or she shall, within not more than six days after the furnishing to him or her of such notice, give notice of non-admission to the requesting party, in the form of Form DT25 or in the form of Form DT26, as the case may be, that he or she does not admit the same and that he or she requires proof of same at the inquiry (or any adjournment thereof).

(b) The notice of the requesting party to the other party to admit a specified document, as provided for in clause (a) of this Rule, shall include the statement that the other party is being requested to admit the specified document for the purposes of the inquiry only and may include all or any of the following further statements:

- (i) that the requesting party proposes to rely, as part of his/her case, on the specified document;
- (ii) that the other party may inspect the specified document at a location (specified in the notice) reasonably convenient to that other party within the six-day period referred to in clause (a) of this Rule;
- (iii) that the other party is being requested to admit that the specified document, if an original document, was written, signed and executed as it purports to have been;
- (iv) that the other party is being requested to admit that the specified document, if a copy of the original, is a true copy of the original;
- (v) that the other party is being requested to admit that the specified document, insofar as it is stated to have been served, sent or delivered, was so served, sent or delivered.

(c) The notice of the requesting party to admit a specified purported fact as a fact, as provided for in clause (a) of this Rule, shall include the statement that the other party is being requested to

admit the specified purported fact as a fact for the purposes of the inquiry only, and may also include the statement that the requesting party proposes to rely, as part of his/her case, on the specified purported fact as a fact.

- (d) If the other party does not give notice of non-admission to the requesting party within the time provided for in clause (a) of this Rule, he or she shall be deemed to have admitted the document or fact unless the Tribunal shall otherwise order.

Custody of documents 53. All notices, affidavits and other documents relating to an application to the Tribunal shall be furnished to and kept by the Tribunal Registrar. The Tribunal may direct that any documents produced or used at an inquiry shall be retained by the Tribunal Registrar until the termination of the inquiry and any subsequent proceedings before the High Court in relation thereto.

Date, venue and time for an inquiry or any adjournment thereof 54. The Tribunal shall hold an inquiry at such date, time and place as the Tribunal Registrar shall designate; and the Tribunal may adjourn the consideration of any matter at an inquiry from date to date and from time to time and from place to place, as the Tribunal think fit.

Persons appointed to make application to Tribunal on behalf of Society 55. (a) The Society shall be entitled to make an application to the Tribunal in accordance with these Rules, notwithstanding that any other person may be entitled to make such an application. Where an application is made by the Society, the Society may appoint one or more persons to act for the Society in that regard, who may sign any document, make any affidavit, and do on behalf of the Society all acts and things which may be necessary for the purpose of such application. The Society may be represented at an inquiry either by the Registrar or by a solicitor or by a solicitor and counsel.

- (b) It shall be presumed, unless the contrary is shown, that any person purporting to act for the Society in relation to an application to the Tribunal, whether in signing a document or making an affidavit or otherwise in pursuance of such application, is duly authorised by the Council to so act.

Where High Court remits case back to Tribunal to take further evidence 56. (a) Where the Tribunal, after holding an inquiry into the conduct of a solicitor, make a report on the case to the High Court and the High Court then remits the case to the Tribunal to take further evidence for submission to it and to make a supplementary report, the Tribunal shall proceed as follows:

(i) the Tribunal Registrar shall, as soon as practicable, notify each of the three members of the Tribunal who constituted the division of the Tribunal which conducted the original inquiry the subject of the report to the High Court of that fact and, in consultation with them, designate a date, place and time for the holding of a further inquiry for the purpose of taking further evidence pursuant to the remit of the High Court;

- (ii) where, for good and sufficient reason, it is not possible for the same three members of the Tribunal to constitute the division of the Tribunal for the purpose of taking such further evidence, the Chairman shall (whether or not following consultation by him or her with the President of the High Court) constitute another division of the Tribunal for that purpose comprising in part, insofar as is possible, such of the members of the Tribunal who constituted the division for the original inquiry as are available; and
- (iii) the Tribunal Registrar shall furnish to the applicant and -
 - (I) in the case of an application made under Part II of these Rules, the respondent solicitor, and (where the Society is not the applicant) the Society, and
 - (II) in the case of an application made under Part III of these Rules, the Registrar and (if applicable) any person interested who is an objector to the granting of the application,

a copy of the order or other written notification issued by the High Court to the Tribunal in that regard; and shall notify them of the date, place and time for the further inquiry and the names of the three members of the Tribunal who will constitute the Tribunal for that purpose.

- (b) The same procedure, as far as is appropriate and reasonable, under these Rules shall be followed as if such a further inquiry was an inquiry 'de novo'.

Orders of Tribunal

- 57. An order of the Tribunal under these Rules shall be in form of Form DT7 or Form DT8 or Form DT13, as the case may be, and shall be signed by the chairman or by any two members of the division of the Tribunal concerned which made the order.

Orders for removal from Roll to be sent to Registrar

- 58. The Tribunal Registrar shall ensure that a copy of every order of the Tribunal providing for the removal of the name of a solicitor from the Roll on foot of an application by the solicitor shall be furnished to the Registrar, who shall make the consequential entry on the Roll.

Publication of Tribunal orders

- 59. (a) Where on the completion of an inquiry by the Tribunal held under section 7, the Tribunal have –
 - (i) made an order under section 7,
 - (ii) served on the Society a copy of the order, and
 - (iii) furnished to the Society a copy of their report to the High Court,

then, subject to clause (b) of this Rule, the Society may arrange to publish the order or notice of the making of the order and its

effect, together with a summary of the report, in such a manner as the Society thinks fit.

- (b) Such order of the Tribunal, or notice of the making of the order and its effect, or any part of the report of the Tribunal or other detail of the inquiry shall not be published by the Society until a period of at least 21 days beginning on the date of the service of a copy of the order or of the report, whichever date is the later, shall have elapsed or until any application made under section 7 has been determined by the High Court; and thereafter the notice of the making of the order shall not be published if the Court rescinds the order of the Tribunal or, as the case may be, the Court orders that one or more of the aforementioned documents shall not be published.

Where report to be made by Society to Director of Company Law Enforcement

- 60. Where the Tribunal makes a finding against a respondent solicitor which in substance is a finding that the respondent solicitor conducting a liquidation or receivership has not maintained appropriate records or that the Tribunal has reasonable grounds for believing that the respondent solicitor has committed an indictable offence under the Companies Acts during the course of a liquidation or receivership, the Tribunal shall so notify the Society and shall give to the Society such details of such finding or, as the case may be, of the alleged offence as shall enable the Society to comply with the Society's obligations under section 58 of the Company Law Enforcement Act, 2001 to report such matter or such alleged offence to the Director of Company Law Enforcement.

Inquiry into alleged misconduct by apprentice

- 61. (a) These Rules (including the forms set out in the Schedule hereto) shall apply 'mutatis mutandis' to an application made by the Society to the Tribunal to hold an inquiry into alleged misconduct by an apprentice, as provided for in section 19 of the Act of 2002. For convenience of reference, the text of section 19 of the Act of 2002 is set forth in Appendix 2 to these Rules.
- (b) In applying these Rules to an application made by the Society as provided for in clause (a) of this Rule, the phrase "trainee solicitor" may be used in reference to the apprentice concerned and, where applicable, the phrase "training solicitor" may be used in reference to the master or former master, as the case may be, of the apprentice.

These Rules dated the ... day of 2003

I concur, pursuant to section 16 of the Solicitors (Amendment) Act, 1960, to the making of these Rules of the Solicitors Disciplinary Tribunal.

Dated the ... day of 2003

Mr Justice Joseph Finnegan
President of the High Court

APPENDIX 1

From Part I of Solicitors (Amendment) Act, 1960 (as amended by the Act of 1994 and the Act of 2002) entitled "Preliminary and General"

(i) **Section 3** (as amended by section 24 of the Act of 1994 and by section 7 of the Act of 2002) **of the Act of 1960:**

.....

“misconduct” includes –

- (a) the commission of treason or a felony or a misdemeanour,
- (b) the commission, outside the State, of a crime or an offence which would be a felony or a misdemeanour if committed in the State,
- (c) *[inserted by section 7 of the Act of 2002]* the contravention of a provision of the Solicitors Acts, 1954 to 2002, or any order or regulation made thereunder,
- (d) in the course of practice as a solicitor –
 - (i) having any direct or indirect connection, association or arrangement with any person other than a client whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of section 55 or 56 or 58 (which prohibits an unqualified person from drawing or preparing certain documents), as amended by the Act of 1994, of the Principal Act, or section 5 of the Solicitors (Amendment) Act, 2002, or
 - (ii) accepting instructions to provide legal services to a person from another person whom the solicitor knows, or upon reasonable enquiry should have known, is a person who is acting or has acted in contravention of those enactments,
- (e) any other conduct tending to bring the solicitors’ profession into disrepute.

From Part II of Solicitors (Amendment) Act, 1960 (as amended by the Act of 1994 and the Act of 2002), comprising sections 6 to 18 inclusive, entitled "Disciplinary Provisions in Relation to Solicitors"

(ii) **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:**

16. - (1) The Act of 1960 is hereby amended by the substitution of the following section for section 6:

Disciplinary Tribunal 6. - (1) *[inserted by section 8(a) of the Act of 2002]* The President of the High Court shall, from time to time as occasion requires, appoint a tribunal which shall be known as the Solicitors Disciplinary Tribunal (in this Act referred to as the ‘Disciplinary Tribunal’) consisting of –

- (a) not more than twenty persons from among practising solicitors of not less than 10 years standing (to be known and referred to in this section as ‘solicitor members’), one of whom shall be appointed by the President of the High Court to be chairperson of the Disciplinary Tribunal and each of whom shall be appointed after consultation with the Society, and
- (b) not more than ten persons, who are not solicitors or

barristers (to be known and referred to in this section as 'lay members'), who shall be nominated by the Minister to represent the interests of the general public,

for such a period, not exceeding five years, as the President of the High Court may determine, and any such person so appointed shall be eligible for reappointment to the Disciplinary Tribunal for not more than one such period.

- (1A) *[inserted by section 8(b) of the Act of 2002]* At least 40 per cent of the solicitor members and of the lay members of the Disciplinary Tribunal, calculated by rounding to the nearest whole number, shall be men and at least 40 per cent, as so calculated, shall be women.
- (2) A member of the Disciplinary Tribunal may resign his membership by letter sent by registered post to the President of the High Court and his resignation shall take effect on the date on which the letter is delivered.
- (3) (a) The President of the High Court may remove a member of the Disciplinary Tribunal, may fill a vacancy therein and, subject to the limits stated in subsection (1) of this section, may increase or reduce the number of persons thereon.
- (b) The President of the High Court may not remove a lay member of the Disciplinary Tribunal, without prior consultation with the Minister.
- (4) The Society shall defray any responsible costs and expenses incurred by the Disciplinary Tribunal.
- (5) For the purpose of hearing and determining any application under section 7 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, the Disciplinary Tribunal shall sit in divisions, each of which shall comprise three members of whom one shall be a lay member and two shall be solicitor members.
- (6) *[inserted by section 8(c) of the Act of 2002]* The Society shall pay to each member of the Disciplinary Tribunal, out of funds at the disposal of the Society, either -
- (a) the reasonable travelling and subsistence expenses incurred by the member in connection with attendance at meetings of the Disciplinary Tribunal, or
- (b) with the consent of the member concerned, an annual sum (the amount of which shall be determined by the Society from time to time and which shall be payable in arrear at the end of each year) in respect of those expenses.
- (7) Any information, document or thing obtained by any member of the Disciplinary Tribunal as a result of any application to the Disciplinary Tribunal, or in the course of any inquiry by that Tribunal, shall not be disclosed except for the purposes of the *Solicitors Acts, 1954 to 1994*.

- (2) Subsection (1) of this section shall not apply to any application under section 7 of the Act of 1960 made before the coming into operation of this section [which was 4 November 1994] to the Disciplinary Committee appointed under section 6 of the Act of 1960.

(iii) **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:**

17. - (1) The Act of 1960 is hereby amended by the substitution of the following section for section 7:

Inquiry by the Disciplinary Tribunal into the conduct of a solicitor on the ground of alleged misconduct

7. - (1) An application by a person (not being a person who has made a complaint to an independent adjudicator under *section 15 of the Solicitors (Amendment) Act, 1994* about the conduct of a solicitor referred to in the application) or by the Society for an inquiry into the conduct of a solicitor on the ground of alleged misconduct shall, subject to the provisions of this Act, be made to and heard by the Disciplinary Tribunal in accordance with rules made under section 16 of this Act.

(2) [inserted by section 9(a) of the Act of 2002]

- (a) Where an application in relation to a solicitor (in this section referred to as the 'respondent solicitor') is duly made under this section, the Disciplinary Tribunal shall—

- (i) where the Society is not the applicant, inform the Society as soon as practicable of the receipt of the application, and
(ii) before deciding whether there is a *prima facie* case for inquiry:

- (I) send a copy of the application and of any accompanying documents to the respondent solicitor, and
(II) request that any observations which he or she may wish to make on the application be supplied to the Disciplinary Tribunal within a specified period.

- (b) If, after receipt of the respondent solicitor's observations or on the expiration of the specified period, the Disciplinary Tribunal find that there is no *prima facie* case for inquiry, they shall so inform the applicant, the Society (where the Society is not the applicant) and the respondent solicitor and take no further action in relation to the application.

(3) [inserted by section 9(a) of the Act of 2002] If the Disciplinary Tribunal find that there is a *prima facie* case for inquiry, the following provisions shall have effect:

- (a) they shall proceed to hold an inquiry and notify the respondent solicitor and the applicant (and, where the Society is not the applicant, the Society) of the date on which it is to be held;
(b) when holding the inquiry the Disciplinary Tribunal shall —

- (i) consider each allegation of misconduct made against the respondent solicitor, and
 - (ii) make a separate finding in respect of each such allegation;
- (c) on completion of the inquiry the Disciplinary Tribunal shall specify in a report (which shall include a verbatim note of the evidence given and submissions made) to the High Court –
- (i) the nature of the application and the evidence laid before them,
 - (ii) the finding made on each allegation of misconduct and the reasons therefor,
 - (iii) any other matters in relation to the respondent solicitor which they may think fit to report,
 - (iv) in case they find that there has been misconduct on the part of the respondent solicitor and they have not made, and do not intend to make, an order under subsection (9) of this section –
 - (I) their opinion as to the fitness or otherwise of the respondent solicitor to be a member of the solicitor’s profession, having regard to their findings, and
 - (II) their recommendations as to the sanction which in their opinion should be imposed, having regard to their findings, to any finding of misconduct on the part of the respondent solicitor previously made by them (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court, and to any order made by the Court under the *Solicitors Acts, 1954 to 2002*, in respect of the respondent solicitor,

and in that case the Society shall bring the report before the Court.

- (4) Where, on completion of an inquiry under subsection (3) of this section, the Disciplinary Tribunal find that there has been misconduct on the part of the respondent solicitor but they have made or are of the opinion that it is appropriate that they should make an order under subsection (9) of this section, the Disciplinary Tribunal shall include in their report the reasons for their opinion that it is appropriate to make an order under subsection (9) of this section.
- (5) *[inserted by section 9(b) of the Act of 2002]* The Disciplinary Tribunal shall, as soon as possible and not later than 21 days after their report has been prepared, serve a copy of it on –
- (a) the respondent solicitor either personally or by sending it by registered post to the respondent solicitor’s last-

- known residence or place of business,
 - (b) the Society by sending it to the Society by registered post, and
 - (c) any person other than the Society who has made an application under subsection (1) of this section either personally or by sending it by registered post to the person's last-known residence or place of business.

- (6) *[inserted by section 9(c) of the Act of 2002]* Where, on completion of an inquiry under subsection (3) of this section, the Disciplinary Tribunal find that there has been no misconduct on the part of the respondent solicitor, they shall inform the respondent solicitor and the applicant (and, where the Society is not the applicant, the Society) of their finding and the reasons therefor and take no further action in relation to the matter.

- (7) Where an application is made under this section, the Disciplinary Tribunal may, at any stage of the proceedings in relation to the application and before the completion of any inquiry under subsection (3) of this section, postpone the taking of any steps or further steps in the matter for a specified period and, if they do so, then, if before the expiration of that period the applicant applies to the Disciplinary Tribunal for leave to withdraw the application, the Disciplinary Tribunal may, if they think fit, allow the application to be withdrawn and, if they do so, no further action shall be taken by them in relation to the application.

- (8) The Society shall be entitled to make an application to the Disciplinary Tribunal in accordance with the provisions of this section, notwithstanding that any other person may be entitled to make such an application.

- (9) Where, on completion of an inquiry under subsection (3) of this section, the Disciplinary Tribunal find that there has been misconduct on the part of the respondent solicitor, they shall have power, by order, to do one or more of the following things, namely –
 - (a) to advise and admonish or censure the respondent solicitor;
 - (b) to direct payment of a sum, not exceeding *[inserted by section 9(d) of the Act of 2002]* €15,000 to be paid by the respondent solicitor to the Compensation Fund;
 - (c) to direct that the respondent solicitor shall pay a sum, not exceeding *[inserted by section 9(d) of the Act of 2002]* €15,000 as restitution or part restitution to any aggrieved party, without prejudice to any legal right of such party;
 - (d) to direct that the whole or part of the costs of the Society or of any person appearing before them, as taxed by a Taxing Master of the High Court, in default of agreement, shall be paid by the respondent solicitor,

[inserted by section 9(d) of the Act of 2002] and, in making any such order, the Disciplinary Tribunal shall take account of any finding of misconduct on the part of the respondent solicitor previously made by them (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court, and of any order made by the Court under the *Solicitors Acts, 1954 to*

2002, in respect of the respondent solicitor.

- (10) *[inserted by section 9(e) of the Act of 2002]* On the making of an order under subsection (9) of this section, the Disciplinary Tribunal shall as soon as possible and not later than 28 days thereafter serve, in the manner provided for in subsection (5) (as substituted by the *Solicitors (Amendment) Act, 2002*) of this section in relation to service of their report, a copy of the order on the respondent solicitor, the Society and any person other than the Society who has made an application under subsection (1) of this section.
- (11) *[inserted by section 9(f) of the Act of 2002]*
- (a) A respondent solicitor in respect of whom an order has been made by the Disciplinary Tribunal under subsection (9) of this section, or
- (b) Without prejudice to subsection (12) of this section, the Society or any person other than the Society who has made an application under subsection (1) of this section, may, within the period of 21 days beginning on the date of the service of a copy of the order or of the report, whichever date is the later, appeal to the High Court to rescind or vary the order in whole or in part, and the Court, on hearing the appeal, may-
- (i) rescind or vary the order, or
- (ii) confirm that it was proper for the Disciplinary Tribunal to make an order.
- (12) The Society, or any person who has made an application under subsection (1) of this section, may, within the period provided under subsection (11) of this section, appeal to the High Court against an order made by the Disciplinary Tribunal under subsection (9) of this section on the ground that the sanction imposed by the Disciplinary Tribunal is inadequate, or that the Disciplinary Tribunal, in lieu of making such an order, ought to have exercised their powers under subsection (3)(b)(ii) of this section, and the Court, on hearing such an appeal, may –
- (i) confirm the sanction imposed by the Disciplinary Tribunal on the respondent solicitor, or
- (ii) in relation to the respondent solicitor, do one or more of the things specified in section 8(1)(a) (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act.
- (12A) *[inserted by section 9(g) of the Act of 2002]* The Society or any person who has made an application under subsection (1) of this section may appeal to the High Court within the period specified in subsection (b) of this section -
- (a) against a finding of the Disciplinary Tribunal that there is no prima facie case for inquiry into the conduct of the respondent solicitor, or
- (b) against a finding of the Disciplinary Tribunal that there has been no misconduct on the part of the respondent solicitor in relation to an allegation of misconduct (whether or not there has been a finding by the

Disciplinary Tribunal of misconduct in relation to any other such allegation), and the Court may –

- (i) confirm the finding concerned,
 - (ii) where the appeal is under paragraph (a) of this subsection, make a finding that there is a prima facie case in relation to the allegation of misconduct concerned or, as the case may be, one or more than one of such allegations and require the Disciplinary Tribunal to proceed to hold an inquiry under subsection (3) of this section in relation to such allegation or allegations, or
 - (iii) where the appeal is under paragraph (b) of this subsection, rescind or vary any finding of the Disciplinary Tribunal that there has been no misconduct on the part of the respondent solicitor in relation to an allegation of misconduct and, in relation to that solicitor, by order do one or more than one of the things specified in section 8(1)(a) (as substituted by the Act of 1994) of this Act.
- (b) An appeal against a finding of the Disciplinary Tribunal under subsection (a) of this section shall be made within 21 days of the receipt by the appellant of notification in writing of the finding.
- (13) A respondent solicitor may appeal to the High Court against a finding of misconduct on his part by the Disciplinary Tribunal pursuant to subsection (3) of this section, and the Court shall determine such appeal when it considers the report of the Disciplinary Tribunal in accordance with the provisions of section 8 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, or as part of its determination of any appeal under subsection (1) of this section, as the case may be.
- (14) Where a respondent solicitor refuses, neglects or otherwise fails to comply with an order made under subsection (9)(b) or (c) of this section (to an extent that it has not been rescinded or varied by the High Court consequent on an appeal to the High Court under subsection (11) of this section, the Society or any aggrieved party to whom a sum by way of restitution or part restitution has been ordered, may recover that sum as a liquidated debt.
- (15) An application brought under subsection (1) of this section may relate to one or more complaints against a respondent solicitor.
- (16) An application by the Society under subsection (1) of this section shall include an application made by the Society pursuant to a direction by an adjudicator appointed under *section 15* of the *Solicitors (Amendment) Act, 1994*.
- (17) The Society may authorise any person on their behalf to do all such things and acts as may be necessary for the purposes of any application made or inquiry held under this section.

- (2) Subsection (1) of this section shall not apply to any application under section 7 of the Act of 1960 made before the coming into operation of this section [which was 4 November 1994].

(iv) **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:**

18. - (1) The Act of 1960 is hereby amended by the substitution of the following section for section 8:

**Proceedings
before High
Court**

8. - (1) Where the Disciplinary Tribunal, after holding an inquiry into the conduct of a solicitor, make a report to the High Court under section 7 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act which is brought before the Court by the Society under the said section 7, the following provisions shall have effect:

- (a) the High Court, after consideration of the report—
- (i) may by order do one or more of the following things, namely –
- (I) strike the name of the solicitor off the roll;
 - (II) suspend the solicitor from practice for such specified period and on such terms as the Court thinks fit;
 - (III) prohibit the solicitor from practising on his own account as a sole practitioner or in partnership for such period, and subject to such further limitation as to the nature of his employment, as the Court may provide;
 - (IV) restrict the solicitor practising in a particular area of work for such period as the Court may provide;
 - (V) censure the solicitor or censure him and require him to pay a money penalty;

[inserted by section 10(a) of the Act of 2002]
and, in making any such order, the Court shall take account of any finding of misconduct on the part of the respondent solicitor previously made by the Disciplinary Tribunal (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court, and of any order made by the Court under the *Solicitors Acts, 1954 to 2002*, in respect of the respondent solicitor.

- (ii) may by order direct that a specified bank shall furnish any information in its possession that the Society may require relating to any aspect of the financial affairs of the practice of the solicitor;
- (iii) may by order direct that the solicitor swear an affidavit disclosing all information relating to or contained in any accounts, held in his own name or in the name of his firm or jointly with third parties, with any bank within a specified

- (iv) duration of time, to be fixed by the Court; may make such order as to the costs incurred in the proceedings before it and the Disciplinary Tribunal as the Court thinks fit;
 - (v) may make an ancillary order in relation to the matter which the Court thinks fit;
- (b) the High Court may, if it thinks fit, remit the case to the Disciplinary Tribunal to take further evidence for submission to it and to make to it a supplementary report, and the Court may adjourn the hearing of the matter pending the submission to it of such further evidence and the making of such supplementary report;
- (c) in addition to doing any of the things specified in the foregoing paragraphs of this subsection, the Court may also by order do any one or more of the following things, namely –
 - (i) direct the solicitor to make such restitution to any aggrieved party as the Court thinks fit;
 - (ii) on the application of the Society, direct that the solicitor swear an affidavit (within the specified duration of time to be fixed by the Court) disclosing all information as to his assets either then in his possession or control or within his procurement or which had been but no longer are in his possession or control or within his procurement and, if no longer in his possession or control or within his procurement, his belief as to the present whereabouts of those assets;
 - (iii) direct that the solicitor make himself available before the Court on a specified date and at a specified time for oral examination under oath in relation to the contents of any affidavit of assets sworn by him pursuant to subparagraph (ii) of this paragraph;
 - (iv) on the application of the Society and where it is shown that the conduct of the solicitor or of any clerk or servant of that solicitor arising from that solicitor's practice as a solicitor has given or is likely to give rise to the making by the Society of a grant or grants out of the Compensation Fund under section 21 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, direct that the solicitor shall not reduce his assets below a certain specified amount or value unless the Court otherwise directs;
 - (v) on the application of the Society, direct the delivery to any person appointed by the Society of all or any documents in the possession or control or within the procurement of the solicitor arising from his practice as a solicitor;
 - (vi) direct either –
 - (I) that no bank shall, without leave of the Court, make any payment out of an account in the name of the solicitor or

(II) his firm, or
that a specified bank shall not, without
leave of the Court, make any payment
out of an account in the name of the
solicitor or his firm;

(vii) direct that the solicitor shall not attend at the
place of business of his practice as a solicitor
unless otherwise permitted by the Court;

(viii) direct that the solicitor shall not represent
himself as having, or hold himself out as
having, any connection with his former practice
as a solicitor, or permit any other person to so
represent that solicitor, unless otherwise
permitted by the Court;

[inserted by section 10(b) of the Act of 2002] and, in
making any such order, the Court shall take account of
any finding of misconduct on the part of the respondent
solicitor previously made by the Disciplinary Tribunal
(or by their predecessor, the Disciplinary Committee)
and not rescinded by the Court and of any order made by
the Court under the *Solicitors Acts, 1954 to 2002*, in
respect of the respondent solicitor.

(2) (a) Where an order in respect of documents is made by the
High Court under subparagraph (v) of paragraph (c) of
subsection (1) of this section, the Society may make such
enquiries as may be reasonably necessary to ascertain the
person or persons entitled to the possession or custody of
such documents and may thereafter deal with such
documents, or any of them, in accordance with the
directions of such person or persons so entitled.

(b) For the purposes of paragraph (a) of this subsection, the Second
Schedule (as amended by the *Solicitors (Amendment) Act, 1994*)
to this Act shall have effect.

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

(4) Where any person acts as agents or nominee of a solicitor or his
firm so as to render nugatory an order made by the High Court
under subparagraph (vi) of paragraph (c) of subsection (1) of this
section, such person shall be guilty of an offence under this
subsection and shall be liable on summary conviction thereof to a
fine not exceeding £1,500.

(2) Subsection (1) of this section shall not apply to any report to the High Court made under
section 7 of the Act of 1960 before the coming into operation of this section *[which was 4
November 1994]*.

(v) **Section 9 of the Act of 1960:**

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

9. - (1) An application by a solicitor to have his name removed from the roll shall be made to and heard by the Disciplinary Committee in accordance with rules made under section 16 of this Act.
- (2) Where an application is made by a solicitor under this section, the Disciplinary Committee shall consider the application, and thereupon the following provisions shall have effect –
- (a) if they are of opinion that the application should be granted without making a report to the High Court, they shall order accordingly,
 - (b) if not of that opinion –
 - (i) they shall make a report on the application to the High Court,
 - (ii) the Society shall bring the report before the High Court,
 - (iii) the High Court, after consideration of the application and the report, may make an order either refusing the application or granting it and as to the payment of costs.

(vi) **Section 10 (as amended by section 19 of the Act of 1994) of the Act of 1960:**

Restoration of name of solicitor to the roll

10. - (1) The High Court shall have power to order that the name of a solicitor, whose name has been struck off the roll by an order made by the High Court under section 8 of this Act or under the said section 8 as applied by section 11 of this Act or whose name has been removed from the roll under section 9 of this Act, shall be restored to the roll.
- (2) A person seeking to have his name restored to the roll under this section may apply to the High Court and shall give notice of his intended application to the Society, who shall be entitled to appear and be heard on any such application.
- (3) On the hearing of an application under this section the High Court may refuse the application or may order that the name of the applicant be restored to the roll and may order the payment by the applicant of the costs and expenses of the Society in relation to the application.
- (4) *[inserted by section 19 of the Act of 1994]* Where, on the hearing of an application under this section, it is shown that the circumstances which gave rise to the striking off the roll of the applicant's name involved an act or acts of dishonesty on the part of the applicant arising from his former practice as a solicitor or that the applicant was convicted of a criminal offence, the High Court shall not restore the applicant's name to the roll, either conditionally or unconditionally, unless it is satisfied that, having regard to all the evidence, the applicant is a fit and proper person to practise as a solicitor and that the restoration of the applicant to the roll would not adversely affect public confidence in the solicitors' profession as a whole or in the administration of justice.

(vii) **Section 11 of the Act of 1960** [transitional provision, now redundant]:

- Jurisdiction of High Court in relation to a solicitor in respect of whom order striking his name off the roll was purported to have been made under section 18 of the Principal Act**
11. - Where, before the passing of the Act, the former Disciplinary Committee made, in purported exercise of powers purported to have been conferred on them by section 18 (repealed by this Act) of the Principal Act, an order providing for the striking off the roll of the name of a solicitor, the Society may, on notice to the solicitor, apply by notice of motion (of not less than ten days duration) to the High Court for an order striking off the roll the name of the solicitor, and, if the Society so apply, then the following provisions shall have effect –
- (a) all available affidavits and other available documentary evidence which were before the former Disciplinary Committee and all available transcripts of evidence given before them shall be admissible as evidence on the consideration of the application by the High Court,
 - (b) the High Court, after reading those affidavits, other documentary evidence and transcripts, receiving any additional evidence tendered by the Society or the solicitor and taking into consideration any other matters in relation to the solicitor brought to its notice by the Society, shall deal with the application as if it were a report in relation to the solicitor made to the High Court by the Disciplinary Committee and brought before the High Court by the Society under section 7 of this Act, and section 8 of this Act shall apply accordingly.

(viii) **Section 12** (as substituted by section 39 of the Act of 1994) **of the Act of 1960:**

39. - The Act of 1960 is hereby amended by the substitution of the following section for section 12:

- Appeals to Supreme Court**
12. - The Society or the solicitor concerned may appeal to the Supreme Court against an order of the High Court made under section 8(1) (as substituted by the *Solicitors (Amendment) Act, 1994*) or section 9 or 10 (as amended by the *Solicitors (Amendment) Act, 1994*) of this Act within a period of 21 days beginning on the date of the order, and unless the High Court or the Supreme Court otherwise orders, the order of the High Court shall have effect pending the determination of such appeal.

(ix) **Section 13 of the Act of 1960:**

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

(x) **Section 14 of the Act of 1960:**

- Privilege in respect of certain proceedings under the Principal Act and this Act**
14. - The following –
- (a) the doing, before the passing of this Act, by the former Disciplinary Committee or the registrar, in purported exercise of the powers purported to have been conferred on them or him by

- (b) section 18 or 21 of the Principal Act, of any act, being an act purported to have been authorised to be done by such section, the making to the High Court by the Disciplinary Committee of a report under section 7 or 9 of this Act of a supplemental report under paragraph (b) of subsection (1) of section 8 of this Act,
- (c) the bringing by the Society of a report before the High Court under section 7 or 9 of this Act,
- (d) the publishing, in accordance with section 17 of this Act, of any notice authorised by the said section 17,
- (e) the making, before the passing of this Act, of an application to the former Disciplinary Committee under section 14 of the Principal Act or the giving of any information in connection with such an application, and
- (f) the making of an application under section 7 of this Act or the giving of any information in connection with such application,

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

(xi) **Section 15 (as substituted by section 25 of the Act of 1994) of the Act of 1960:**

25. - The Act of 1960 is hereby amended by the substitution of the following section for section 15:

**Powers of
Disciplinary
Tribunal as to
taking evidence etc**

15. - (1) The Disciplinary Tribunal shall, for the purposes of any inquiry held by them under section 7 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act or the consideration by them of an application under section 9 of this Act, or the taking of them of further evidence under paragraph (b) of subsection (1) of section 8 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action, in respect of –
- (a) the enforcement of the attendance of witnesses and their examination on oath or otherwise,
 - (b) the compelling of the production of documents, and
 - (c) the compelling of the discovery under oath of documents,

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

(2) If a person –

- (a) on being duly summoned as a witness before the Disciplinary Tribunal, without just cause or excuse disobeys the summons, or
- (b) being in attendance as a witness before the Disciplinary Tribunal, refuses to take an oath or to make an affirmation when legally required by the Disciplinary Tribunal to do so, or to produce or discover under oath any documents (which said word shall be construed in this subsection and in subsection (1) of this section as including things) in his possession or under his control or

- (c) within his procurement legally required by the Disciplinary Tribunal to be produced or discovered under oath by him, or to answer any question to which the Disciplinary Tribunal may legally require an answer, or wilfully gives evidence to the Disciplinary Tribunal which is material to their inquiry which he knows to be false or does not believe to be true, or
- (d) by act or omission, obstructs or hinders the Disciplinary Tribunal in the performance of their functions, or
- (e) fails, neglects or refuses to comply with the provisions of an order made by the Disciplinary Tribunal, or
- (f) does or omits to do any other thing which would, if the Disciplinary Tribunal had been the High Court, have been contempt of that Court,

the person shall be guilty of an offence.

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

- (4) (a) A person guilty of an offence under this section shall be liable –
 - (i) on conviction on indictment thereof to a fine not exceeding £10,000 or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment, and
 - (ii) on summary conviction thereof to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment.
- (b) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this section as if, in lieu of the penalties specified in subsection (3) of that section, there were specified therein the penalties provided for by paragraph (a)(ii) of this subsection, and the reference in subsection (2)(a) of that section to the penalties provided for in subsection (3) of that section shall be construed accordingly.

(xii) Section 16 of the Act of 1960:

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

16. - (1)

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

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

and generally as to procedure in relation to those matters.

(2) Rules under this section may provide in particular for extending the period for furnishing any affidavit or document or for

receiving an application or document notwithstanding any irregularity in its form where it appears to the Disciplinary Committee to be just to do so.

(xiii) **Section 17 of the Act of 1960:**

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

17. - (1)

The following –

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

shall be filed by the Disciplinary Committee with the registrar.

- (2) Where an order striking the name of a solicitor off the roll or suspending a solicitor from practice is made by the High Court under section 8 of this Act or under the said section 8 as applied by section 11 of this Act, the registrar shall forthwith cause a notice stating the effect of the operative part of the order to be published in *Iris Oifigiúil* and shall also cause the notice to be published in such other manner as the Disciplinary Committee may direct.
- (3) The registrar shall maintain separate files on which all orders made under this Act by the High Court or the Disciplinary Committee shall be entered in the following manner –
 - (a) on a file to be termed File A, there shall be entered each order striking the name of a solicitor off the roll or suspending a solicitor from practice made by the High Court under section 8 of this Act or under the said section 8 as applied by section 11 of this Act,
 - (b) on a file to be termed File B, there shall be entered any other order made under this Act by the High Court and any order made under section 9 of this Act by the Disciplinary Committee.
- (4) The registrar shall furnish a copy of an entry on File A or File B to a person who applies in writing for such copy.
- (5) Notwithstanding subsection (4) of this section, where –
 - (a) application is made for a copy of an entry on File A or File B, being an entry which is earlier than two years before the date of the application, or
 - (b) application is made for a copy of an entry on File A or File B, being an entry in respect of which the Disciplinary Committee have directed the insertion of a note that the furnishing thereof might cause injustice, a copy of the entry shall (save where the copy is furnished by order of a court) be furnished only by permission in writing of the Society.

(xiv) **Section 18 of the Act of 1960:**

Application of Bankers' Books Evidence Acts, 1879 and 1959

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

From Part VI of Solicitors Act, 1954 (as amended by the Act of 1994) entitled "Practice"

(xv) **Section 60 (as substituted by section 20 of the Act of 1994) of the Act:**

20. - The Principal Act is hereby amended by the substitution of the following section for section 60:

Restriction on employment of person struck off roll or suspended (section 60 of Principal Act)

60. - (1) No person shall knowingly, save under and in accordance with a written permission under this section, employ or remunerate in any capacity involving or in connection with the provision of legal services a solicitor who is an unqualified person by reason of –
- (a) his name having been struck off the roll, or
 - (b) his suspension from practice, or
 - (c) his having had the issue to him of a practising certificate refused under section 49 (as substituted by the *Solicitors (Amendment) Act 1994*) of this Act, or
 - (d) his having his practising certificate suspended under section 58 of the *Solicitors (Amendment) Act, 1994*, or
 - (e) his having given to the High Court an undertaking not to practise as a solicitor.
- (2) The Society may grant a permission for the purposes of subsection (1) of this section for such period and subject to such conditions as they think fit, or may refuse to grant such a permission.
- (3) A person aggrieved by the refusal of the Society to grant a permission under subsection (2) of this section, or by any conditions attached by the Society to the grant thereof, may appeal to the High Court and the Court may confirm the refusal or the conditions, as the case may be, or may grant the permission for such period and subject to such conditions as the Court thinks fit.
- (4) Where a person continues to employ an unqualified person in contravention of subsection (1) of this section notwithstanding his having been requested by the Society to discontinue such employment, the Society may apply to the High Court, and the Court may order restrain that person from continuing the employment of that unqualified person.
- (5) Where a solicitor has been issued with a practising certificate that is subject to a condition or conditions under section 59 of the *Solicitors (Amendment) Act, 1994*, that solicitor shall be deemed to be an unqualified person for the purposes of subsection (1) of this section to the extent that such condition or conditions prohibit him from engaging in the provision of a certain category or

categories of legal services.

(xvi) **Section 63** (as substituted by section 21 of the Act of 1994) of the Act:

21. - The Principal Act is hereby amended by the substitution of the following section for section 63:

**Disclosure of
having been struck
off roll etc**

63. - (1) A person who is an unqualified person by reason of –

- (a) his name having been struck off the roll, or
- (b) his suspension from practice, or
- (c) his having had the issue to him of a practising certificate refused under section 49 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, or
- (d) his having his practising certificate suspended under section 58 of the *Solicitors (Amendment) Act, 1994*, or
- (e) his having given to the High Court an undertaking not to practise as a solicitor,

shall not seek or accept employment from any person in any capacity involving or in connection with the provision of legal services without previously informing that person that he is such an unqualified person.

(2) Save under and in accordance with a written permission under this section, a solicitor-

- (a) whose name has been struck off the roll, or
- (b) who is suspended from practice, or
- (c) to whom a practising certificate has been refused under section 49 (as substituted by the *Solicitors (Amendment) Act, 1994*) of this Act, or
- (d) whose practising certificate has been suspended under section 58 of the *Solicitors (Amendment) Act, 1994*, or
- (e) who has given an undertaking to the High Court not to practise as a solicitor,

shall not engage in any work in any capacity involving, or in connection with, the provision of legal services, whether in relation to his former practice as a solicitor or otherwise, until –

- (i) the High Court has made an order restoring his name to the roll, or
- (ii) the High Court has lifted the said order of suspension from practice, or
- (iii) the High Court has made an order directing the granting of a practising certificate to him, or
- (iv) the High Court has discharged any order of suspension of his practising certificate, or
- (v) the High Court has released him from any undertaking by him not to practise as a solicitor,

as the case may be.

(3) A solicitor who contravenes subsection (1) or (2) of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £1,500.

- (4) The Society may grant a permission for the purposes of subsection (2) of this section for such period and subject to such conditions as they think fit.
- (5) Where a solicitor has been issued with a practising certificate that is subject to a condition or conditions under section 59 of the *Solicitors (Amendment) Act, 1994*, that solicitor shall be deemed to be an unqualified person for the purposes of subsection (1) of this section to the extent that such condition or conditions prohibit him from engaging in the provision of a certain category or categories of legal services.

From Part III of Solicitors (Amendment) Act, 1994 (as amended by the Act of 2002) entitled “Investigation of Complaints”

(xvii) Section 22 of the Act of 1994:

- | | |
|---|---|
| Publication of information on complaints | 22. - The Society shall publish annually, in the Gazette of the Society and in any other manner as the Society may direct, information on – |
| | <ul style="list-style-type: none"> (a) the number of complaints together with a description of the general nature of those complaints received by the Society about solicitors; (b) the number of complaints together with a description of the general nature of those complaints referred to the Disciplinary Tribunal, and (c) the outcome of the investigation of those complaints by the Disciplinary Tribunal. |

(xviii) Section 23 (as amended by section 17 of the Act of 2002) of the Act of 1994:

- | | |
|------------------------------|---|
| Publication of orders | 23. - (1) <i>[inserted by section 17(a) of the Act of 2002]</i> Where, on the completion of an inquiry by the Disciplinary Tribunal held under section 7(3) of the Act of 1960, the Disciplinary Tribunal have – |
| | <ul style="list-style-type: none"> (a) made an order under section 7(9), (b) served on the Society a copy of the order pursuant to section 7(10), and (c) sent to the Society a copy of their report pursuant to section 7(5), <p>of that Act, then, subject to subsection (2) of this section, the Society may arrange to publish the order or notice of the making of the order and its effects, together with a summary of the report, in such a manner as the Society thinks fit.</p> |
| | (2) <i>[inserted by section 17(b) of the Act of 2002]</i> Where, on the completion of an inquiry by the Disciplinary Tribunal held under section 7(3) of the Act of 1960, the Disciplinary Tribunal have made an order under section 7(9) of that Act, the order, or notice of the making of the order and its effect, or any part of the report of the Disciplinary Tribunal or other detail of the inquiry, shall not be published by the Society until a period of at least 21 days beginning on the date of the service of a copy of the order or of the report, whichever date is the later, shall have elapsed or until |

any application made under subsection (11) or (12) of section 7 of the Act of 1960 has been determined by the High Court, and thereafter the notice of the making of the order shall not be published if the Court rescinds the order of the Disciplinary Tribunal or, in the case of an application made under the said subsection (12), the Court orders that one or more of the aforementioned documents shall not be published.

- (3) Where, following the consideration by the High Court of a report of the Disciplinary Tribunal brought before it under section 7(3) (as substituted by this Act) of the Act of 1960, the Court has made an order under the provisions of section 8 (as substituted by this Act) of the Act of 1960, the Society shall arrange to publish the order of the Court, or notice of the making of the order and its effect, in the Gazette of the Society and in any other manner as the Society may decide, save that where the Court has ordered that the name of a solicitor be struck off the roll or that a solicitor be suspended from practice for a specified period of time, the Society shall as soon as possible arrange to publish the order of the Court or notice of the making of the order and its effect in the *Iris Oifigiúil* and in the Gazette of the Society, and, in addition, in any other manner as the Society may think fit.
- (4) *[inserted by section 17(c) of the Act of 2002]* References in subsections (1) and (2) of this section to provisions of section 7 of the Act of 1960 are to those provisions as substituted by this Act and, where appropriate, by the *Solicitors (Amendment) Act, 2002*.

APPENDIX 2

Section 19 of the Act of 2002:

- Inquiry into alleged misconduct by apprentice**
19. - (1) The Society may make an application to the Disciplinary Tribunal to hold an inquiry into alleged misconduct by an apprentice.
- (2) (a) On such an application the Disciplinary Tribunal, before deciding whether there is a *prima facie* case for inquiry, shall –
- (i) send a copy of the application and of any accompanying documents to the apprentice, and
- (ii) request that any observations which he or she may wish to make on the application be supplied within a specified period.
- (b) If, after receipt of the apprentice's observations or on the expiration of the specified period, the Disciplinary Tribunal find that there is no *prima facie* case for inquiry, they shall so inform the apprentice and the Society and take no further action in relation to the application.
- (3) If the Disciplinary Tribunal find that there is a *prima facie* case for inquiry, the following provision shall have effect:
- (a) they shall proceed to hold an inquiry and notify the apprentice and the Society of the date on which it is to be held;
- (b) when holding the inquiry under this section the Disciplinary Tribunal shall –
- (i) consider each allegation of misconduct made against the apprentice, and
- (ii) make a separate finding in respect of each such allegation;
- (c) if the Disciplinary Tribunal find that there has been no misconduct on the part of the apprentice, they shall take no further action in relation to the matter and so inform the apprentice and the Society;
- (d) if the Disciplinary Tribunal find that there has been such misconduct, they shall notify the apprentice and the Society of their finding and shall specify in a report (which shall include a verbatim note of the evidence given and submissions made) to the High Court –
- (i) the nature of the application and the evidence laid before them,
- (ii) the finding made on each allegation of misconduct and the reasons therefor,
- (iii) any other matters in relation to the apprentice which they may think fit to report,
- (iv) their opinion as to the fitness of the apprentice, having regard to their finding or findings, to be admitted as a solicitor either at any time or until the apprentice has satisfied the Society or the

President of the High Court as to such fitness.

- (4) (a) The apprentice may appeal to the High Court against a finding of the Disciplinary Tribunal that there has been misconduct on his or her part within 21 days of the receipt by him or her of written notification of the finding.
- (b) The Society may appeal to the High Court -
- (i) against a finding of the Disciplinary Tribunal that there is no *prima facie* case for inquiry into the conduct of the apprentice, or
- (ii) against a finding of the Disciplinary Tribunal that there has been no misconduct on the part of the apprentice in relation to an allegation of misconduct (whether or not there has been a finding of misconduct by the Disciplinary Tribunal in relation to any other such allegation),
- within 21 days of the receipt by the Society of written notification of the finding.
- (c) The High Court may make such order on an appeal under this subsection as it thinks fit.
- (5) The High Court, on consideration of the report of the Disciplinary Tribunal, may by order –
- (a) declare that the apprentice is or is not a fit and proper person to be admitted as a solicitor, and
- (b) make such other provision in relation to the matter as it may think just, including provisions for review of its order on application to the President of the High Court by the Society or the apprentice.
- (6) The Disciplinary Tribunal shall have such of the powers given to them under the *Solicitors Acts, 1954 to 2002*, as are necessary to enable them to perform the functions conferred on them by this section.
- (7) In this section, “misconduct” means –
- (a) the commission of an offence under section 55, 56 or 58 of the Principal Act or of an arrestable offence (within the meaning of the Criminal Law Act, 1997),
- (b) conduct outside the State which constitutes an offence under the law of the jurisdiction concerned and which, if that conduct took place within the State, would constitute an arrestable offence (within that meaning), or
- (c) any other conduct which, if engaged in by a solicitor, would tend to bring the solicitors’ profession into disrepute.

APPENDIX 3

Order 53 (as amended by S.I. No 14 of 1998) of the Rules of the Superior Courts 1986 (S.I. No 15 of 1986):

I General

1¹. In this Order:

“the Act of 1954” means the Solicitors Act, 1954;

“the Act of 1960” means the Solicitors (Amendment) Act, 1960;

“the Act of 1994” means the Solicitors (Amendment) Act, 1994;

“the Acts” means the Solicitors Acts, 1954 to 1994;

“the Committee” means the Disciplinary Committee constituted in pursuance of section 6 of the Act of 1960;

“the Disciplinary Tribunal” means the Disciplinary Tribunal established by section 6 of the Act of 1960;

“the President” means the President of the High Court;

“respondent solicitor” means a solicitor who is the subject matter of a report to the High Court prepared by the Disciplinary Tribunal pursuant to section 7(3) of the Act of 1960 (as substituted by section 17 of the Act of 1994) or who has appealed to the High Court under section 7(11) or section 7(13) of the Act of 1960 (as substituted by section 17 of the Act of 1994) or in respect of whom there is an appeal under section 7(12) of the Act of 1960 (as substituted by section 17 of the Act of 1994);

“the Society” means the Law Society of Ireland.

A reference to the President shall, where the function or power in question stands delegated under section 6 of the Act of 1954 to a Judge of the High Court, be construed as a reference to such Judge.

2. Service of any document upon the Society under this Order may be effected by serving the same on the Director General of the Society or by sending the same by prepaid registered post addressed to the Director General or the Society at Blackhall Place, Dublin.
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.

II Application for admission as a solicitor

4. Every person desiring to apply to be admitted by the President, and to be enrolled, as a solicitor, may apply by lodging a form of certificate of admission with the registrar of solicitors together with the prescribed fees. The certificate of admission shall be in the Form No. 1 in Appendix H.
5. If the applicant has complied with the requirements of the Act of 1954 concerning admission and the regulations made thereunder, the registrar of solicitors shall sign a certificate to that effect and lodge the same, together with the form of certificate of admission, 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 forthwith be returned by the proper officer to the registrar of solicitors.
6. 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 notify him thereof.

¹ This version of this rule was substituted by S.I. 14 of 1998, effective 2 February 1998

III Disciplinary provisions

- 7². (1) Where the Committee makes a report which is required to be brought before the Court pursuant to section 7(3) or section 9(2)9b) of the Act of 1960, the Society shall bring the report before the Court by presenting a petition to the Court, with the report annexed thereto.
- (2) The petition shall be in the Form No. 2 or No. 3 in Appendix H and shall be verified by an affidavit of the secretary of the Society or the Registrar of Solicitors³ in the Form No. 4 in Appendix H.
8. As soon as a date has been fixed for the hearing of the petition, a copy of the petition with particulars of the date so fixed indorsed thereon shall be served upon the solicitor to whom it relates.
9. Upon the hearing of the petition, the Court may require any notice, affidavit, or other document used or laid in evidence before the Committee or a transcript of any oral evidence given before the Committee to be produced or made available to the Court by the Society or the Committee in such manner as the Court may direct.
10. An application pursuant to section 10 of the Act of 1960 by a person to have his name restored to the roll of solicitors shall be made by motion on notice to the Society in the proceedings in which his name was removed from the roll.
11. An attested copy of every order made by the Court under the Act of 1960 shall be sent by the Society to the Committee for filing with the registrar of solicitors.

IV Appeals and applications to the President under Parts IV, V and VI of the Acts of 1954

12. Every appeal or application to the President under sections 45, 47 (6), 48 (3), 49 (5), 51 (2), or 60 (3) of the Act of 1954 shall be brought by notice of motion which shall be a four day notice and shall be entitled in the matter of the apprentice, intending apprentice or solicitor to whom the same relates and in the matter of the Acts.
13. The notice of motion shall state the order or decision of the Society or the registrar of solicitors (as the case may be) in respect of which the appeal or application is brought, the grounds of the appeal or application and the order (if any) sought by the appellant or applicant on such appeal or application.
14. The notice of motion shall be served on the Society or, in the case of an application under section 47 (6) of the Act, on the registrar of solicitors, within one month from the date on which the appellant or applicant was notified of the order or decision of the Society or the registrar (as the case may be).
15. The appeal or application shall be entered by the appellant or applicant by delivering a copy of the notice of motion (with the date of service thereof indorsed), together with any affidavit intended to be used in support thereof, to the proper officer at the Central Office at latest upon the day after the date of the service thereof upon the Society or the registrar of solicitors (as the case may be).
16. The evidence upon the hearing of any such appeal or application shall be by affidavit, except in so far as the President may direct oral evidence to be given.
17. The President shall have power, subject to the provisions of the Acts, to give any decision or make any order which ought to have been given or made and to make such further or other order as the case may require.
18. In case of an application to the President under the said sections 47 (6) or 48 (3), any order made thereon by the President shall be served by the applicant on the registrar of solicitors who shall

² Rules 7 to 11 inclusive are repealed by S.I. 14 of 1998, effective 2 February 1998, subject to applications pending or might still be brought at the time of their appeal.

³ The words "or the Registrar of Solicitors" inserted by S.I. 328 of 1993, effective 5 August 1993.

forthwith take all such steps as may be necessary to comply therewith; and in every other case, any order made by the President on an appeal or application may be served by the appellant or applicant on the Society which shall forthwith take all such steps as may be necessary to comply therewith.

V Applications relating to the control of a solicitor's property

19. Every application to the Court made under section 19 (2) (b) of the Act of 1960 or under paragraph 15 (2) (b) of the Fifth Schedule to the Act of 1954 shall be brought by special summons, which shall be entitled in the matter of the Acts, and the person having possession or control of the documents to which the application relates shall be named as respondent.
20. Every application to the Court under section 19 (4) of the Act of 1960 or under paragraph 15 (4) of the Fifth Schedule to the Act of 1954 shall be brought by special summons, which shall be entitled in the matter of the Acts, and the Society shall be named as respondent.
21. Every application by the Society to the Court under section 20 (1) of the Act of 1960 or under paragraph 17 of the Fifth Schedule to the Act of 1954 shall be governed by the following provisions:
 - (a) the application may be made on motion ex parte grounded on an affidavit of the secretary or other officer of the Society duly authorised entitled in the matter of the solicitor to whose banking account or to whose firm's banking account the application relates and in the matter of the Acts;
 - (b) any order of the Court directing that no banking company shall, without leave of the Court, make any payment out of a banking account in the name of such solicitor or his firm shall be served upon such banking company or companies and in such manner (if any) as shall be specified in the order;
 - (c) any order of the Court directing that a specified banking company shall not, without leave of the Court, make any payment out of a banking account in the name of such solicitor or his firm shall be served upon the said banking company in such manner (if any) as shall be specified in the order;
 - (d) any order made as aforesaid shall be served upon the solicitor or the firm whose account is affected thereby within such time as may be specified in the said order or within such extended time as may be fixed by any subsequent order unless the Court shall dispense with such service;
 - (e) the solicitor or firm whose account is affected by any such order as aforesaid or any banking company on which any such order has been served may at any time apply to the Court by motion on notice to the Society to discharge, set aside or vary the said Order, and thereupon the Court may discharge, set aside or vary the said order upon such terms as may be just;
 - (f) an application for leave to make any payment out of a banking account affected by any such order as aforesaid may be made by motion on notice to the Society;
 - (g) the Society or any other interested party may at any time apply to the Court by motion to discharge or vary any such order as aforesaid, and notice of such application shall be given to the persons affected thereby unless the Court shall dispense with such notice.

VI Applications relating to client's property

22. Where the relationship of solicitor and client exists, or has existed, a special summons may be issued by the client or his representatives for the delivery of a cash account, or the payment of moneys, or the delivery of securities, and the Court may from time to time order the respondent to deliver to the applicant a list of the moneys or securities which he has in his custody or control on behalf of the applicant, or to bring into Court the whole, or any part of the same, within such time as the Court may order. In the event of the respondent alleging that he has a claim for costs, the Court may make such

provision for the payment or security thereof or the protection of the respondent's lien (if any) as the Court may think fit.

VII⁴ Report of the Disciplinary Tribunal under section 7(3) of the Act of 1960 (as substituted by section 17 of the Act of 1994)

23. A report of the Disciplinary Tribunal under section 7(3)(b)(i) or (ii) of the Act of 1960 (as substituted by section 17 of the Act of 1994) shall be delivered by the Tribunal to the High Court by post or by hand addressed to the President of the High Court within 28 days of the making of such report. A copy of the report shall at the same time be furnished to the Society, to the respondent solicitor and to any other person who made the application in relation to the respondent solicitor to the Disciplinary Tribunal.
24. A report of the Disciplinary Tribunal under section 7(3)(b)(ii) of the Act of 1960 (as substituted by section 17 of the Act of 1994) shall be brought before the High Court by the Society by being filed in the Central Office of the High Court together with a notice of motion, if necessary, claiming such order under section 8 of the Act of 1960 (as substituted by section 18 of the Act of 1994) as is sought by the Society. The motion shall be supported by an affidavit or affidavits (as the case may be). The notice of motion and affidavit shall be served upon the respondent solicitor and upon any person (not including the Society) who made the application in relation to the respondent solicitor to the Disciplinary Tribunal.
25. Upon the hearing of any motion bringing such report before the High Court, the Court may require any notice, affidavit or any document used or laid in evidence before the Disciplinary Tribunal or a transcript of the proceedings, if any, to be produced or made available to the Court by the Disciplinary Tribunal in such manner as the Court may direct.

VIII Appeals to the High Court under section 7 of the Act of 1960 (as substituted by section 17 of the Act of 1994) and applications under section 11 of the Act of 1994

26. Every appeal to the High Court under section 7 of the Act of 1960 (as substituted by section 17 of the Act of 1994) or any application under section 11 of the Act of 1994 shall be brought by notice of motion which shall be a seven day notice and entitled in the matter of the solicitor to whom the same relates and in the matter of the Acts.
27. The notice of motion shall state the determination, direction, notice for production or delivery of documents of the Society or order or finding of the Disciplinary Tribunal (as the case may be) in respect of which the application or appeal is brought, the grounds of the application or appeal and the order (if any) sought by the applicant or appellant on such application or appeal.
28. The notice of motion shall be served on the Society or on the respondent solicitor, as the case may be, and also on any person (not including the Society) who has sought an inquiry into the alleged misconduct of the respondent solicitor by the Disciplinary Tribunal. Such notice of motion shall be served within the times fixed by the sections under which the application or appeal is made or brought. In the case of an appeal by a respondent solicitor pursuant to section 7(13) of the Act of 1960 (as substituted by section 17 of the Act of 1994) the notice of motion shall be served within twenty one days after the date of the delivery to the respondent solicitor of the Report of the Disciplinary Tribunal. The Court may, on application made to it by motion on notice to the Society and to any person who sought the said inquiry, extend the period for an appeal under section 7(13) in any case in which it appears just so to do.
29. The application or appeal shall be entered by the applicant or appellant by filing a copy of the notice of motion (with date of service thereof indorsed) together with any affidavit intended to be used in support thereof, in the Central Office of the High Court at the latest within seven days after the date of service thereof upon the Society or the respondent solicitor (as the case may be) or on any other person

⁴ Rules 23-25 inserted by S.I. 14 of 1998, effective 2 February 1998

(not including the Society) who has sought an inquiry into the alleged misconduct of the respondent solicitor by the Disciplinary Tribunal.

- 30. The High Court shall have power, upon the hearing of any such application or appeal, to add other parties to the motion before the Court when it considers it necessary to do so in the interests of justice.
- 31. The evidence upon the hearing of such application or appeal shall be by affidavit, except in so far as the Court may direct oral evidence to be given.
- 32. The High Court shall have power, subject to the provisions of the Acts, to give any decision or make any order which ought to have been given or made and to make such further or other order as the case may require.
- 33. Any order by the High Court on such application or appeal shall be served by the applicant or appellant on the Society or the respondent solicitor (as the case may be) and shall be complied with in accordance with its terms.

IX Applications pursuant to section 10 of the Act of 1960 (as amended by section 19 of the Act of 1994)

- 34. An application pursuant to section 10 of the Act of 1960 (as amended by section 19 of the Act of 1994) by a person to have his or her name restored to the roll of solicitors shall be made by motion on notice in the proceedings in which his or her name was removed from the roll. Notice of the motion shall be given to the Society and to any other person who made an application in respect of the respondent solicitor, if applicable. Such notice shall be a twenty eight day notice and shall be supported by an affidavit or affidavits setting forth fully the basis for such application.

X General

- 35. An attested copy of every order made by the High Court under the Acts shall be sent by the Society to the Registrar of Solicitors.

* * * * *