

RULES

made by

THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL PROCEDURE RULES 2005

with the concurrence of the Lord President of the Court of Session
under section 52 of the Solicitors (Scotland) Act 1980

PART I – INTRODUCTORY

1. (1) These Rules may be cited as the Scottish Solicitors' Discipline Tribunal Procedure Rules 2005 and shall come into force on 1st April 2005.
- (2) The Interpretation Act 1978, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

PART II – COMPLAINTS AGAINST SOLICITORS

2. Save as hereinafter provided, any complaint against a solicitor or a former solicitor for professional misconduct or in respect of inadequate professional services or any complaint against an incorporated practice or multi-national practice of failure to comply with any relevant statutory provisions or rules, shall be in writing under the hand of the complainer in the Form No I set out in the Schedule annexed to these Rules, and shall be sent to or lodged with the Clerk to the Tribunal. Along with the complaint the complainer shall also send to or lodge with the Clerk an affidavit by the complainer stating in concise numbered paragraphs the matters of fact on which he bases his complaint, and the specific charge(s) of professional misconduct and/or inadequate professional services and that the same to the best of his knowledge and belief are true, which affidavit shall be in the Form No II set out in the said Schedule to these Rules.

Where the complainer is the Council of the Law Society of Scotland (hereinafter referred to as "the Society") it shall not be necessary that the complaint be supported by an affidavit, but the complaint shall contain a statement setting forth in concise numbered paragraphs the matters of fact on which the Society bases its complaint and the specific charge(s) of professional misconduct and/or inadequate professional services.

Where a solicitor or former solicitor in respect of whom a complaint of inadequate professional services is made was, at the time when the services were provided, an employee of another solicitor or solicitors, the instance of the complaint shall contain the name of that other solicitor or those other solicitors.

Where a complaint may result in an order affecting the Investment Business Certificate of a firm, the instance of the complaint shall contain the names of all the solicitors who are partners in that firm.

Where the respondent is an incorporated practice or multi-national practice, the instance of the complaint shall contain the names of all the solicitors who are or at the time when the services

were provided were members of that incorporated practice or multi-national practice and any associated incorporated practice or multi-national practice.

If a report is made to the Tribunal under section 51 of the Solicitors (Scotland) Act 1980 as amended (“the 1980 Act”) by any of the parties referred to in that section, it shall not be necessary that such report be supported by an affidavit, and the report shall be dealt with as if it were a complaint and affidavit.

3. Where a complaint is made to the Tribunal by a person other than the Society or a person mentioned in section 51(3) of the 1980 Act, the Tribunal may remit the complaint to the Society whether or not the complaint is made in accordance with rule 2.

4. On receiving a complaint made, in the opinion of the Tribunal, in accordance with rule 2 the Tribunal shall consider the same, and it may from time to time and either before or after fixing a day for the hearing require the complainer to supply such further information and documents in support of the complaint as it thinks fit. In any case where, in the opinion of the Tribunal, no *prima facie* case against the solicitor, or former solicitor, or the incorporated practice or multi-national practice and all solicitors whose names appear in the instance of the complaint is disclosed the Tribunal shall give notice to the complainer and provide him with an opportunity to make representation in writing within seven days of such notice before making any order in writing dismissing the complaint.

5. If, in the opinion of the Tribunal, any complaint as originally lodged with the Clerk to the Tribunal or as supplemented in accordance with the procedure in rule 4 discloses a *prima facie* case the Tribunal shall serve a full copy of the complaint and affidavit as lodged or of the complaint as made by the Society and (in the appropriate case) as supplemented and shall allow answers to be lodged within such time as the Tribunal may appoint. If answers are lodged, a full copy thereof shall be sent by the party lodging said answers to the complainer, and a certificate that this has been done shall be sent to the Clerk of the Tribunal. On the expiry of the date appointed for lodging answers and whether answers have been lodged or not, the Tribunal, if on considering the documents lodged is of the opinion that no further action by it is called for, shall give notice to the complainer and provide him with an opportunity to make representation in writing within seven days of such notice before making any order dismissing the complaint; but otherwise the Tribunal shall fix a day for hearing the complaint and shall serve a notice thereof on the complainer and on the solicitor, or former solicitor, or the incorporated practice or multi-national practice and all solicitors whose names appear in the instance of the complaint. The day, time and place to be fixed for the hearing shall be in the discretion of the Tribunal, but parties concerned shall receive at least twenty-one days’ notice thereof, unless all parties and the Tribunal agree to proceed on shorter notice.

6. The notice to be given to the parties under rule 5 may be in the Forms Nos III, IV, V set out in the Schedule to these Rules, and shall be sent by recorded delivery post or intimated by sheriff officer to the solicitor or former solicitor or the incorporated practice or multi-national practice and all solicitors whose names appear in the instance of the complaint and to the complainer at the respective addresses given in the complaint; said notice shall require the complainer and the respondents respectively to furnish to the Clerk to the Tribunal and also to each other a list of all documents on which they respectively propose to rely, and also a list of all witnesses whom they respectively propose to examine. Such lists shall, unless otherwise ordered by the Tribunal, be furnished by the complainer and by the respondents respectively in the case of lists of documents at least fourteen days, and in the case of lists of witnesses at least

four days, before the day fixed for the hearing and so far as practicable each list of documents sent to the other party shall be accompanied by a copy of the documents referred to therein provided that if such lists are not furnished as aforesaid, the Tribunal at the hearing may have regard to any prejudice which may have been occasioned to the party not receiving the list or lists timeously.

7. Any party may inspect the documents contained in the list to be furnished by another party in terms of rule 6; the said documents shall be lodged with the Clerk to the Tribunal at least ten days before the date fixed for the hearing. If any party desires production of any documents, he may not later than seven days before the date fixed for the hearing send a list of such documents to the other party with a request that the same shall be lodged forthwith. In the event of the other party declining or failing to comply with the said request, the party requiring production shall be entitled to apply for and to obtain from the Tribunal an order on the other party to produce the said documents, if after considering the written submissions of the parties the Tribunal is of opinion that it is necessary for the proper consideration of the complaint that production should be made.

8. Each of the parties shall be in attendance and any incorporated practice or multi-national practice shall be represented on the day and at the time and place fixed for the hearing and shall then be prepared to lead all competent evidence. If any party fails to appear or any incorporated practice or multi-national practice fails to be represented at the hearing the Tribunal may, upon formal proof that the notice of the day fixed for the hearing has been duly posted or intimated to that party or incorporated practice or multi-national practice as the case may be in terms of rule 5, proceed to hear and determine the complaint in the absence of the party who failed to appear or incorporated practice or multi-national practice which has failed to be represented.

9. In any case in which the solicitor or former solicitor does not appear or any incorporated practice or multi-national practice is not represented and the Tribunal under rule 8 determines to proceed in the absence of such solicitor or former solicitor or representative of an incorporated practice or multi-national practice, as the case may be, the Tribunal may, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit.

10. The Tribunal shall announce its decision as soon as reasonably practicable after the complaint has been considered by it. If the decision of the Tribunal is not pronounced on the day of the hearing it shall not be necessary to hold a hearing for the purpose of announcing the decision, but whether such a hearing be held or not, a copy of the decision certified by the Clerk to the Tribunal shall in accordance with the provisions of paragraph 15 of the Fourth Schedule to the 1980 Act be sent forthwith to each party with an intimation of the right of appeal competent under the provisions of section 54 of the 1980 Act. Where the decision of the Tribunal is pronounced outwith a hearing, the Tribunal shall arrange to hear parties on the matter of expenses.

11. Where any report is made to the Tribunal in pursuance of section 51 of the 1980 Act, the Tribunal, if it thinks fit, may appoint a solicitor to act as prosecutor in the complaint, and the expenses of such a solicitor, so far as not recoverable from the solicitor or former solicitor or any incorporated practice or complained against, shall be paid out of the funds of the Tribunal.

12. No complaint shall be withdrawn after it has been received by the Clerk to the Tribunal, except by the special leave of the Tribunal. Application for leave to withdraw shall be made not later than the day fixed for the hearing, unless the Tribunal otherwise directs. In granting leave to withdraw the Tribunal may attach such terms as to expenses or otherwise as it thinks fit.

13. The procedures in rules 2-12 shall apply equally to complaints in respect of conveyancing and executry practitioners in respect of the regulation, making, hearing and determining of inquiries under subsection (2A) of section 20 of the Law Reform (Miscellaneous Provisions) Scotland Act 1990 and to registered foreign lawyers, subject to the amendment of Forms Nos I, II, III, IV and V as appropriate.

PART III – CONVICTIONS

14. Where information is received by the Society from which it appears that a solicitor or former solicitor has, whether before or after enrolment, been convicted by any court of an act involving dishonesty, or sentenced to a term of imprisonment of not less than two years or an incorporated practice or multi-national practice has been convicted by any court of an offence which may render it unsuitable to continue to be recognised under section 34(1A) of the 1980 Act, the Society shall, as soon as may be, submit the information in the form of a complaint to the Tribunal so that the Tribunal may take such action, if any, as it thinks proper under section 53(1)(b) of the 1980 Act.

15. The Tribunal shall cause to be sent to the solicitor, former solicitor or incorporated practice or multi-national practice concerned particulars of the information submitted by the Society and shall invite the respondent to submit in writing to the Tribunal within such period as it may determine any explanations or observations which the respondent may wish to offer.

16. After the expiration of that period, whether such explanations or observations have been lodged or not, the Tribunal shall fix a date for the hearing of the case, and shall give not less than twenty-one days' notice thereof in writing to the respondent. The day, time and place of the hearing shall be in the discretion of the Tribunal.

17. The Tribunal shall announce its decision as soon as reasonably practicable after the hearing. It shall not be necessary to hold a hearing for the purpose of announcing the decision. A copy of the decision certified by the Clerk to the Tribunal shall in accordance with the provision of paragraph 15 of the Fourth Schedule to the 1980 Act be sent forthwith to the respondent with an intimation of the right to appeal competent under the provisions of section 54 of the 1980 Act. Where the decision of the Tribunal is pronounced outwith a hearing, the Tribunal shall arrange to hear parties on the matter of expenses.

18. The procedures in rules 14-17 shall apply equally in respect of convictions of conveyancing and executry practitioners in respect of regulating the making, hearing and determining of inquiries under subsection (2A) of section 20 of the Law Reform (Miscellaneous Provisions) Scotland Act 1990 and in relation to registered foreign lawyers.

PART IV – APPEALS BY SOLICITORS

19. Every appeal to the Tribunal shall be in writing in the Form No VI set out in the Schedule annexed to these Rules and shall be accompanied by a copy of the determination or direction appealed against, and any relative schedule or report and shall be sent to or lodged with the Clerk to the Tribunal within twenty-one days of the date on which the decision of the Society was sent to the appellant.

20. The respondents to an appeal shall be the Society and such other party, if any, who may have complained to the Society under section 42A(1)(a) of the 1980 Act.

21. On receiving a notice of appeal made, in the opinion of the Tribunal, in accordance with rule 19 the Tribunal shall consider the same, and it may from time to time and either before or after fixing a date for the hearing require the appellant to supply such further information and documents in support of the appeal as it thinks fit. In any case where in the opinion of the Tribunal the appeal is manifestly ill-founded or if the appellant fails to comply with any of these Rules, the Tribunal shall give notice to the appellant and provide him with the opportunity to make representation within seven days of such notice in writing before making any order in writing dismissing the appeal.

22. If in the opinion of the Tribunal, any appeal as originally lodged with the Clerk to the Tribunal or as supplemented does not fall to be dismissed under rule 21, the Tribunal shall serve upon each of the respondents a full copy of the statement of appeal and (in the appropriate case) as supplemented and shall allow answers to be lodged within such time as the Tribunal may appoint. If answers are lodged, a full copy shall be sent by each respondent lodging answers to the appellant, and a certificate that this has been done shall be sent by such respondents to the Clerk to the Tribunal. On the expiry of the date appointed for lodging answers and whether answers have been lodged or not, the Tribunal if on considering the documents lodged is of the opinion that no further action by it is called for, shall give notice to the appellant and provide him with the opportunity to make representation in writing within seven days of such notice before making any order dismissing the appeal; but otherwise the Tribunal shall fix a date for hearing the appeal and shall serve a notice thereof on the appellant and on each respondent. The day, time and place to be fixed for the hearing shall be in the discretion of the Tribunal, but the parties concerned shall receive at least twenty-one days' notice thereof, unless all parties and the Tribunal agree to proceed on shorter notice.

23. The notices to be given to parties under rule 22 may be in the Forms Nos VII, VIII and IX set out in the Schedule to these Rules and shall be sent by recorded delivery post to the appellant and to each of the respondents.

24. The Tribunal may on the application of a party *ex proprio motu* require any party to produce any document within such period as the Tribunal may determine.

25. Each of the parties shall be in attendance on the day and at the time and place fixed for the hearing. If any party fails to appear at the hearing the Tribunal may, upon formal proof that the notice of the day fixed for the hearing has been duly posted or intimated to that party in terms of rule 22, proceed to hear and determine the appeal in the absence of that party.

26. The Tribunal shall announce its decision as soon as reasonably practicable after the appeal has been considered by it. If the decision of the Tribunal is not pronounced on the day of the

hearing it shall not be necessary to hold a hearing for the purpose of announcing the decision but whether such a hearing be held or not, a copy of the decision certified by the Clerk to the Tribunal shall, in accordance with the provisions of paragraph 15 of the Fourth Schedule to the 1980 Act be sent forthwith to the appellant and each respondent with an intimation of the right of appeal competent under the provisions of section 54 of the 1980 Act. Where the decision of the Tribunal is pronounced outwith a hearing, the Tribunal shall arrange to hear parties on the matter of expenses.

27. No appeal shall be withdrawn after it has been received by the Clerk to the Tribunal except by the special leave of the Tribunal. In granting leave to withdraw, the Tribunal may attach such terms as to expenses or otherwise as it shall think fit.

28. The procedures in rules 19-27 shall apply equally to appeals by conveyancing and executry practitioners in respect of regulating the making, hearing and determining of appeals under subsection (11)(b) of section 20 of the Law Reform (Miscellaneous Provisions) Scotland Act 1990 and in respect of registered foreign lawyers, subject to the amendment of Forms Nos VI, VII, VIII and IX as appropriate.

PART V – RESTORATION TO THE ROLL OF SOLICITORS

29. An application to the Tribunal for restoration to the Roll of Solicitors under section 10 of the 1980 Act by a person who has been struck off the Roll by order of the Tribunal shall be in writing in the Form No X set out in the Schedule to these Rules and shall be verified by affidavit in the Form No XI set out in the said Schedule. The application shall set forth the occupation or occupations of the applicant since his name was struck off the Roll. The application and affidavit shall be sent to or lodged with the Clerk to the Tribunal and shall be supported by letters from two solicitors who at the date of application are in practice and who declare that they know the applicant.

30. The Tribunal may if it thinks fit, require the applicant to give notice by advertisement or otherwise as it may direct that an application for restoration to the Roll has been made by the applicant and that the same will be disposed of by the Tribunal on a date appointed for the hearing. If any person desires to object to the application he shall give notice in writing to the solicitor and to the Clerk to the Tribunal at least ten days before the day fixed for the hearing, specifying the grounds of his objection. Styles of notice for such objection are in Form No XII Nos 1 and 2, set out in the Schedule to these Rules.

31. The Tribunal shall afford to the applicant an opportunity of being heard by the Tribunal and of adducing evidence. The Tribunal may require such evidence as it thinks necessary concerning the identity and character of the applicant, his conduct since his name was struck off the Roll and his suitability for restoration to the Roll and for this purpose may receive written or oral evidence.

32. If the objector appears on the day fixed for the hearing and if the Tribunal is of the opinion, after considering the notice of objection and after hearing the solicitor (if it thinks fit to do so) that the notice discloses a *prima facie* case for inquiry, the Tribunal shall afford to the objector an opportunity of being heard by the Tribunal and of adducing evidence.

33. Subject to the foregoing provisions, the procedure of the Tribunal in connection with applications for restoration to the Roll shall be such as the Tribunal may determine.

34. A copy of the decision of the Tribunal in the application, certified by the Clerk to the Tribunal shall, in accordance with the provision of paragraph 15 of the Fourth Schedule to the 1980 Act, be sent forthwith to the applicant with an intimation of the right of appeal competent under the provisions of section 54 of that Act.

35. In all cases in which the final decision whether by the Tribunal or by the court is to order restoration to the Roll, such decision shall be intimated to the Registrar of Solicitors who shall forthwith give effect thereto.

36. An applicant shall as a condition of having his name restored to the Roll of Solicitors pay to the Registrar of Solicitors, where the name of the applicant was struck off the Roll by order of the Discipline Tribunal, a fee of £500 or such other sum as may be fixed from time to time by the Tribunal.

37. The procedures in rules 29-36 shall apply equally to registered foreign lawyers seeking to make application for restoration to the Register of Foreign Lawyers.

PART VI – GENERAL

38. The Tribunal may appoint from its number a Chairman and Vice Chairmen, any one of whom may preside at hearings of the Tribunal. In the event of the Tribunal being unable to reach a majority decision the Chairman shall have a casting vote.

39. The Tribunal may hear all proceedings in public or in private as it thinks fit and may pronounce its decision in public or in private as it thinks fit. Where any party wishes any proceedings to be heard in private, a motion shall be submitted to the Tribunal in writing, not less than fourteen days prior to the date of the hearing.

40. The Tribunal may on its own motion, or on the application of the parties, or one of them, at any time and from time to time, postpone or adjourn a hearing upon such terms as to expenses or otherwise as, to the Tribunal, shall appear just. It shall not do so at the request of one party only unless, having regard to the grounds upon which, and the time at which, such request is made and to the convenience of the parties, it deems it reasonable to do so. The Chairman may, in regard to the foregoing, exercise the functions of the Tribunal who shall give to the parties such notice of any postponed or adjourned hearing as it deems to be reasonable in the circumstances.

41. If it shall appear to the Tribunal that the allegation contained in a complaint, affidavit, statement or report should be amended or added to, the Tribunal may permit such amendment or addition, and it may also require the same to be embodied in a further complaint, affidavit, statement or report, if in the judgment of the Tribunal such amendment or addition is not within the scope of the original complaint, affidavit, statement or report, provided always that if, in consequence of such amendment or addition, any party applies for an adjournment, the Tribunal may at its discretion grant an adjournment of the hearing, upon such terms as to the Tribunal shall appear just. Upon a hearing, the Tribunal may permit an appellant to amend his statement of appeal or a respondent to amend or withdraw his answers, provided always that if in consequence of such amendment or withdrawal any party applies for an adjournment the Tribunal may at its discretion grant an adjournment of the hearing, upon such terms as to the Tribunal shall appear just.

42. Shorthand notes of proceedings before the Tribunal may be taken by a shorthand writer appointed by the Tribunal or if no shorthand writer be available for any date appointed for a hearing the proceedings may be recorded electronically; the notes may be transcribed if the Tribunal thinks fit, and if transcribed any party to the proceedings shall be entitled to inspect the transcript thereof. The shorthand writer or transcriber of the recorded proceedings shall, if required, supply to the Tribunal and to any person entitled to be heard upon an appeal against a decision of the Tribunal, but to no other person, a copy of the transcript if made, on payment of his charges.

43. The Tribunal may from time to time dispense with any requirements of these Rules respecting notices, affidavits, documents, service or time, where it appears to the Tribunal to be just to do so.

44. The Tribunal may extend, and with consent of parties may at their discretion reduce, the time for doing anything under these Rules.

45. All complaints, reports, affidavits and statements of appeal shall be filed by the Clerk to the Tribunal. The Tribunal may order that any books, papers or other exhibits produced or used at a hearing before it shall be retained by the Clerk to the Tribunal until the time for appealing has expired, or if notice of appeal is given, until the appeal is heard or otherwise disposed of.

46. All orders, determinations, directions and decisions of the Tribunal shall be signed on behalf of the Tribunal by its Chairman or other member presiding or in the event of indisposition of such person by another member present and a copy of such orders or decisions purporting to be signed by the Chairman or other member shall be *prima facie* evidence of the due making thereof. Prior to any appeal being lodged or intimation being made to the Council of the Law Society in terms of paragraph 16 of the Fourth Schedule to the 1980 Act the Chairman or other member presiding may correct any clerical error contained in an order or decision and the order or decision so amended shall of new be intimated to the parties.

47. The Clerk to the Tribunal includes any depute clerk authorised by the Tribunal to act on its behalf.

48. The Tribunal may direct that any question of fact or law which appears to be in issue may be decided at a preliminary hearing. If in the opinion of the Tribunal, a decision on that question substantially disposes of the whole case, the Tribunal may treat the preliminary hearing as a hearing of the case and may give such direction as it thinks fit to dispose of the case. The decision of the Tribunal relating to any preliminary issue may be given orally at the end of the hearing or reserved and, in any event, whether there has been a hearing or not, must be recorded as soon as possible in a document which, save in the case of a decision by consent, must also contain a statement of reasons for the decision and must be signed by the Chairman or other member presiding.

49. If any direction given to a party under these Rules is not complied with by that party, the Tribunal may before or at the hearing dismiss the whole or part of the complaint/submission/appeal/application, strike out the whole or part of the written submission of the party who has not complied and, where appropriate, direct that such party shall be barred from contesting the complaint/submission/appeal/application altogether; but the Tribunal must not dismiss, strike out or give such a direction as aforesaid unless it has sent notice to the party

who has not complied, giving that party an opportunity to comply within the period specified in the notice or to establish why the Tribunal should not dismiss, strike out or give such a direction as aforesaid.

50. Where two or more complaints have been lodged in respect of the same respondent the Tribunal may, on the application of a party to the proceedings or on its own initiative, direct that the complaints be conjoined and heard together.

51. If after commencement of any hearing, a member is absent, the proceedings may, with the consent of the parties be heard by the remaining members present, provided that the Tribunal is still properly constituted as provided in paragraph 5 of Schedule 4 to the 1980 Act and the Tribunal shall be deemed to be properly constituted.

52. Without prejudice to any other powers it may have, the Tribunal may exclude from any hearing, or part of it, any person (including a party to the proceedings or the party's representative) whose conduct has disrupted the hearing or whose conduct has otherwise interfered with the administration of justice. If the Tribunal decides to exclude a party it must allow the party's representative sufficient time to consult with the party.

53. If the Chairman is satisfied that any party is unable through physical or mental sickness or impairment to attend the Tribunal and that the party's inability is likely to continue for a long time, the Chairman may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the complaint/submission/appeal/application.

54. The Scottish Solicitors' Discipline Tribunal Rules 2002 are hereby revoked without prejudice to any order, reference or appointment made or instruction given or finding pronounced or other thing done thereunder and such order, reference, appointment, instruction, finding or other thing so far as the same could have been made, given, pronounced or done under these Rules shall have effect as if made, given, pronounced or done under these Rules.

SCHEDULE

FORM I

FORM OF COMPLAINT

To the Scottish Solicitors' Discipline Tribunal, constituted under the Solicitors (Scotland) Act 1980.

COMPLAINT by A.B. against C.D.

I, the undersigned A.B. hereby request that C.D. of
be required to answer the allegations contained in
the affidavit which accompanies this application, and that the Tribunal issues such Order under
section 53 of the Solicitors (Scotland) Act 1980, in the matter as it may think right.

Dated

.....Signature

.....Address

.....Designation

FORM II

FORM OF AFFIDAVIT BY COMPLAINER

At _____ the _____ day of _____ in presence of _____, one of Her Majesty's Justices of the Peace for _____, compeared A.B. of _____, who being solemnly sworn and interrogated, depones as follows, viz.:-

1. C.D. _____ has been employed by him in a professional capacity for the last ten years (or as the case may be).

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

All which is truth as the deponent shall answer to God.

FORM III

THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL

(Notice of Complaint)

Complaint by A.B.

against

C.D.

To: C.D. of

TAKE NOTICE that a complaint has been made by A.B. of to the Scottish Solicitors' Discipline Tribunal, constituted under the Solicitors (Scotland) Act 1980, requesting that you be required to answer the allegations contained in the complaint whereof a copy accompanies this notice, and that the Tribunal may issue such Order under section 53 of the Solicitors (Scotland) Act 1980, in the matter as it thinks right.

The Tribunal has appointed that answers to the complaint shall be lodged with the Clerk at within fourteen days from the date hereof, and that a copy of such answers shall, at the same time, be intimated to

Dated this day of 20 .

.....
Clerk to the Tribunal

(N.B. - A print of the Rules made under the said Act is sent herewith for your information and guidance.)

FORM IV

THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL

(Notice to respondent of date fixed for the hearing)

Complaint by A.B.

against

C.D.

To: C.D. of

TAKE NOTICE that the Scottish Solicitors' Discipline Tribunal has fixed the day of
at within
for the hearing of this complaint, and if you fail then to appear the Tribunal may in accordance
with the Rules made under the Solicitors (Scotland) Act 1980, proceed in your absence.

You are required by the said Rules to furnish to the said A.B. and to the Clerk to the Tribunal
at at least fourteen days before the said day of , a list of all
the documents on which you propose to rely. Under the said Rules the said A.B. is also
required to furnish you with a list of documents on which he proposes to rely. The said
documents must be lodged with the Clerk to the Tribunal at least ten days before the date fixed
for the hearing.

Either party may inspect the documents included in the list furnished by the other. A copy of
any document mentioned in the list of either party must, on application and at the expense of
the party requiring it, be furnished to that party by the other within three days after receipt of
the application.

If either party desires production of any documents not included in the other party's list he
may, not later than seven days before the date fixed for the hearing, send a list of such
documents to the other party with a request that the same shall be lodged forthwith, and not
later than four days before the date fixed for the hearing. In the event of the other party
declining or failing to comply with the said request, the party requiring production shall be
entitled to apply for and to obtain from the Tribunal an order on the other party to produce the
said documents, if after considering the written submissions of the parties the Tribunal is of the
opinion that it is necessary for the proper consideration of the complaint that production should
be made.

Dated this day of 20 .

.....
Clerk to the Tribunal

FORM V

THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL

(Notice to the complainer of the date fixed for the hearing)

To: A.B. of

TAKE NOTICE that answers to your complaint have/have not been lodged and that the day of 20 has been fixed by the Scottish Solicitors' Discipline Tribunal for the hearing of your complaint against C.D., Solicitor of . The Tribunal will sit at within .

You are required by the Rules made under the Solicitors (Scotland) Act 1980, to furnish to the said C.D. and to the Clerk to the Tribunal at at least fourteen days before the said day of a list of all the documents on which you propose to rely, and at least fourteen days before the said date a list of the witnesses whom you propose to examine. So far as practicable said list of documents sent to C.D. shall be accompanied by a copy of the documents referred to therein. The said documents must be lodged with the Clerk to the Tribunal at least ten days before the date fixed for the hearing. Under the Rules of the Tribunal the said C.D. is also required to furnish, within the said respective periods, a list of the documents (if any) on which he proposes to rely, and a list of the witnesses (if any) whom he proposes to examine. The said documents must be lodged with the Clerk to the Tribunal at least ten days before the date fixed for the hearing. Under the Rules of the Tribunal the said C.D. is also required to furnish, within the said respective period, a list of documents (if any) on which he proposes to rely, and a list of witnesses (if any) whom he proposes to examine.

Either party may inspect the documents included in the list furnished by the other. A copy of any document mentioned in the list of either party must, on the application and at the expense of the party requiring it, be furnished to that party by the other within three days after receipt of a written request therefore. If either party desires production of any documents he may, not later than seven days before the date fixed for the hearing, send a list of such documents to the other party with a request that the same shall be lodged forthwith, and not later than four days before the date fixed for the hearing. In the event of the other party declining or failing to comply with the said request, the party requiring production shall be entitled to apply for and to obtain from the Tribunal an order on the other party to produce the said documents, if after considering the written submissions of the parties the Tribunal is of the opinion that it is necessary for the proper consideration of the complaint that production should be made.

In the event of a party complained of not appearing, and of the Tribunal being asked to proceed in his absence, you must be prepared to prove that any notice on which you rely was duly served on the solicitor in accordance with the Rules issued under the said Act.

Dated this day of 20 .

.....
Clerk to the Tribunal

FORM VI

THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL

FORM OF APPEAL TO THE TRIBUNAL

To the Scottish Solicitors' Discipline Tribunal constituted under the Solicitors (Scotland) Act 1980

APPEAL by A.B. against a determination/direction/order
of the Council of the Law Society of Scotland
dated

I, the undersigned A.B., hereby appeal against the determination/direction/order of the Council of the Law Society of Scotland dated and intimated to me on a copy of which is produced herewith.

The grounds of my appeal are as follows (*here state concisely in numbered paragraphs, the grounds of the appeal*).

I hereby request the Tribunal (*here state the Order which you wish the Tribunal to pronounce in your favour*).

In the consideration of the matter by the Council of the Law Society, the complainer was (*name and address of the party or parties whose complaint to the Law Society resulted in the decision appealed against*).

Dated

..... Signature

..... [Address and
[place or places
[of business

FORM VII

FORM OF INTIMATION OF APPEAL

APPEAL by A.B. against a determination/direction/order
of the Council of the Law Society of Scotland dated

*To: The Secretary
The Law Society of Scotland*

or

C.D. of

TAKE NOTICE that an appeal has been lodged with the Scottish Solicitors' Discipline Tribunal by A.B. against a determination/direction/order of the Council of the Law Society of Scotland dated . A copy of the statement of appeal accompanies this notice.

The Tribunal has appointed that answers to the statement of appeal shall be lodged with the Clerk at within days from the date hereof, and that a copy of such answers shall, at the same time, be intimated to .

Dated this day of 20 .

.....
Clerk to the Tribunal

FORM IX

FORM OF NOTICE TO THE RESPONDENT OF DATE FIXED
FOR THE HEARING OF AN APPEAL

APPEAL by _____ against a determination/direction/order
of the Council of the Law Society of Scotland dated _____

TAKE NOTICE that the Scottish Solicitors' Discipline Tribunal has fixed the
day of _____ at _____ within _____
for the hearing of this appeal, and if you fail then to appear, the Tribunal may in accordance
with the Rules made under the Solicitors (Scotland) Act 1980 proceed in your absence.

You are required by the said Rules to furnish to _____ and to
_____ and to the Clerk to the Tribunal at _____ at least fourteen
days before the said _____ day of _____ a list of all the documents on
which you propose to rely. The said documents must be lodged with the Clerk to the
Tribunal at least seven days before the date fixed for the hearing.

Dated this _____ day of _____ 20__ .

.....
Clerk to the Tribunal

FORM X

FORM OF APPLICATION BY A SOLICITOR FOR RESTORATION TO ROLL OF SOLICITORS

To the Scottish Solicitors' Discipline Tribunal constituted under the Solicitors (Scotland) Act 1980

- 1. I, the undersigned A.B. hereby apply to the Discipline Tribunal under section 10 of the Solicitors (Scotland) Act, 1980, for an order restoring my name to the Roll of Solicitors.
- 2. I was admitted a Solicitor on the _____ day of _____ in the year _____.
- 3. On _____ in the year _____, I was struck off the Roll of Solicitors by order of the Discipline Committee/Tribunal.
- 4. Since then my occupations have been as follows:-

(Here specify in the case of each employment the name and address of the employer, the nature of the work on which the applicant was employed and the period of employment.)

- 5. The following persons are prepared on request to testify to the Discipline Tribunal concerning my identity and character, my conduct since my name was struck off from the Roll and my suitability for restoration to the Roll.
(Here state the names and addresses of the persons prepared to testify.)

..... Signature

..... Address

FORM XI

FORM OF AFFIDAVIT BY APPLICANT FOR RESTORATION
TO ROLL OF SOLICITORS

At _____ on the _____ day of _____ in presence of
, one of Her Majesty's Justices of the Peace for _____ compeared A.B. of
who being solemnly sworn and interrogated, depones as follows, viz.:-

1. The deponent, was admitted as a Solicitor on the _____ day of _____ in the
year _____, and on the _____ day of _____ in the year _____, was struck off
the Roll of Solicitors by order of the Solicitors' Discipline (Scotland) Committee/the Scottish
Solicitors' Discipline Tribunal.
2. The particulars of his occupations since then as set forth in the application for
restoration to the Roll now produced, and marked "A", are true.
3. The deponent is not aware and does not know of any cause of complaint or proceedings
which might have arisen out of his conduct since his name was struck off the Roll.

All which is truth as the deponent shall answer to God.

FORM XII

FORMS OF NOTICE OF OBJECTION TO AN APPLICATION BY
A SOLICITOR FOR THE RESTORATION OF HIS NAME TO
THE ROLL OF SOLICITORS

No. 1

FORM OF NOTICE TO BE GIVEN TO THE SOLICITOR

To C.D. of _____, *Solicitor.*

TAKE NOTICE that I object to the application made by you to the Scottish Solicitors' Discipline Tribunal for restoration of your name to the Roll of Solicitors, on the following grounds, viz.:-

(The grounds of objection to be stated in articulate numbered paragraphs.)

Dated

.....*Signature*

..... *Address*

..... *Designation*

FORM XII

FORMS OF NOTICE OF OBJECTION TO AN APPLICATION BY
A SOLICITOR FOR THE RESTORATION OF HIS NAME TO
THE ROLL OF SOLICITORS

No. 2

FORM OF NOTICE TO BE GIVEN TO THE TRIBUNAL

To the Scottish Solicitors' Discipline Tribunal.

TAKE NOTICE that I object to the application made by C.D. of
to the Scottish Solicitors' Discipline Tribunal for restoration of his name to the Roll of
Solicitors, on the following grounds, viz.:-

(The grounds of objection to be stated in articulate numbered paragraphs.)

Dated

..... *Signature*

..... *Address*

..... *Designation*