
SOLICITORS DISCIPLINARY TRIBUNAL RULES, 2017

[These Rules dated the 19th day of December 20 16

Concurrence of President of the High Court on the 9th day of December 20 16 .



Mr Justice Peter Kelly
President of the High Court

Rules in operation from 1 day of January 2017]

SOLICITORS DISCIPLINARY TRIBUNAL RULES, 2017

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SOLICITORS DISCIPLINARY TRIBUNAL RULES, 2017

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 January 2017, 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 2011 and generally as to procedure in relation to these matters.

*Commencement
and definitions*

1. These Rules shall apply to any application made to the Solicitors Disciplinary Tribunal after 31 December 2016 and the Solicitors Disciplinary Tribunal Rules 2003 (dated 27 February 2003) shall, subject to the provisions of the Solicitors Acts 1954 to 2011, continue to apply to any application made to the Solicitors Disciplinary Tribunal on or prior to 31 December 2016.

(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, the Act of 2002, the Act of 2008 and the Act of 2011 are, or may be, 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;

“Act of 2008” means Part 3 of the Civil Law (Miscellaneous Provisions) Act 2008;

“Act of 2011” means section 1(7) of the Civil Law (Miscellaneous Provisions) Act 2011;

“Acts” means the Solicitors Acts 1954 to 2011;

“applicant” means the Society or other applicant to the Tribunal for an inquiry under section 7 relating to one or more specified complaints alleging misconduct on the part of a respondent solicitor as set out in the application pursuant to and 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 furnished to and 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; and “applicant” may include co-applicants

“application” in its literal context means either

- (i) an application to the Tribunal pursuant to and in accordance with Part II [‘application for an inquiry into the alleged misconduct of a solicitor’] of these Rules or, alternatively, an application pursuant to and in accordance with Part III [‘application by a solicitor to have his or her name removed from the Roll’] of these Rules; and “particular application” shall be construed accordingly; or
- (ii) an application to the Tribunal relating to a particular application;

“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, as amended by section 35 of the Act of 2008) of the Act of 1960;

“chairperson” means the member of the Tribunal who is in the chair at a sitting 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, as amended by section 16 of the Act of 2002) of the Act of 1960;

“complaint” means an allegation of misconduct made by or on behalf of an applicant against a respondent solicitor pursuant to and in accordance with Rule 5, and “specified complaint” shall be construed pursuant to and in accordance with clause (b) of Rule 5;

“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 hearing (including an adjourned hearing) of the

Tribunal at which one or more complaints in respect of which the Tribunal has found that there is a prima facie case of misconduct on the part of a respondent solicitor for inquiry is or are heard, whether or not such complaints derived from one application or more than one application, as provided for pursuant to and in accordance with Part II of these Rules; or, alternatively, a sitting 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 pursuant to and in accordance with Part III of these Rules; and “inquiry hearing” shall be construed accordingly;

“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 and Equality to represent the interests of the general public) pursuant to section 6 (as substituted by section 16 of the Act of 1994, as amended by section 8 of the Act of 2002 and by section 35 of the Act of 2008) of the Act of 1960;

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

“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 of 1954, or in contravention of 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
and may also include
- (vi) (as provided for pursuant to Section 41 of the Act of 2008, and notwithstanding anything contained in Part III of the Act of 1994) the issuing by a solicitor of a bill of costs that is excessive.

“Order 53“ means Order 53 (as substituted by S.I. No. 701 of 2004) of the Rules of the Superior Courts 1986 (S.I. No. 15 of 1986) or

any further amendment or amendments thereto that may be made subsequent to the coming into effect of these Rules;

“party” means the applicant or the respondent solicitor and “parties” means both the applicant and the respondent solicitor; and “third party” means a reference to a person who is neither the applicant nor the respondent;

“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; and “respondent solicitor” may include co-respondent solicitors;

“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;

“section 7” means section 7 (as substituted by section 17 of the Act of 1994, as amended by section 9 of the Act of 2002) of the Act 1960;

“sitting” means a sitting of a division of the Tribunal in public or otherwise than in public at which matters coming before that division are heard and, as appropriate, adjudicated on, as provided for in the Acts and these Rules, and includes an adjourned sitting; and “sit” and “sat” shall be construed accordingly;

“Society” means the Law Society of Ireland;

“Solicitors Disciplinary Tribunal” means the tribunal established by section 6 (as substituted by section 16 of the Act of 1994, as amended by section 8 of the Act of 2002 and by section 35 of the Act of 2008) 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, at the time of his or her appointment or reappointment, a practising solicitor of not less than 10

years standing who is appointed or reappointed (after consultation with the Society) by the President of the High Court to be a member of the Tribunal pursuant to section 6 (as substituted by section 16 of the Act of 1994, as amended by section 8 of the Act of 2002 and by section 35 of the Act of 2008) of the Act of 1960;

“trainee solicitor” means an apprentice;

“Tribunal” means the Solicitors Disciplinary Tribunal or a division of the Tribunal or the Tribunal Registrar, as the context requires, and, notwithstanding the plurality of its membership, references to the Tribunal are throughout these Rules grammatically referred to in the singular;

“Tribunal Registrar” means the individual appointed by the Tribunal from time to time to act as registrar to the Tribunal and to carry out and to manage the carrying out of the administrative functions of the Tribunal, and includes any other person delegated as appropriate by that individual to carry out any such administrative functions;

- (b) Other words and phrases in these Rules shall have the meaning 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 2005 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 2011*

- 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 or provisions of the Acts, the provision of the Rules shall be so construed as to be in conformity with the provision or provisions of the Acts.
- (b) The texts (including composite texts incorporating amendments) of the following provisions of the Acts (inter alia) relevant to or consequential on the functioning of the Tribunal are (subject to the caveat set out in clause (c) of this Rule) set out, respectively, in **Appendix 1** and **Appendix 2** to these Rules and the text of the provisions of Order 53 is set out in **Appendix 3**:

Provisions contained in Appendix 1:

From Part I of the 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 the Solicitors (Amendment) Act 1960 (as amended by the Act of 1994, the Act of 2002 and the Act of 2008), 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, as amended by section 8 of the Act of 2002 and by section 35 of the Act of 2008) of the Act of 1960;

- (iii) section 6A (as inserted by section 36 of the Act of 2008) of the Act of 1960;

- (iv) section 7 (as substituted by section 17 of the Act of 1994, as amended by section 9 of the Act of 2002) of the Act of 1960;

- (v) section 8 (as substituted by section 18 of the Act of 1994, as amended by section 10 of the Act of 2002 and by section 37 of the Act of 2008) of the Act of 1960;

- (vi) section 9 of the Act of 1960;

- (vii) section 10 (as amended by section 19 of the Act of 1994) of the Act of 1960;

- (viii) section 11 of the Act of 1960;

- (ix) section 12 (as substituted by section 39 of the Act of 1994) of the Act of 1960;

- (x) section 13 of the Act of 1960;

- (xi) section 14 of the Act of 1960;

- (xii) section 15 (as substituted by section 25 of the Act of 1994) of the Act of 1960;

- (xiii) section 16 of the Act of 1960;

- (xiv) section 17 of the Act of 1960;

- (xv) section 18 of the Act of 1960;

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

(xvi) section 60 (as substituted by section 20 of the Act of 1994) of the Act of 1954;

(xvii) section 63 (as substituted by section 21 of the Act of 1994) of the Act of 1954;

From Part III of the Solicitors (Amendment) Act 1994 (as amended by the Act of 2002 and the Act of 2008) entitled “Investigation of Complaints”

(xviii) section 14A (as inserted by section 40 of the Act of 2008) of the Act of 1994;

(xix) section 14B (as inserted by section 41 of the Act of 2008) of the Act of 1994;

(xx) section 14C (as inserted by section 42 of the Act of 2008) of the Act of 1994;

(xxi) section 18 A (as inserted by section 43 of the Act of 2008) of the Act of 1994;

(xxii) section 22 of the Act of 1994;

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

Provisions contained in Appendix 2:

(i) section 19 (as amended by section 45 of the Act of 2008) of the Act of 2002.

(ii) section 19A (as inserted by section 46 of the Act of 2008) of the Act of 2002.

Provisions contained in Appendix 3:

Order 53 (as substituted by S.I. No 701 of 2004) 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 the provisions 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, as appropriate, to adjudicate on matters coming before that division, as provided for in the Acts and these Rules;
 - (ii) not to sit to hear and to 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) 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;
- (i) 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 the Tribunal thinks 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. (a) Subject to clauses (b) and (d) of this Rule, an application to the Tribunal by the Society or by or on behalf of a person for an inquiry under section 7 into the conduct of a respondent solicitor on the ground of alleged misconduct shall be in writing, duly signed by or on behalf of the applicant, in the form of Form DT1 (“form of application”), and shall be furnished by or on behalf of the applicant to the Tribunal Registrar together with an affidavit sworn by or on behalf of the applicant (and any documents exhibited thereto), in the form of Form DT2 “(grounding affidavit)”, stating the matter or matters and referencing the 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 form of 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 grounding affidavit shall be made by the Registrar or by such other person as may be duly appointed from time to time to act for the Society in making such applications and the matter or 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 grounding affidavit. The application may relate to one or more complaints against the respondent solicitor or more than one respondent solicitor.
- (b) (i) An application made pursuant to clause (a) of this Rule shall set out in the form of application the matter or matters relied on in support of the application and the grounding affidavit (and any documents exhibited thereto) in a concise way, in the form of one or more complaints clearly specifying the conduct of the respondent solicitor which is alleged by the applicant to constitute misconduct on the part of the respondent solicitor; which specified complaint or complaints shall thereafter comprise the entire nature and content of the application which the respondent solicitor has to meet and the applicant is entitled to pursue pursuant to these Rules.
- (b) (ii) No further complaint or complaints can be specified by the applicant in any subsequent affidavit(s) furnished in respect of the application.
- (c) On the making of an application to the Tribunal pursuant to clause (a) of this Rule, the applicant shall furnish to the Tribunal Registrar, together with the originals thereof, seven copies, paginated and bound, of the application and the grounding affidavit (and any documents exhibited thereto) together with an additional copy thereof in respect of each

further co-respondent solicitor.

- (d) An application pursuant to clause (a) of this Rule shall not be initiated by the Society or by or on behalf of a person in respect of a matter or matters which has or have been previously the subject of a final adjudication by the Tribunal or, if applicable, the High Court and the Supreme Court.

*Respondent solicitor's
right to respond by
affidavit*

6. (a) The Tribunal Registrar, as soon as practicable after being furnished with the form of application and the grounding affidavit (and any documents exhibited thereto), pursuant to Rule 5, shall furnish copies of all 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 as and 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 ("responding affidavit"), 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 and with prior written notice to the applicant, indicate to the Tribunal Registrar his or her intention to apply to the Tribunal, as soon as is convenient to the Tribunal, for an extension of time for the furnishing of such a responding affidavit. Such an application shall set out the reason(s) for the requested extension of time. The Tribunal, consequent on the respondent solicitor applying to the Tribunal, may, if it thinks 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 thinks fit); and, where the Tribunal does so grant such an extension of time for the furnishing of such a responding affidavit, the Tribunal Registrar shall, as soon as practicable thereafter, confirm in writing that fact to the applicant and to the respondent solicitor and (where the Society is not the applicant) to the Society.
- (b) Where the respondent solicitor exercises his or her right to furnish a responding affidavit pursuant to clause (a) of this Rule, the respondent solicitor shall in such responding affidavit make the observations he or she wishes to make on the application by reference to the specified complaint or each specified complaint made against him or her by the applicant in his or her form of application and grounding affidavit, (and any documents exhibited thereto) recognising that such specified complaint or complaints shall, (pursuant to clause (b) of Rule 5) comprise the entire nature and content of the application which the respondent solicitor has to meet and which the applicant is entitled to pursue pursuant to these Rules.

- (c) Where pursuant to clause (a) of this Rule, the respondent solicitor exercises his or her right to furnish a responding affidavit, the respondent solicitor, in doing so, shall furnish to the Tribunal Registrar, together with the original thereof, seven copies, paginated and bound, of same and any documents exhibited thereto, together with an additional copy thereof in respect of each further co-applicant.
- (d) Where, within the aforesaid period of 28 days (or any extension of time granted by the Tribunal pursuant to 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, pursuant to Rule [9], without further notice to the respondent solicitor, to make a finding or findings whether or not there is a prima facie case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal on the basis of the application and grounding affidavit (and any documents exhibited thereto) furnished to the Tribunal Registrar by or on behalf of the applicant.
- (e) Without prejudice to the generality of clause (a) of this Rule in relation to a respondent solicitor seeking the consent of the Tribunal for an extension of time for the furnishing of a responding affidavit, where the applicant consents in writing to such application being granted (subject only to the consequential right of the applicant pursuant to Rule 7 to furnish a further affidavit), the Tribunal Registrar may move that application to the Tribunal without the necessity of either party attending or being represented before the Tribunal; and, on such application being so moved and being granted by the Tribunal, the Tribunal Registrar shall, as soon as practicable thereafter, confirm in writing that fact to the applicant and to the respondent solicitor and (where the Society is not the applicant) to the Society; provided that, in the event of the Tribunal indicating to the Tribunal Registrar on the moving of such application that it required the application to be moved by or on behalf of the respondent solicitor on notice to the applicant, the Tribunal Registrar shall as soon as practicable thereafter, notify that fact to the applicant and to the respondent solicitor and (where the Society is not the applicant) to the Society; and submissions on such application shall be heard by the Tribunal that shall determine whether to grant the application and, if granted, the terms of such extension of time; and the Tribunal Registrar shall, as soon as practicable thereafter, confirm in writing the outcome of such application to the applicant and to the respondent solicitor and (where the Society is not the applicant) to the Society and clause (a) of this Rule shall then apply.

Further affidavit by applicant

- 7. (a) The Tribunal Registrar shall, as soon as practicable after being furnished with a responding affidavit sworn by or on behalf of the respondent solicitor, pursuant to Rule 6, furnish a copy of that responding affidavit (and any documents exhibited thereto) to the applicant and (where the Society is not the applicant) the Society. The

Tribunal Registrar shall, at the same time, inform the applicant in writing that the applicant may, if the applicant so decides, 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 (“further affidavit”) confined to addressing the observations made by or on behalf of the respondent solicitor on the specified complaint or each specified complaint of the applicant as originally made by the applicant in his or her form of application and grounding affidavit (and any documents exhibited thereto) pursuant to Rule 5. The applicant may, within that period of 28 days and with prior written notice to the respondent solicitor, indicate to the Tribunal Registrar his or her intention to apply to the Tribunal, as soon as is convenient to the Tribunal, for an extension of time for the furnishing of such a further affidavit. Such an application shall set out the reason(s) for the requested extension of time. The Tribunal, consequent on the applicant so applying to the Tribunal, may, if it thinks 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 thinks fit); and, where the Tribunal does so grant such an extension of time for the furnishing of such a further affidavit, the Tribunal Registrar shall, as soon as practicable thereafter, confirm in writing that fact to the applicant and to the respondent solicitor, and (where the Society is not the applicant) to the Society. The Tribunal Registrar 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 such further affidavit of the applicant (and any documents exhibited thereto).

- (b) Where the applicant exercises his or her right to furnish a responding affidavit pursuant to clause (a) of this Rule, the applicant shall in such responding affidavit make the observations he or she wishes to make on the application by reference to the specified complaint or each specified complaint made against him or her by the respondent solicitor in his or her responding affidavit, (and any documents exhibited thereto) recognising that such specified complaint or complaints shall, (pursuant to clause (b) of Rule 6) comprise the entire nature and content of the application which the respondent solicitor has to meet and which the applicant is entitled to pursue pursuant to these Rules.
- (c) Where, pursuant to clause (a) of this Rule, the applicant exercises his or her right to furnish a further affidavit, the applicant, in doing so, shall furnish to the Tribunal Registrar, together with the original thereof, seven copies, paginated and bound, of same (and any documents exhibited thereto), together with an additional copy thereof in respect of each further co-respondent solicitor.
- (d) Where, within the aforesaid period of 28 days (or any extension of time granted by the Tribunal pursuant to clause (a) of this Rule), the applicant does not furnish to the Tribunal Registrar a responding

affidavit making his or her observations on the application, the Tribunal may thereafter proceed, pursuant to Rule 9, without further notice to the applicant, to make a finding or findings whether or not there is a prima facie case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal on the basis of the application and grounding affidavit (and any documents exhibited thereto) furnished to the Tribunal Registrar by or on behalf of the applicant.

- (e) Without prejudice to the generality of clause (a) of this Rule in relation to an applicant seeking the consent of the Tribunal for an extension of time for the furnishing of a further affidavit, where the respondent solicitor consents in writing to such application being granted, the Tribunal Registrar may move that application to the Tribunal without the necessity of either party attending or being represented before the Tribunal; and, on such application being so moved and being granted by the Tribunal, the Tribunal Registrar shall, as soon as practicable thereafter, confirm in writing that fact to the applicant and to the respondent solicitor and (where the Society is not an applicant) to the Society; provided that in the event of the Tribunal indicating to the Tribunal Registrar on the moving of such application that it required the application to be moved by or on behalf of the applicant on notice to the respondent solicitor, the Tribunal Registrar shall, as soon as practicable thereafter, notify that fact to the applicant and to the respondent solicitor and (where the Society is not an applicant) to the Society; and submissions on such application shall be heard by the Tribunal that shall determine whether to grant the application and, if granted, the terms of such extension of time; and the Tribunal Registrar shall, as soon as practicable thereafter, confirm in writing the outcome of such application to the applicant and to the respondent solicitor and (where the Society is not the applicant) to the Society.

*No further affidavits
unless ruled by the
Tribunal*

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, where the interests of justice require, 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 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 respondent solicitor of such further affidavit) and with prior written notice to the applicant, indicate to the Tribunal Registrar his or her intention to apply to the Tribunal, as soon as is convenient to the Tribunal, for permission to furnish to the Tribunal Registrar an additional responding affidavit (“additional responding affidavit”) confined to addressing the

observations made by the applicant in the applicant's further affidavit furnished pursuant to Rule 7 relating to the specified complaint or each specified complaint of the applicant originally made by the applicant in his or her form of application and grounding affidavit (and any documents exhibited thereto) pursuant to Rule 5. The Tribunal may, consequent on the respondent solicitor so applying to the Tribunal, if it thinks fit, permit the respondent solicitor to so furnish an additional responding affidavit. Where the respondent solicitor is so permitted, the Tribunal shall at the same time, also permit the applicant (if the applicant so decides upon his or her receipt of and consideration of such additional responding affidavit) to furnish to the Tribunal Registrar a second further affidavit ("second further affidavit") in reply confined to addressing the further observations made by the respondent solicitor in such additional responding affidavit on the specified complaint or each specified complaint of the applicant as originally made by the applicant in his or her form of application and grounding affidavit (and any documents exhibited thereto) pursuant to Rule 5. Where permitted by the Tribunal, the time within which such an additional responding affidavit by or on behalf of the respondent solicitor should be furnished to the Tribunal Registrar and the subsequent time permitted within which the second further affidavit by or on behalf of the applicant should be furnished to the Tribunal Registrar shall each be determined by the Tribunal in its discretion having regard to the circumstances of the particular exceptional case. Where the Tribunal grants such time for the furnishing of such an additional responding affidavit and in consequence a second further affidavit, the Tribunal Registrar shall, as soon as practicable thereafter, confirm in writing that fact to the applicant and to the respondent solicitor and (where the Society is not an applicant) to the Society. The Tribunal Registrar shall, as soon as practicable after receipt of same, furnish to the applicant and (where the Society is not the applicant) to the Society a copy of such additional responding affidavit (and any documents exhibited thereto) sworn by or on behalf of the respondent solicitor; and, similarly, the Tribunal Registrar 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 any such second further affidavit (and any documents exhibited thereto) sworn by or on behalf of the applicant.

- (c) Where pursuant to clause (b) of this Rule, the respondent solicitor furnishes a responding affidavit, the respondent solicitor in doing so shall furnish to the Tribunal Registrar, together with the original thereof, seven copies, paginated and bound, of same (and any documents exhibited thereto), together with an additional copy thereof in respect of each further applicant.
- (d) Where pursuant to clause (b) of this Rule, the applicant furnishes a responding affidavit, the applicant in doing so shall furnish to the Tribunal Registrar, together with the original thereof, seven copies, paginated and bound, of same (and any documents exhibited thereto), together with an additional copy thereof in respect of each further

respondent solicitor.

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

9. (a) Following the completion of the process pursuant to Rules 5,6,7, 8 and 42 relating to the furnishing of affidavits by either party to the Tribunal Registrar in respect of an application, the Tribunal –
- (i) shall sit otherwise than in public in respect of the application;
 - (ii) shall have before it and shall give due consideration to copies of the form of application and the grounding affidavit (including any documents exhibited thereto) furnished pursuant to Rule 5 together with copies of each other affidavit or affidavits (including any documents exhibited thereto) furnished pursuant to Rule 6 or Rule 7 or Rule 8 or Rule 42; and
 - (iii) shall make a finding or findings whether or not there is a prima facie case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal on the ground or grounds of the specified complaint or complaints (or any one or more of them).
- (b) Where the Tribunal finds in respect of one or more specified complaints that there is a prima facie case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal, the Tribunal shall proceed to hold an inquiry.
- (c) Where the Tribunal finds in respect of each specified complaint that there is no prima facie case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal, the Tribunal Registrar shall so notify, in writing, the applicant, the respondent solicitor and (where the Society is not the applicant) the Society of the Tribunal's decision and the reason or reasons therefor and the Tribunal shall take no further action in relation to the application.
- (d) Where in respect of a particular application the Tribunal finds that there is a prima facie case of misconduct on the part of the respondent solicitor for inquiry, none of the members of the Tribunal who comprised the division of the Tribunal that made that finding or findings shall form part of the division of the Tribunal that sits at the inquiry hearing in respect of the same application.

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

10. (a) Where, pursuant to Rule 9, the Tribunal decides to proceed to hold an inquiry, the Tribunal Registrar shall allocate a date, time and place for the commencement of the inquiry hearing. The Tribunal Registrar shall then furnish a notification in writing to the respondent solicitor, in the form of Form DT4, and to the applicant, in the form of Form DT5, and (where the Society is not the applicant) shall furnish copies of such notifications to the Society, not less than 28 days prior to such allocated date. Such notification shall include:
- (i) a statement of the fact that the Tribunal has made a finding 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 set of complaints, and the date, time and place designated for the commencement of the inquiry;

- (ii) a reference to and copies of the form of application and each affidavit furnished by the applicant(s) and the respondent solicitor(s) (and any documents exhibited thereto) together with any other documents relating to the application furnished to or issued by the Tribunal Registrar;

*Application for
adjournment of
inquiry*

- 11. (a) An applicant or a respondent solicitor seeking an adjournment to a later date of the commencement or the continuation of an inquiry hearing shall make an application to that effect to the Tribunal, with prior notice to the other party and to the Tribunal Registrar. Good and sufficient reason shall be shown to the Tribunal for any such adjournment. Where such an application by one party for an adjournment is made and where the other party is not present or represented at the hearing of 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. The Tribunal may, if it thinks fit, after hearing oral submissions (if any) by the parties grant such an application.
- (b) The Tribunal may, on its own motion, and with prior notice to each party, adjourn an inquiry hearing from the date allocated for its commencement or at any time during the course of the hearing.

*Procedure at
Inquiry hearing*

- 12. (a) Unless otherwise directed by the Tribunal, an inquiry hearing in the case of an application to the Tribunal pursuant to Part II of these Rules shall proceed:-
 - (i) firstly, having regard to the content of the forms of notice furnished, respectively, to the respondent solicitor (Form DT4) and to the applicant (Form DT5) pursuant to Rule 10 and to the complaints the subject of the inquiry hearing;
 - (ii) secondly, having regard to the content of the form of application and the affidavit or affidavits (and any documents exhibited thereto) furnished by or on behalf of the applicant(s) and (if any) by or on behalf of the respondent solicitor(s) pursuant to Rules 5 to 8 (inclusive) and Rule 42, or any of them;
 - (iii) thirdly, having regard to such oral evidence and documentary evidence as may be tendered by or on behalf of the applicant and/or the respondent solicitor as being relevant to the complaints the subject of the inquiry hearing and legally admissible;
 - (iv) fourthly, having regard to such submissions relating to the

foregoing as may be made by or on behalf of either the applicant or the respondent solicitor (or both).

- (b) Without prejudice to clause (a) of this Rule, the reference in clause (a) of this Rule to “an inquiry hearing in the case of an application to the Tribunal pursuant to Part II of these Rules“ shall include, as may be applicable, two or more separate applications, in respect of which prima facie case of misconduct on the part of the same respondent solicitor for inquiry by the Tribunal on the ground of a specified complaint or specified complaints has been found, which are heard together as part of the same inquiry hearing.

On completion of inquiry hearing

- 13. On the completion of an inquiry hearing, the Tribunal shall, as soon as practicable-
 - (a) consider each complaint of alleged misconduct made against the respondent solicitor;
 - (b) make a separate finding on each such complaint and the reason or reasons therefor; 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 alleged misconduct and the reason or reasons therefor;
 - (c) (where applicable) the Tribunal’s opinion and recommendations as provided for in Rule 16;
 - (d) (where applicable) the terms of the order under section 7 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 hearing, the Tribunal, on due consideration of the complaint or complaints of alleged misconduct made by the applicant against the respondent solicitor, finds that there has been no misconduct on the part of the respondent solicitor in respect of such complaint or any of such complaints, the Tribunal Registrar shall so inform in writing the respondent solicitor, the applicant and (where the Society is not the applicant) the Society of the Tribunal’s finding or findings and the reason or reasons therefor; and the Tribunal thereafter shall take no further action in relation to such complaint or complaints other than making a report to the High Court pursuant to Rule 13 addressing, insofar as they are applicable and appropriate, the matters specified in Rule 14.

Where Tribunal find misconduct but do not make order under

- 16. Where the Tribunal finds that there has been misconduct on the part of the respondent solicitor and the Tribunal has not made, and does 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 the Tribunal's finding or findings; and
- (b) the Tribunal's recommendations as to the sanction which in the Tribunal's opinion should be imposed, having regard to the Tribunal finding or findings, to any finding of misconduct on the part of the respondent solicitor previously made by the Tribunal (or any statutory predecessor of the Tribunal) and not rescinded by the High Court, and to any order made by the High 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 High Court as provided for in Rule 19.

Where Tribunal make order pursuant to section 7

17. (a) Where the Tribunal finds that there has been misconduct on the part of the respondent solicitor and is of opinion that it is appropriate in the particular circumstances of the case to do so, the Tribunal may, by order pursuant to section 7, in the form of Form DT7, decide on and apply one or more of the following sanctions:-
- (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 its 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 the Tribunal (or any statutory predecessor, of the Tribunal) and not rescinded by the High Court, and of any order made by the High 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 pursuant to section 7 as provided for in Rule 17, a certified copy of such order shall, as soon as practicable and not later than 28 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 hearing 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 finds that there has been misconduct on the part of the respondent solicitor in respect of one or more of the complaints of alleged misconduct made by the applicant and do not make or intend to make an order under section 7 in respect of one or more of such complaints of misconduct so found, the Tribunal shall by order, direct the Society, in the form of Form DT8, as soon as practicable 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 processing of the application in accordance with these Rules and before the completion of any inquiry hearing by the Tribunal, postpone the taking of any steps or further steps in the matter for a specified period and, if the Tribunal does so, then, if, before the expiration of that period, the applicant applies to the Tribunal and requests leave to withdraw the application, the Tribunal may, if the Tribunal thinks fit (and whether or not in its discretion the Tribunal seeks the views of the respondent solicitor concerned on such request by the applicant before making a decision in relation to it), allow the application to be withdrawn; and, if the Tribunal does so, no further action shall be taken by the Tribunal 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 (and any documents exhibited thereto) in the form of Form DT10. The applicant shall furnish the original of such notice and affidavit (and any documents exhibited thereto) 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 is of 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 it thinks fit, requiring the personal attendance before it 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, is not of 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 hearing. 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 it thinks fit, direct the applicant to give public notice by newspaper advertisement or otherwise as it directs of the fact that the applicant has made such application and of the date appointed for the inquiry hearing. Where (whether consequent on any such public notice of the fact of such application and such inquiry hearing, 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 hearing, 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 hearing, 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 hearing (or on the date of any adjournment thereof granted by the Tribunal and notified to all persons interested) in the case of an application to the Tribunal pursuant to Part III of these Rules 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 is 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 it thinks fit, either thereupon proceed to receive such further evidence as it deems 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 it thinks fit.

Where Tribunal grant application

25. Where, after due inquiry pursuant to Rule 24, the Tribunal is of opinion that the application should be granted, the Tribunal shall order, in the form of Form DT13, that the name of the applicant 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 is 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 it does 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 it thinks fit (and whether or not in its discretion it seeks 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 does so, no further action shall be taken by it in relation to the application.

PART IV – GENERAL

Tribunal Registrar to furnish documents to interested parties

32. 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 or under 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 it pursuant to Part II of these Rules or the consideration by it of an application pursuant to Part III of these Rules or the taking by it of further evidence where remitted to it by the High Court for that purpose, has 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 its 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 its 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 and as amended by section 11 of the Act of 2002) 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 hearing before the Tribunal shall be given on oath or by affirmation; and witnesses shall be sworn or their affirmation shall be taken by the Tribunal Registrar or by the chairperson or by another member of the division of the Tribunal conducting the inquiry hearing.
- (b) In an inquiry hearing 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 thinks 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 hearing 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 hearing 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. Other than in circumstances provided for in clause (b) of this Rule, 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 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) Where the Tribunal Registrar or a member of the Tribunal who is requested by the Tribunal Registrar to date and sign a summons pursuant to clause (a) of this Rule (or both) has or have a concern that the provisions of section 15 (as substituted by section 25 of the Act of 1994 and as amended by section 11 of the Act of 2002) of the Act of 1960 relating to the unnecessary attendance of a witness at an inquiry might at a future time become a matter for consideration by the Tribunal, the Tribunal Registrar may, before proceeding further with the process of the dating and signing and the furnishing of the summons to the requesting party as provided for in clause (a) of this Rule, refer the request for the issue of such summons to the Tribunal; AND the Tribunal may then either –
- (i) direct the Tribunal Registrar to proceed as provided for in clause (a) of this Rule to furnish such summons to the requesting party; or
- (ii) direct the Tribunal Registrar to provide due written notice to the requesting party and to any other party or person(s) specified by the Tribunal that the Tribunal may, at a sitting or a specified future date, give consideration to proceeding as provided for in clause (c) and/or clause (d) of this Rule.
- (c) The Tribunal may, following hearing submissions (if any) from the

requesting party or any other party or person(s) to whom notice has been given as provided in clause (b)(ii) of this Rule, require the applicant and/or -

- (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/or (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 hearing.

- (d) The Tribunal may, if of the opinion that the evidence expected to be given by a witness proposed by the requesting party to be the subject of a witness summons to attend at an inquiry hearing is irrelevant or does not or/cannot add materially to that proposed to be given by other witnesses and that accordingly the attendance of the witness at the inquiry hearing 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 (e) of this Rule.
- (e) On the completion of an inquiry hearing, the Tribunal, whether or not it has acted in accordance with clause (d) of this Rule, and subject to clause (f) of this Rule may, if of opinion that the attendance of any witness or witnesses summoned at the request of the applicant or the respondent solicitor was unnecessary and thereby involved the witness or witnesses in avoidable expense, by order direct that the applicant or the 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 the respondent solicitor, as the case may be, as a liquidated debt.
- (f) Before making an order under clause (e) of this Rule, the Tribunal shall notify (whether by itself directly on the completion of the inquiry hearing or by directing the Tribunal Registrar to do so) the applicant or the respondent solicitor, as the case may be, that the Tribunal is considering whether or not it should do so and that the Tribunal will, before so deciding, consider any representations that may be made to it in writing by the applicant or the respondent solicitor, as the case may be, within 14 days after the party concerned is so notified.
- (g) The applicant or the respondent solicitor, as the case may be, in respect of whom an order has been made by the Tribunal pursuant to clause (e)

of this Rule and on being so notified of that fact by notification in writing from the Tribunal Registrar may, pursuant to Order 53, appeal to the High Court against the order within 21 days of the date of such notification in writing.

Discovery of documents

39. (a) The Tribunal may, on the application of a party (hereinafter in this Rule referred to as the “requesting party”) to an application on notice to the other party (hereinafter in this Rule referred to as “the other party”), order that the other party do make discovery on oath of documents which are or have been in the 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 requesting party shall do so grounded on an affidavit verifying the fact that voluntary discovery has previously been requested in writing by the requesting 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 a party to an application fails to comply with an order of the Tribunal to make discovery of documents, that party, if the applicant, shall, if the Tribunal thinks fit, have the application dismissed or, if the respondent solicitor, shall, if the Tribunal thinks fit, have the response or responses to the application struck out and thereby placing the respondent solicitor in the same position as if the respondent solicitor had not responded at all to the application; and orders may be made accordingly by the Tribunal.
- (c) Any party to an application to the Tribunal may, in due and sufficient time prior to the date of the inquiry hearing or any adjournment thereof in respect of that application, furnish notice in writing, in the form of Form DT19, to the other party requesting the production for inspection of the originals of the documents specified in such notice as are in the possession or power of the other party and in respect of which either copies have been furnished by the 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, the other party shall not afterwards at the inquiry be at liberty to put any such specified documents in evidence on the other party’s behalf, unless the other party shall satisfy the Tribunal that

such documents relate only to the other party's own title or that the other party has other cause or excuse which the Tribunal deems sufficient for not complying with such notice. Where the Tribunal in such circumstances does permit any such specified documents to be put in evidence the Tribunal may do so on such terms as to costs or otherwise as it thinks 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 and place 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 the requesting party's solicitor) at the office of the other party (or of the other party's solicitor) or, if different, at the usual place or places of custody of the documents in question; and (if applicable) stating which (if any) of the documents in question the other party objects to so producing and on what ground or grounds.
- (e) Where the other party, to whom a notice by the requesting party is furnished pursuant to clause (c) of this Rule, fails to furnish a notice in response, either 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 it thinks fit. Such an application shall be grounded on an affidavit of the requesting party specifying the documents in question and deposing as 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 is of opinion that such an order is not necessary either for disposing fairly of a matter in issue at the inquiry hearing 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 their 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 a party to the inquiry ("hereinafter in this Rule referred to as the "applying party"), on notice to the third party and to the other party to the inquiry and to 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 to the Tribunal by the applying party shall be grounded on an affidavit (and any documents exhibited thereto) 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, 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 substituted by section 25 of the Act of 1994 and as amended by section 11 of the Act of 2002) 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 hearing or application or otherwise as the Tribunal thinks 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 either party by surprise or prejudice in the conduct of their case the Tribunal shall grant an adjournment of the inquiry hearing or application on such terms as the Tribunal thinks 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 orders or reports

45. Clerical mistakes in circulated reports of the Tribunal to the High Court or in circulated orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal on the application of either party, on due written notice to the other party or other person interested, or on the Tribunal's own motion, 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 hearing or on an application, the Tribunal may, upon proof of service on the respondent solicitor of notice of such inquiry hearing (or of any adjournment of such inquiry hearing) or application, proceed with the inquiry hearing or application in the respondent solicitor's absence or adjourn the inquiry hearing or application on such terms as the Tribunal thinks fit.

- (b) If an applicant does not appear at an inquiry hearing or at any adjournment of such inquiry hearing or on an application, the Tribunal may upon proof of notification to the applicant of the date of the inquiry hearing or application, proceed with the inquiry hearing or application in his or her absence or adjourn the inquiry hearing or application on such terms as the Tribunal thinks fit.

Transcript of evidence and submissions

48. A verbatim note of the evidence and submissions made at an inquiry hearing or application 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 hearing or application shall be entitled to a transcript on payment of the reasonable charges therefor.

Tribunal may request Society to intervene

49. (a) The Tribunal may, at any time, 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 the Society's option) intervening in the process either by making a new application in relation to the respondent solicitor or by 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 thinks fit. A copy of the notice to the Registrar shall at the same time be furnished by the Tribunal Registrar 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 to intervene in the process either by making a new application in relation to the respondent solicitor in question or by undertaking 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.

- (c) Where the Society, following receipt by the Registrar of a notice as provided for in clause (a) of this Rule, decides to intervene in the process but where the applicant or the respondent solicitor (or both) objects to such intervention by the Society, the applicant or the respondent solicitor or the Society (or one or more of them) may apply to the Tribunal on notice to the applicant, the respondent solicitor and the Society (as the case may be), for directions as to how the matter should thereafter proceed; and on the hearing of such application, the Tribunal may direct as it thinks fit, including giving a direction:-
- (ii) excluding the Society from any such intervention, or
 - (iii) permitting the Society to intervene either by way of a new application or by way of becoming a conjoint applicant together with the existing applicant until the end of the process before the Tribunal or for a specific and limited interlocutory purpose.
- (d) Where the Society, following receipt by the Registrar of a notice as provided for in clause (a) of this Rule, decides not to intervene in the process, the processing of the application to the Tribunal by the applicant other than the Society shall continue to proceed without such intervention by the Society.

*Society may apply to
Tribunal to intervene*

50. The Society may at any time make application to the Tribunal for leave either to make a new 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 thinks 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 thinks 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 thinks 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 hearing (or any adjournment thereof), request the other party to admit a specified document or documents (Form DT23) or a specified purported fact or facts as a fact or facts without formal proof of same (Form DT24), saving all just exceptions as to the admissibility of such document or documents or fact or facts as evidence at the inquiry hearing; and, if the other party

wishes to challenge such specified document or documents or such specified purported fact or facts, the other party shall, within not more than six days after the furnishing to the other party 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 or any one or more of them and that he or she requires proof of same (or any one or more of same) at the inquiry hearing (or any adjournment thereof).

- (b) The notice of the requesting party to the other party to admit a specified document or documents, 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 or documents 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 or documents at a location (specified in the notice) reasonably convenient to the other party within the seven-day period referred to in clause (a) of this Rule;
 - (iii) that the other party is being requested to admit that the specified document or documents, if an original document or original documents, was or were, respectively, written, signed and executed as it or they purport to have been;
 - (iv) that the other party is being requested to admit that the specified document or documents, if a copy or copies of the original(s), is or are a true copy of the original(s);
 - (v) that the other party is being requested to admit that the specified document or documents, insofar as it is or they are stated to have been served, sent or delivered, was or were so served, sent or delivered.
- (c) The notice of the requesting party to admit a specified purported fact or facts as a fact or facts, 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 or facts as a fact or facts for the purposes of the inquiry only, and may also include the statement that the requesting party proposes to rely, as part of the requesting party's case, on the specified purported fact or facts as a fact or facts.
- (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, the other party shall be deemed to have admitted the document or documents or fact or facts 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 hearing shall be retained by the Tribunal Registrar until the termination of

the inquiry hearing 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 hearing 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 hearing from date to date and from time to time and from place to place, as the Tribunal thinks 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 hearing 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 Society to so act.

Where High Court remits matter back to Tribunal to take further evidence

56. (a) Where the Tribunal, after holding an inquiry into the conduct of a solicitor, makes a report on the matter to the High Court and the High Court then remits the matter 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 hearing the subject of the report to the High Court of that remit and, in consultation with them, designate a date, place and time for the holding of a further inquiry hearing 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 be available to constitute the division of the Tribunal for the purpose of taking such further evidence, the Chairperson shall (whether or not following consultation 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 -

(A) 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

(B) 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 hearing 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 hearing was an inquiry hearing '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 chairperson 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 concerned 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 the Tribunal's 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 High Court rescinds the order of the Tribunal or, as the case may be, the High Court orders that one or more of the

aforementioned documents shall not be so 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 of the alleged offence, as the case may be, 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 (as amended by sections 45 and 46 of the Act of 2008). For convenience of reference, the text of section 19 of the Act of 2002 and the text of sections 45 and 46 of the Act of 2008 are 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 2016

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 2016

**Mr Justice Peter Kelly
President of the High Court**

SCHEDULE
within referred to

FORMDT1

***FORM OF APPLICATION TO THE TRIBUNAL FOR AN INQUIRY INTO THE
CONDUCT OF A SOLICITOR ON THE GROUND OF ALLEGED
MISCONDUCT***
[Rule 5]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in **the** matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of **the** Solicitors Acts, 1954 to 2011

I *[insert name of applicant or, as the case may be: The Law Society of Ireland]*
HEREBY APPLY/APPLIES to the Solicitors Disciplinary Tribunal for AN
INQUIRY into **the** conduct of *[insert name of respondent solicitor]*, a solicitor, of
*[insert respondent solicitor's address as appearing in the Register of Practising
Solicitors or, if none, his or her last known place of residence in the State]* ("the
respondent solicitor").

This application, made pursuant to section 7 (as substituted by section 17 of the
Solicitors (Amendment) Act, 1994 and as amended by section 9 of the Solicitors
(Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960, is for an inquiry
into the conduct of **the** respondent solicitor, on **the** ground of alleged misconduct, in
respect of **the** matters disclosed in the accompanying grounding affidavit sworn by me
[or, as the case may be: sworn by [insert name] on my behalf] (and **the** documents
exhibited thereto).

Dated this day of 20...

Signature of applicant: *[or, as the case may be: Signed for and on behalf of the Law Society
of Ireland]:*

Address:

Occupation *[or, if applicant is the Law Society of Ireland, status of signatory]:*
.....

To: The Tribunal Registrar
Solicitors Disciplinary Tribunal
The Friary
Bow Street
Dublin 7

and

To: *[respondent solicitor's name and address]*

FORMDT2

**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]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

I *[insert name of deponent]* of *[insert address and occupation of deponent]*, aged 18
years and upwards, MAKE OATH and say as follows:

1. I am the applicant in this matter and I make this affidavit to ground my
application to the Solicitors Disciplinary Tribunal (“the Tribunal”) for an
inquiry into the conduct of *[insert name of respondent solicitor]* (“the
respondent solicitor”) on the ground of alleged misconduct.

OR

I am *[specify the status and authority of the deponent to make the affidavit on
behalf of the Law Society of Ireland or other applicant, as the case may be]*
and I make this affidavit to ground the application by the Law Society of
Ireland (“the Society”) *[or, as the case may be: by [insert name of applicant]]*
to the Solicitors Disciplinary Tribunal (“the Tribunal”) for an inquiry into the
conduct of the respondent solicitor on the ground of alleged misconduct.

2. The respondent solicitor, of *[insert address of respondent solicitor]* was
retained by me *[or, as the case may be: by the applicant]* to provide legal
services *[specify details of the retainer of the respondent solicitor to provide
legal services to the applicant and when it commenced]* and that while acting
in that capacity engaged in the conduct set out in the succeeding paragraphs of
this affidavit.
3. *[In this and succeeding paragraph(s) specify details of the matters grounding
the alleged complaint(s) of the applicant against the respondent solicitor and
exhibit, as appropriate, the documents deemed by the applicant to be relevant
to the application.]*
4. *[Et seq., as appropriate].*

*[Last paragraph: It is submitted that the respondent solicitor is guilty of misconduct
in his or her practice as a solicitor in that he/she [specify each alleged ground of
misconduct]]*

Sworn by the said [*insert name of deponent*]

at

in the City/County of

this day of 20....

before me a Practising Solicitor/

Commissioner for Oaths and

(a) I know the Deponent or,

(b) the Deponent has been identified to me by who is known to me and who has certified his/her personal knowledge of the Deponent or,

(c) the identity of the Deponent has been identified to me by reference to:

PRACTISING SOLICITOR/
COMMISSIONER FOR OATHS

FORMDT3

**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)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

I *[insert name of deponent]* of *[insert address and present occupation of deponent]*,
aged 18 years and upwards, MAKE OATH and say as follows:

1. I am the respondent solicitor in this matter and I make this affidavit in
response to the application of *[insert name of applicant]* (“the applicant”) to
the Solicitors Disciplinary Tribunal (“the Tribunal”) for an inquiry into my
conduct on the ground of alleged misconduct in respect of the alleged matters
deposed to in the affidavit of the applicant *[or, as the case may be: in the
affidavit of [insert name of deponent] on behalf of the applicant sworn herein
on the day of 20.....*

OR

I am *[specify the status and authority of the deponent to make the affidavit on
behalf of the respondent solicitor]* and I make this affidavit in response to the
application of *[insert name of applicant]* (“the applicant”) to the Solicitors
Disciplinary Tribunal (“the Tribunal”) for an inquiry into the conduct of
[insert name of respondent solicitor] (“the respondent solicitor”) on the
ground of alleged misconduct in respect of the alleged matters deposed to in
the affidavit of the applicant *[or, as the case may be: of [insert name of
deponent] on behalf of the applicant]* sworn herein on the day of
..... 20.....

2. *[In this and succeeding paragraph(s) specify details of the response by or on
behalf of the respondent solicitor to the application and grounding affidavit by
or on behalf of the applicant and exhibit, as appropriate, the documents
deemed by the respondent solicitor to be relevant to the response.]*
3. *[Et seq., as appropriate].*

Sworn by the said [*insert name of deponent*]

at

in the City/County of

this day of 20....

before me a Practising Solicitor/
Commissioner for Oaths and

- (a) I know the Deponent or,
- (b) the Deponent has been identified to me by who is known to me and who has certified his/her personal knowledge of the Deponent or,
- (c) the identity of the Deponent has been identified to me by reference to:

PRACTISING SOLICITOR/
COMMISSIONER FOR OATHS

FORMDT4

***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]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of respondent solicitor]*

TAKE NOTICE that:

1. An application has been made to the Solicitors Disciplinary Tribunal (“the Tribunal”) by *[insert name and address of applicant]* (“the applicant”) pursuant to section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960 for an inquiry into your conduct, on the ground of alleged misconduct, in respect of the alleged matters deposed to in the following affidavit(s) sworn by or on behalf of the applicant (including the documents exhibited thereto) and *[if applicable: the correspondence and/or other documents relating to the application furnished to the Tribunal by or on behalf of the applicant]*, namely: *[specify name of deponent and date of each affidavit furnished to the Tribunal by or on behalf of the applicant and, if applicable, the number of exhibits thereto together with any correspondence or other documents relating to the application furnished to the Tribunal by or on behalf of the applicant]*.
2. The Tribunal considered the aforesaid documents furnished by or on behalf of the applicant and also considered the following affidavit(s) sworn by or on your behalf and *[if applicable: the correspondence and/or other documents in response to the application furnished to the Tribunal by or on your behalf]*, namely: *[specify name of deponent and date of each affidavit furnished to the Tribunal by or on behalf of the respondent solicitor and, if applicable, the number of exhibits thereto together with any correspondence or other documents in response to the application furnished to the Tribunal by or on behalf of the respondent solicitor]*.
3. The Tribunal, having considered the said documentation, finds that there is a *prima facie* case of misconduct on your part for inquiry by the Tribunal on the following ground(s), specified in the form of a complaint *[or, as the case may be: a set of complaints]*, as follows: *[specify the complaint or the set of*

complaints for inquiry by the Tribunal] and has determined to hold an inquiry AND that day, the day of 20..... at o'clock in thenoon at [*specify place of inquiry*] has been designated as the date, time and place for the commencement of the inquiry.

AND TAKE NOTICE of the following:

- (a) that you should appear personally, even where you are represented by a solicitor or by a solicitor and counsel;
- (b) that copies of the aforementioned documents are furnished herewith;
- (c) that you may inspect at the Tribunal's offices, by prior arrangement, originals of the documents that have been furnished by or on behalf of the applicant and if you require further copies of such documents, they will be furnished to you on request, subject to payment by you of reasonable copying charges;
- (d) that if you fail to appear personally, even where legally represented by a solicitor or by a solicitor and counsel, the Tribunal may proceed with the inquiry in your absence or may adjourn the inquiry on such terms as the Tribunal think fit; and
- (e) that you are requested to acknowledge receipt of this Notice without delay.

Dated this day of 20.....

Signed:

Tribunal Registrar
The Friary
Bow Street
Dublin 7

[NOTE: Where the Law Society of Ireland is not the applicant, a copy of this Notice shall be furnished to the Registrar of Solicitors].

FORMDT5

**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]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]* a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of applicant]*

TAKE NOTICE that:

1. An application has been made to the Solicitors Disciplinary Tribunal (“the Tribunal”) by you pursuant to section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960 for an inquiry into the conduct of *[insert name of respondent solicitor]* (“the respondent solicitor”) on the ground of alleged misconduct, in respect of the alleged matters deposed to in the following affidavit(s) sworn by or on your behalf (including the documents exhibited thereto) and *[if applicable: the correspondence and/or other documents relating to the application furnished to the Tribunal by or on your behalf]*, namely: *[specify name of deponent and date of each affidavit furnished to the Tribunal by or on behalf of the applicant and, if applicable, the number of exhibits thereto together with any correspondence or other documents relating to the application furnished to the Tribunal by or on behalf of the applicant]*.
2. The Tribunal considered the aforesaid documents furnished by or on your behalf and also considered the following affidavit(s) sworn by or on behalf of the respondent solicitor and *[if applicable: the correspondence and/or other documents in response to the application furnished to the Tribunal by or on behalf of the respondent solicitor]*, namely: *[specify name of deponent and date of each affidavit furnished to the Tribunal by or on behalf of the respondent solicitor and, if applicable, the number of exhibits thereto together with any correspondence or other documents in response to the application furnished to the Tribunal by or on behalf of the respondent solicitor]*.
3. The Tribunal, having considered the said documentation, finds that there is a *prima facie* case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal on the following ground(s), specified in the form of a complaint *[or, as the case may be: a set of complaints]*, as follows: *[specify the complaint or the set of complaints for inquiry by the Tribunal]* and has

determined to hold an inquiry AND that day, the day of 20..... at o'clock in thenoon at [*specify place of inquiry*] has been designated as the date, time and place for the commencement of the inquiry.

AND TAKE NOTICE of the following:

- (a) that you should appear personally, even where represented by a solicitor or by a solicitor and counsel, in pursuance of your application;
- (b) that copies of the aforementioned documents are furnished herewith;
- (c) that you may inspect at the Tribunal's offices, by prior arrangement, originals of the documents that have been furnished by or on behalf of the respondent solicitor and if you require further copies of such documents, they will be furnished to you on request, subject to payment by you of reasonable copying charges;
- (d) that if you fail to appear personally, even where legally represented by a solicitor or by a solicitor and counsel, the Tribunal may proceed with the inquiry in your absence or may strike-out the application or adjourn the inquiry on such terms as the Tribunal think fit; and
- (e) that you are requested to acknowledge receipt of this Notice without delay.

Dated this day of 20.....

Signed:
Tribunal Registrar
The Friary
Bow Street
Dublin 7

[NOTE: Where the Law Society of Ireland is not the applicant, a copy of this Notice shall be furnished to the Registrar of Solicitors].

FORMDT6

FORM OF REPORT OF THE TRIBUNAL TO THE HIGH COURT
[Rule 14]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

The Solicitors Disciplinary Tribunal (“the Tribunal”) HEREBY REPORT to the High Court pursuant to section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960, as follows:

1. An application by *[insert name of applicant]* (“the applicant”) dated the day of 20..... for an inquiry into the conduct of *[insert name of respondent solicitor]* (“the respondent solicitor”) was received by the Tribunal on the day of 20.....
2. The Tribunal on the day of 20..... considered the following documentation: *[specify the name of the deponent and the date of each affidavit sworn by or on behalf of the applicant and by or on behalf of the respondent solicitor which have been furnished to the Tribunal and, if applicable, the number of exhibits thereto and, if applicable, the items of correspondence or other documents which have been furnished to the Tribunal in relation to, or in response to, the application, respectively, by or on behalf of the applicant and by or on behalf of the respondent solicitor]*.
3. The Tribunal found that there was a *prima facie* case of misconduct on the part of the respondent solicitor for inquiry by the Tribunal in respect of the following ground(s) specified in the form of the following complaint *[or, as the case may be: the following set of complaints]*, namely: *[set out the complaint(s) in full]*
4. A separate division of the Tribunal comprising *[specify the names of the three members of the division and who was chairman of the division]* held an inquiry pursuant to section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960 on the day of 20..... *[or, as the case may be: commencing on the day of 20..... and continuing on the following dates, concluding on the last said date, namely: [specify each continuing date of the inquiry]]*.

5. The parties to the proceedings were [*specify the name of applicant or (if more than one applicant) the names of each applicant and the name of the respondent solicitor*].
6. The appearances at the inquiry were as follows: [*specify the name of the solicitor and, if applicable, the counsel, respectively, appearing for the applicant(s) and for the respondent solicitor*].
7. The respondent solicitor was admitted as a solicitor in the Term 19...../20..... and last practised as a solicitor at [*insert respondent solicitor's practice address as last appearing in the Register of Practising Solicitors*]; the last practising certificate held by the respondent solicitor being for the practice year ending 31 December 20.....
8. The oral evidence and the oral submissions received by the Tribunal at the inquiry are set out in the verbatim transcript of the inquiry accompanying this report; and the documentary evidence received and the name(s) of the witness(es) who gave oral evidence are set out in the Schedule to this report.
9. [*Where the Tribunal have found that there has been no misconduct on the part of the respondent solicitor*] The Tribunal has found that there has been no misconduct on the part of the respondent solicitor in respect of the complaint [*or, as the case may be: any of the set of complaints*] set out in paragraph 3 (above), for the following reason(s): [*specify each complaint and set out the finding of the Tribunal in respect thereof and the reason(s) therefor; AND* the Tribunal hereafter shall take no further action in relation to the application other than making this report.
10. [*Where the Tribunal has found that there has been misconduct on the part of the respondent solicitor and is of opinion that it is appropriate to make an order imposing a sanction on the respondent solicitor*]. The Tribunal has found that there has been misconduct on the part of the respondent solicitor in respect of the complaint [*or, as the case may be: the following set of complaints*] set out in paragraph 3 (above), for the following reason(s): [*specify each complaint in respect of which the Tribunal has found misconduct and the reason(s) therefor*] AND are of opinion that it is appropriate to make an order pursuant to subsection 9 of section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9(d) of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960, as follows: [*specify the terms of the Order of the Tribunal, whether advising and admonishing or censuring the respondent solicitor and/or directing the payment of a sum, not exceeding an overall total of €15,000, to be paid by the respondent solicitor to the Compensation Fund and/or directing that the respondent solicitor pay a sum, not exceeding an overall total of €15,000, as restitution or part restitution to a named aggrieved party, without prejudice to the legal right of such party and/or directing that the whole or part of the costs of the Law Society of Ireland or of any person appearing before them, as taxed by a Taxing Master of the High Court, in default of agreement, be paid by the respondent solicitor AND the reason(s) for the Tribunal's opinion that it was appropriate to make such an order is/are as follows: [*set out the reasons for the Tribunal's opinion*]] AND [*if applicable*] the Tribunal has taken*

account of the following finding(s) of misconduct on the part of the respondent solicitor previously made by them (or by their predecessors, the Disciplinary Committee) and not rescinded by the High Court and [if applicable] of the following order(s) made by the High Court under the Solicitors Acts, 1954 to 2002, in respect of the respondent solicitor, namely: [specify details of any such previous finding(s) of misconduct on the part of the respondent solicitor and, if applicable, details of any previous order(s) made by the High Court in respect of the respondent solicitor, and the relevant date(s) thereof].

OR

11. [Where the Tribunal has found that there has been misconduct on the part of the respondent solicitor but has not made and does not intend to impose a sanction but are instead by order directing the Law Society of Ireland to bring this report before the High Court]. The Tribunal has found that there has been misconduct on the part of the respondent solicitor in respect of the complaint [or, as the case may be: the following set of complaints] set out in paragraph 3 (above), for the following reason(s): [specify each complaint in respect of which the Tribunal has found misconduct and the reasons therefor] AND the Tribunal is not of opinion that it is appropriate, and has not made and does not intend to make, an order pursuant to subsection 9 of section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9(d) of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960 AND instead by order have directed the Law Society of Ireland to bring this report before the High Court AND the opinion of the Tribunal as to the fitness or otherwise of the respondent solicitor to be a member of the solicitors profession and their recommendations as to the sanction which, in their opinion, should be imposed, are as follows: [set out the opinion of the Tribunal as to the fitness of the respondent solicitor and their recommendation(s) as to the sanction which, in their opinion, should be imposed on the respondent solicitor] AND [if applicable] the Tribunal, in making its said recommendation(s) as to the sanction which, in its opinion, should be imposed on the respondent solicitor, has had regard to the following finding(s) of misconduct previously made by them [and/or, if applicable: by their predecessor, the Disciplinary Committee] in respect of the respondent solicitor and not rescinded by the High Court and [if applicable] to the following order(s) previously made by the High Court itself under the Solicitors Acts, 1954 to 2002, in respect of the respondent solicitor [set out details of any such previous finding(s) of misconduct or any such order(s) of the High Court in respect of the respondent solicitor].

SCHEDULE

of

the documentary evidence received at the inquiry
and the name(s) of the witness(es) who gave oral evidence at the inquiry

Details of documentary evidence received: [specify each item of documentary evidence received at the inquiry]

Details of witnesses who gave oral evidence: [specify the name of each witness who gave evidence at the inquiry]

SIGNED on behalf of the Tribunal this day of 20.....

by *[insert the name of the chairman of the division or, as the case may be, the names of the other two members who is/are signing the report on behalf of the Tribunal]*

.....
[Signature(s) of the chairman of the division of the Tribunal or, as the case may be, of the other two members of the division]

FORMDT7

**FORM OF ORDER OF THE TRIBUNAL WHERE THE TRIBUNAL HAVE
FOUND MISCONDUCT AND HAVE IMPOSED A SANCTION ON THE
RESPONDENT SOLICITOR
[Rule 17(a)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

ORDER

[insert name of applicant].....
APPLICANT

[insert name of respondent solicitor].....
RESPONDENT SOLICITOR

Date(s) of Inquiry: 20.....

Members of the division of the Solicitors Disciplinary Tribunal (“the Tribunal“)
[insert the names of the members of the division and who acted as chairman]

WHEREAS on the application of *[insert named of applicant]* dated the day of
..... 20..... AND after an inquiry held on the day of
..... 20..... [or, as the case may be: after an inquiry commencing on
the day of 20..... and continuing on the following further
date(s) *[specify each date of the inquiry]*] under section 7 (as substituted by section 17
of the Solicitors (Amendment) Act, 1994 and as amended by section 9 of the
Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960 AND on
hearing *[insert name(s) of applicant’s solicitor/counsel]* for the applicant and *[insert
name(s) of respondent solicitor’s solicitor/counsel]* for the respondent solicitor AND
on hearing the evidence of *[insert name(s) of witness(es), in order of appearance,
called to give oral evidence, and whether called on behalf of the applicant or on
behalf of the respondent solicitor or called by the Tribunal]*.

NOW the Tribunal FINDS that the respondent solicitor is guilty of misconduct in
respect of the following complaint(s) *[set out each complaint in respect of which the
respondent solicitor has been found guilty of misconduct]*.

AND THE TRIBUNAL HEREBY ORDERS that the respondent solicitor *[insert
whether the respondent solicitor stands advised and admonished or censured in
respect of such finding(s) of misconduct and/or whether directed to pay a sum, not
exceeding an overall total of €15,000, to the Compensation Fund and/or has been
directed to pay a sum, not exceeding an overall total of €15,000, as restitution or part*

restitution to any aggrieved party or parties, without prejudice to any legal right of such party or parties and/or has been directed to pay the whole or part of the costs of the Law Society of Ireland or of any person appearing before them, as taxed by a Taxing Master of the High Court in default of agreement].

SIGNED on behalf of the Tribunal this day of 20..... by
[insert the name of the chairman of the division or, as the case may be, the names of the other two members who is/are signing the order on behalf of the Tribunal]

.....
[Signature(s) of the chairman of the Tribunal or, as the case may be, of the other two members of the division].

FORMDT8

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]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

ORDER

[insert name of applicant] *name* APPLICANT of

[insert name of respondent solicitor] RESPONDENT SOLICITOR

Date(s) of Inquiry: 20.....

Members of the division of the Solicitors Disciplinary Tribunal (“the Tribunal“) *[insert the names of the members of the division and who acted as chairman]*

WHEREAS on the application of *[insert named of applicant]* dated the day of 20..... **AND** after an inquiry held on the day of 20..... *[or, as the case may be: after an inquiry commencing on the day of 20..... and continuing on the following further date(s) [specify each date of the inquiry]]* under section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960 **AND** on hearing *[insert name(s) of applicant’s solicitor/counsel]* for the applicant and *[insert name(s) of respondent solicitor’s solicitor/counsel]* for the respondent solicitor **AND** on hearing the evidence of *[insert name(s) of witness(es), in order of appearance, called to give oral evidence, and whether called on behalf of the applicant or on behalf of the respondent solicitor or called by the Tribunal]*.

NOW the Tribunal **FINDS** that the respondent solicitor is guilty of misconduct in respect of the following complaint(s) *[set out each complaint in respect of which the respondent solicitor has been found guilty of misconduct]*.

AND the Tribunal has not made, and does not intend to make, an order under subsection (9) of section 7 (as substituted by section 17 of the Solicitors (Amendment)

Act, 1994 and as amended by section 9 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960.

AND THE TRIBUNAL HEREBY ORDERS that the Law Society of Ireland do bring such finding(s) of the Tribunal in respect of the respondent solicitor before the High Court together with the report of the Tribunal to the High Court WHICH report includes the opinion of the Tribunal as to the fitness or otherwise of the respondent solicitor to be a member of the solicitor's profession, having regard to their findings(s) AND the recommendation(s) of the Tribunal as to the sanction that should be imposed, having regard to their findings in respect of the respondent solicitor and *[if applicable: having regard to finding(s) of misconduct on the part of the respondent solicitor previously made by the Tribunal [or, as the case may be: the Disciplinary Committee] on [insert date of such previous finding(s)] (which were not rescinded by the High Court) in respect of the respondent solicitor and [if applicable: to the order(s) made by the High Court on [insert date(s) of order(s)] in respect of the respondent solicitor].*

SIGNED on behalf of the Tribunal this day of 20..... by *[insert the name of the chairman of the division or, as the case may be, the names of the other two members who is/are signing the order on behalf of the Tribunal]*

.....
[Signature(s) of the chairman of the Tribunal or, as the case may be, of the other two members of the division].

FORMDT9

**FORM OF APPLICATION BY A SOLICITOR FOR THE REMOVAL OF HIS OR
HER NAME FROM THE ROLL OF SOLICITORS
[Rule 22]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of an application by *[insert name of applicant]*, a solicitor, to have his/her name removed from the Roll of Solicitors

And in the matter of the Solicitors Acts, 1954 to 2011

TAKE NOTICE that I *[insert name of applicant]*, a solicitor, of *[insert applicant's address as appearing in the Register of Practising Solicitors or , if none, his or her place of residence]* HEREBY APPLY to the Solicitors Disciplinary Tribunal ("the Tribunal") to have my name removed from the Roll of Solicitors.

AND TAKE NOTICE that I make this application to the Tribunal for the following reason(s) *[set out the reason(s) for the application]* AND I refer to my affidavit sworn the day of 20..... which accompanies this application.

Dated this day of 20.....

Signature of applicant:
Address:
.....

To: The Tribunal Registrar
Solicitors Disciplinary Tribunal
The Friary
Bow Street
Dublin 7

And: The Registrar of Solicitors
Law Society of Ireland
Blackhall Place
Dublin 7

FORMDT10

***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]***

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of an application by *[insert name of applicant]*, a solicitor, to have his/her name removed from the Roll of Solicitors

And in the matter of the Solicitors Acts, 1954 to 2002

I *[insert name of applicant]* of *[insert address and present occupation of applicant]*, aged 18 years and upwards, MAKE OATH and say as follows:

1. I was admitted as a solicitor in Term 19...../20..... and last practised as such at *[insert applicant's address as appearing in the Register of Solicitors or, if none, his or her place of residence]*.
2. I say that the reason(s) set out in my application to the Solicitors Disciplinary Tribunal ("the Tribunal") dated *[insert date of application]* to have my name removed from the Roll of Solicitors is/are true and correct.
3. I further say that nothing in subsection (1) of section 49 (as substituted by section 61 of the Solicitors (Amendment) Act, 1994 and as amended by section 2 of the Solicitors (Amendment) Act, 2002) of the Solicitors Act, 1954 (relating to when the Law Society of Ireland can direct the Registrar of Solicitors to issue, or to issue subject to conditions, or to refuse to issue, a practising certificate) or in section 51 of the Solicitors Act, 1954 (relating to the adjudication in bankruptcy of a solicitor), would apply to me if I was now, or within the immediately preceding period of two years, applying to the Society for a practising certificate.
4. (a) I am not aware of, and do not know of any conduct on my part that would give cause for a complaint of misconduct, within the meaning of section 3 (as amended by section 24 of the Solicitors (Amendment) Act 1994 and as further amended by section 7 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960, and section 14B (as amended by section 41 of the Solicitors (Amendment) Act 2008) of the Solicitors (Amendment) Act 1994, to be made against me.

(b) I do not make this application to the Tribunal for the purpose of evading any adverse application concerning me (whether to the Tribunal or to the Law Society of Ireland or to any other statutory body or to a court), or of defeating or delaying any claim against me (whether made to the Tribunal or to the Law Society of Ireland or to any other statutory body or to a court), in my capacity as a solicitor.

- (c) I say that clients' moneys and trust moneys for which I have been and am now accountable have been dealt with in accordance with the Solicitors Accounts Regulations No. 2 of 1984 (S.I. No 304 of 1984), the Solicitors Accounts Regulations, 2001 (S.I. No 421 of 2001) and the Solicitors Accounts Regulations, 2014 (S.I. No. 516 of 2014).

Sworn by the said [*insert name of deponent*]

at

in the City/County of

this day of 20....

before me a Practising Solicitor/
Commissioner for Oaths and

(a) I know the Deponent or,

(b) the Deponent has been identified to
me by who is known
to me and who has certified his/her
personal knowledge of the Deponent
or,

(c) the identity of the Deponent has been
identified to me by reference to:

PRACTISING SOLICITOR/
COMMISSIONER FOR OATHS

FORMDT11

**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)]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of an application by *[insert name of applicant]*, a solicitor, to have his/her name removed from the Roll of Solicitors

And in the matter of the Solicitors Acts, 1954 to 2011

TAKE NOTICE that I *[insert name of objector]* of *[insert address and present occupation of the objector]* HEREBY OBJECT to the granting by the Solicitors Disciplinary Tribunal ("the Tribunal") of the application of *[insert name of applicant]*, a solicitor, to have his/her name removed from the Roll of Solicitors.

AND TAKE NOTICE that the ground(s) of my objection is/are as follows *[set out the ground(s) of the objection]*.

[If applicable] AND TAKE FURTHER NOTICE that the following documents are furnished by me to the Tribunal in support of the aforesaid ground(s) of my objection, namely: *[specify the date and description of each document being furnished to the Tribunal]*.

Dated this day of 20.....

Signature of Objector:

To: The Tribunal Registrar
Solicitors Disciplinary Tribunal
The Friary
Bow Street
Dublin 7

And to: *[insert name and address of the applicant]*

[NOTE: If the Objector is not the Registrar of Solicitors, a copy of this Notice must be furnished by the objector to the Registrar of Solicitors, Law Society of Ireland, Blackhall Place, Dublin 7]

FORMDT12

**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)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of an application by *[insert name of applicant]*, a solicitor, to have his/her name removed from the Roll of Solicitors

And in the matter of the Solicitors Acts, 1954 to 2011

To: *[insert name and address of applicant]*

TAKE NOTICE that:

1. An application by you dated the day of 20..... to have your name removed from the Roll of Solicitors was received by the Tribunal on the day of 20.....
2. On their consideration of your application and *[if applicable: the objection(s) of the Registrar of Solicitors and/or the objection(s) of the following (other) person(s): [specify the name(s) of the objector(s)]*] the Tribunal, being of opinion that your application should not be granted without an inquiry and without making a report to the High Court, have ordered on the day of 20..... that an inquiry by the Tribunal should be held.
3. As Tribunal Registrar, I have now designated day the day of 20..... at o'clock in the noon at *[specify place of inquiry]* for such the inquiry by the Tribunal.

AND TAKE NOTICE of the following:

- (a) that you should appear personally, even where you are represented by a solicitor or by a solicitor and counsel;
- (b) *[if applicable]* that copies of the documents as furnished to me by *[name(s) of objector(s)]* in pursuance of such objection(s) to your application are furnished to you herewith and you may inspect at the Tribunal's offices, by prior arrangement, originals of such documents so furnished and if you require further copies of such documents, they will be furnished to you on request, subject to payment by you of reasonable copying charges;
- (c) that if you fail to appear personally, even where you are represented by a solicitor or by a solicitor and counsel, the Tribunal may proceed with the inquiry in your absence or may adjourn the inquiry on such terms as the Tribunal think fit; and

(d) that you are requested to acknowledge receipt of this Notice without delay.

Dated this day of 20.....

Signed:

Tribunal Registrar
The Friary
Bow Street
Dublin 7

Copy to: Registrar of Solicitors, Law Society of Ireland, Blackhall Place, Dublin 7

FORMDT13

**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)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of an application by *[insert name of applicant]*, a solicitor, to have his/her name removed from the Roll of Solicitors

And in the matter of the Solicitors Acts, 1954 to 2011

WHEREAS:

- (a) The Tribunal received an application dated the day of 20..... from *[insert name of applicant]* (“the applicant”) of *[insert address of applicant]* under section 9 of the Solicitors (Amendment) Act, 1960 to have his/her name removed from the Roll of Solicitors, accompanied by an affidavit of the applicant sworn the day of 20.....
- (b) The said application and affidavit of the applicant were considered at a meeting of the Tribunal held on the day of 20..... at which the following members of the Tribunal were present: *[set out the members of the Tribunal present and who was chairman]*.
- (c) The Tribunal, upon such consideration of the application and affidavit of the applicant AND on there being no objection to the application by the Registrar of Solicitors or by any other person interested AND having considered that the personal attendance of the applicant before them was not required *[or, if applicable: having heard the applicant on he/she personally attending before them]*, are of opinion that the application should be granted without an inquiry and without making a report to the High Court.
- OR
- (c) The Tribunal, upon such consideration of the application and affidavit of the applicant and *[if applicable: the objection(s) of [insert names of objector(s)] and the document(s) furnished to the Tribunal Registrar therewith]* AND being of opinion that the application should not be granted without an inquiry and without making a report to the High Court, ordered on the day of 20..... that an inquiry be held AND, following notice to the applicant and to the Registrar of Solicitors and *[if applicable: to [insert name(s) of objector(s)]]*, a division of the Tribunal comprising *[specify the names of the three members of the division and who was chairman]* held an inquiry in relation to the application on the day of 20..... *[or, as the case may be: commencing on the day of 20..... and continuing on the following dates, concluding on the last said date, namely [specify each continuing date]]* AND the person(s) attending the inquiry were *[specify name*

of applicant and, if applicable, the name of each objector who attended the inquiry] AND the appearances at the inquiry were as follows: [specify the name of the solicitor and, if applicable, the counsel, appearing for the applicant and, if applicable, for any objector(s)].

NOW the Tribunal HEREBY ORDERS that the application of the applicant to have his/her name removed from the Roll of Solicitors be GRANTED with effect from the date set out below.

OR

NOW the Tribunal, having considered the documentary evidence and the oral evidence and submissions received by the Tribunal at the inquiry (details of which documentary evidence and the witness(es) who gave oral evidence being set out in the Schedule hereto) HEREBY ORDERS that the application of the applicant to have his/her name removed from the Roll of Solicitors be GRANTED/REFUSED [*delete, as appropriate*].

SCHEDULE [*where inquiry is held*]
of

the documentary evidence received at the inquiry and the name(s) of the witness(es) who gave oral evidence at the inquiry

Details of documentary evidence received: [*specify each item of documentary evidence received at the inquiry*]

Details of witnesses who gave oral evidence: [*specify the name of each witness who gave evidence at the inquiry*]

SIGNED on behalf of the Tribunal this day of 20..... by [*insert the name of the chairman of the division or, as the case may be, the names of the other two members who is/are signing the report on behalf of the Tribunal*]

.....
[*Signature(s) of the chairman of the division of the Tribunal or, as the case may be, of the other two members of the division*]

FORMDT14

**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)]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of an application by *[insert name of applicant]*, a solicitor, to have his/or her name removed from the Roll of Solicitors

And in the matter of the Solicitors Acts, 1954 to 2011

The Solicitors Disciplinary Tribunal (“the Tribunal“) HEREBY REPORT to the High Court pursuant to section 9 of the Solicitors (Amendment) Act, 1960, as follows:

1. An application by *[insert name of applicant]* (“the applicant“) dated the day of 20..... to have his/her name removed from the Roll of Solicitors was received by the Tribunal on the day of 20....., accompanied by (an) affidavit(s) of the applicant sworn on the day of 20.....
2. On their consideration of the application and the accompanying affidavit(s) of the applicant and *[if applicable: the objection(s) of [specify the name(s) of the objector(s)]*, the Tribunal, being of opinion that the application should not be granted without an inquiry and without making a report to the High Court, ordered on the day of 20..... that an inquiry should be held.
3. The Tribunal Registrar then designated day the day of 20..... at o'clock in the noon at *[specify place of inquiry]* for the inquiry and gave notice of such date, time and place to the applicant and *[if applicable: to each objector, namely: [insert name(s) of objector(s)]* **AND** *[if applicable: the Tribunal directed the applicant to give public notice of the application by means of [specify manner of giving public notice, by advertisement or otherwise]*, which the applicant duly gave.
4. A division of the Tribunal comprising *[specify the names of the three members of the division and who acted as chairman]* held an inquiry in relation to the application on the day of 20..... *[or, as the case may be: commencing on the day of 20..... and continuing on the following dates, concluding on the last said date, namely [specify each continuing date of the inquiry]]*.
5. The person(s) attending the inquiry were *[specify name of applicant and, if applicable, the name of each objector who attended the inquiry]*.

6. The appearances at the inquiry were as follows: *[specify the name(s) of the solicitors, counsel, appearing for the applicant and, if applicable, appearing for any objector(s)]*.
7. (a) The following is a summary of the matters set out in the application and deposed to in the affidavit(s) furnished to the Tribunal by or on behalf of the applicant and *[if applicable: the documents exhibited thereto]* and *[if applicable: the correspondence and/or other documents relating to the application furnished to the Tribunal on behalf of the applicant prior to the commencement of the inquiry]*: *[set out a summary of the matters presented by the applicant as the basis of his/her application]*.
- (b) *[If applicable]* The following further matters relating to the application, but not referred to in the application or in the accompanying affidavit(s) of the applicant and *[if applicable: the documents exhibited thereto and/or the correspondence and/or other documents]* furnished by or on behalf of the applicant to the Tribunal, were put before the Tribunal at the inquiry itself *[set out a summary of these further matters]*.
- (c) *[If applicable]* The following further matters relating to the application were put before the Tribunal prior to or at the inquiry itself by *[insert name(s) of objector(s) to the application and set out a summary of those further matters]* AND the Tribunal inquired into these further matters, with/without *[delete, as appropriate]* objection from the applicant, after allowing an adjournment of days to enable the applicant to consider it/them *[or, as the case may be: the Tribunal, on being of opinion that the applicant would not be prejudiced by the Tribunal inquiring into them forthwith, inquired into those further matters, with/without [delete, as appropriate] objection from the applicant]*.
8. The applicant was admitted as a solicitor in the Term 19...../20..... and last practised as such at *[insert applicant's practice address as appearing in the Register of Practising Solicitors]*; the last practising certificate held by the applicant being for the practice year ending 31 December 20.....
9. The oral evidence and the oral submissions received by the Tribunal at the inquiry are set out in the verbatim transcript of the inquiry accompanying this report; and the documentary evidence received and the name(s) of the witness(es) who gave oral evidence are set out in the Schedule to this report.
10. Following such inquiry, the Tribunal were of opinion that the application should be granted and have ordered that the name of the applicant be removed from the Roll of Solicitors and now make their report on the application to the High Court.
- OR

10. Following such inquiry, the Tribunal were of opinion that the application should be granted/refused *[delete, as appropriate]* and the Tribunal have so ordered and now make their report on the application to the High Court.
11. *[If applicable]* The Tribunal, having by order refused the application, have requested the Law Society of Ireland to investigate the following matter(s) arising from the objection(s) of *[insert name(s) of objector(s)]*, which gave rise, in whole or in part, to the Tribunal being of opinion that the application should be so refused *[set out a summary of the matter(s) in question]*.

SCHEDULE

of

the documentary evidence received at the inquiry
and the name(s) of the witness(es) who gave oral evidence at the inquiry

Details of documentary evidence received: *[specify each item of documentary evidence received at the inquiry]*

Details of witnesses who gave oral evidence *[specify the name of each witness who gave evidence at the inquiry]*

SIGNED on behalf of the Tribunal this day of 20..... by *[insert the name of the chairman of the division, or, as the case may be, the names of the other two members who is/are signing the report on behalf of the Tribunal]*

.....
[Signature(s) of the chairman of the division of the Tribunal or, as the case may be, of the other two members of the division]

FORMDT15

**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]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To: *[insert name and address of deponent]*

And to:*[if not the deponent, insert name and address of applicant or respondent
solicitor, as the case may be, being the party on whose behalf the evidence has
been tendered to the Tribunal]*

TAKE NOTICE that at the inquiry concerning this application, the *[insert name of
applicant or respondent solicitor as the case may be]*, intends to CROSS-EXAMINE
[insert name of deponent] of *[insert address of deponent]* in respect of the contents of
his/her affidavit sworn on the day of 20..... which has
been tendered in evidence to the Solicitors Disciplinary Tribunal (“the Tribunal“) on
behalf of the applicant/respondent solicitor *[delete, as appropriate]*.

AND TAKE NOTICE that the said *[name of deponent]* is required to attend before
such inquiry by the Tribunal for such cross-examination at the commencement of the
inquiry on day of 20... at o'clock in the noon at
[insert place of inquiry].

AND TAKE FURTHER NOTICE that the applicant/respondent solicitor *[delete, as
appropriate]* (as the party on whose behalf the said affidavit has been tendered to the
Tribunal) is hereby required to ensure that the said deponent attends for such cross-
examination at such inquiry.

Dated this day of 20.....

Signed:
[Name of applicant or respondent solicitor, as the case may be]

Copied to: The Tribunal Registrar
The Friary
Bow Street
Dublin 7

FORMDT16

**FORM OF REQUEST TO THE TRIBUNAL REGISTRAR FOR THE ISSUE OF
A WITNESS SUMMONS
[Rule 38(a)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To: The Tribunal Registrar
The Friary
Bow Street
Dublin 7

TAKE NOTICE that, as the applicant/respondent solicitor *[delete, as appropriate]*
herein, I request the issue of a witness summons ‘ad testificandum’/‘duces tecum’
[delete, as appropriate] directed to: *[set out the full name(s) and address(es) of the
person(s) to whom the witness summons(es) is/are to be directed]* to attend the inquiry
herein to be held on day, the day of 20... at
o’clock in the noon at *[insert place of inquiry]*.

Dated this day of 20.....

Signed:
[name of applicant or respondent solicitor, as the case may be]

FORMDT17

FORM OF WITNESS SUMMONS 'AD TESTIFICANDUM'
[Rule 38(a)]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of witness]*

TAKE NOTICE that you are hereby required, pursuant to section 15 (as substituted by section 25 of the Solicitors (Amendment) Act, 1994) and amended by section 11 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act, 1960, to attend an inquiry before the Solicitors Disciplinary Tribunal ("the Tribunal") on day the day of 20..... at the hour of o'clock in the noon, at *[insert place of inquiry]* and so on from day to day until the application has been determined by the Tribunal, to give evidence on behalf of the applicant/respondent solicitor *[delete, as appropriate]*.

Signed on behalf of the Tribunal this day of 20.....

Signed:
MEMBER OF THE TRIBUNAL

FORMDT18

FORM OF WITNESS SUMMONS 'DUCES TECUM'
[Rule 38(a)]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2002

To *[insert name and address of witness]*

TAKE NOTICE that you are hereby required, pursuant to section 15 (as substituted by section 25 of the Solicitors (Amendment) Act, 1994) and amended by section 11 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act, 1960, to attend an inquiry before the Solicitors Disciplinary Tribunal ("the Tribunal") on day the day of 20..... at the hour of o'clock in the noon, at *[insert place of inquiry]* and so on from day to day until the application has been determined, by the Tribunal, to give evidence on behalf of the applicant/respondent solicitor *[delete, as appropriate]* and also to bring with you and produce at the time and place aforesaid the following documents *[set out the documents or categories of documents in question]*.

Signed on behalf of the Tribunal, this day of 20.....

Signed:
MEMBER OF THE TRIBUNAL

FORMDT19

**FORM OF NOTICE REQUESTING THE PRODUCTION FOR INSPECTION
AND THE TAKING OF COPIES OF THE ORIGINALS OF SPECIFIED
DOCUMENTS
[Rule 39(c)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of applicant or respondent solicitor, as the case may be]*

TAKE NOTICE that I *[insert the name of the applicant or respondent solicitor, as the
case may be]*, the applicant/respondent solicitors *[delete, as appropriate]* herein
HEREBY REQUESTS the production to me (or my solicitor *[insert name of
solicitor]*) for inspection and the taking of copies of the originals of the following
documents in your possession or power *[specify the date and description in numbered
sequence of each document the subject of the request]*.

Dated this day of 20.....

Signed:
[name of applicant or respondent solicitor, as the case may be]

FORMDT20

**FORM OF NOTICE RESPONDING TO A REQUEST FOR THE PRODUCTION
OF DOCUMENTS FOR INSPECTION AND THE TAKING OF COPIES
[Rule 39(d)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of applicant or respondent solicitor, as the case may be]*

TAKE NOTICE that you may inspect the documents specified in your Notice dated
the day of 20..... *[if applicable: other than the*
document(s) numbered [specify documents to which inspection is being objected] in
that Notice]] at *[insert place of inspection]* on day, the day of
..... 20..... between the hours of o'clock and o'clock.

[if applicable] AND TAKE NOTICE that I *[insert name of applicant or respondent*
solicitor, as the case may be] object to the production of the said document(s)
numbered *[specify document(s) to which inspection is being objected]* in your Notice,
for the following reason(s) *[set out the reason(s) for such objection relating to each*
document to which inspection is being objected].

Dated the day of 20.....

Signed:
[Name of applicant or respondent solicitor, as the case may be]

FORMDT21

**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 49(a)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To: Registrar of Solicitors
Law Society of Ireland
Blackhall Place
Dublin 7

TAKE NOTICE that the Solicitors Disciplinary Tribunal (“the Tribunal”) has directed that notice be hereby furnished to you of an application made by *[insert name and address of applicant]* (“the original applicant”) for an inquiry into the conduct of *[insert name of respondent solicitor]* (“the respondent solicitor”) on the ground of alleged misconduct; copies of which application and the affidavit(s) and exhibit(s) thereto and correspondence and/or other document(s) relating to or in response to such application are annexed to this notice and are specified in date and numbered sequence in the Schedule hereto.

AND TAKE NOTICE that the Law Society of Ireland is requested to consider, at its option, either:

- (1) lodging a further application to the Tribunal in respect of the respondent solicitor, or
- (2) undertaking on behalf of the original applicant the prosecution of his/her application in respect of the respondent solicitor now before the Tribunal.

AND TAKE FURTHER NOTICE that pending a response from the Law Society of Ireland to the above request, the Tribunal has adjourned the further processing of the application of the original applicant in respect of the respondent solicitor.

Dated this day of 20.....

Signed:
Tribunal Registrar
The Friary
Bow Street
Dublin 7

SCHEDULE
of
documents annexed to this Notice relating to the application of the original applicant
and the response thereto of the respondent solicitor
*[specify in date and numbered sequence the application and the affidavit(s) and
exhibit(s) thereto and correspondence and/or other document(s) relating to or in
response to the application]*

*[NOTE: A copy of this Notice and all documents annexed thereto shall, when
furnished to the Registrar of Solicitors, also be furnished to the original applicant and
to the respondent solicitor]*

FORMDT22

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 49(b)]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To: Tribunal Registrar
Solicitors Disciplinary Tribunal
The Friary
Bow Street
Dublin 7

TAKE NOTICE that the Law Society of Ireland responds to the Notice herein furnished by you on behalf of the Solicitors Disciplinary Tribunal (“the Tribunal”) dated the day of 20..... (with annexed documents) addressed to the Registrar of Solicitors, as follows:

The Law Society of Ireland shall, as soon as practicable, make a new application to the Tribunal for an inquiry under section 7 (as substituted by section 17 of the Solicitors (Amendment) Act, 1994 and as amended by section 9 of the Solicitors (Amendment) Act, 2002) of the Solicitors (Amendment) Act, 1960 into the conduct of *[insert name of respondent solicitor]* on the ground of alleged misconduct as disclosed by the documents annexed to your said Notice relating to the application made by *[insert name of original applicant]*.

OR

The Law Society of Ireland shall, as soon as practicable, undertake the prosecution of the existing application to the Tribunal of *[insert name of the original applicant]* relating to *[insert name of respondent solicitor]* as set forth in the documents annexed to your said Notice.

Dated this day of 20.....

Signed:

Registrar of Solicitors
Law Society of Ireland
Blackhall Place
Dublin 7

[Note: A copy of this Notice shall, when furnished to the Tribunal Registrar, also be furnished to the original applicant and to the respondent solicitor]

FORMDT23

***FORM OF NOTICE TO ADMIT DOCUMENTS
[Rule 52(a)]***

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of applicant or respondent solicitor, as the case may be]*

TAKE NOTICE that the above named *[insert name of applicant or respondent
solicitor, as the case may be]* (“the requesting party”) HEREBY REQUESTS you
 (“the other party”) to admit the document(s) specified in the Schedule hereto without
 formal proof of same, for the purposes of this inquiry only.

AND TAKE NOTICE that the requesting party makes this request to the other party
 for the following reason(s): *[delete, as appropriate]*

1. that the requesting party proposes to rely, as part of his/her case, on the
 specified document(s);
2. that the other party may inspect the specified document(s) at the address of the
 requesting party specified at the foot of this Notice;
3. that the other party is being requested to admit that the specified document(s):
 - (a) insofar as it/they is/are (an) original(s), was/were written; signed and
 executed as it/they purport(s) to have been; and
 - (b) insofar as it/they is/are (a) copy(ies), is/are (a) true copy(ies) of the
 original(s); and
 - (c) insofar as it/they are stated to have been served, sent or delivered,
 was/were so served, sent or delivered.

AND TAKE FURTHER NOTICE that, if the other party wishes to challenge the said
 specified document(s), or any of them, the other party shall, within not more than six
 days after the furnishing of this notice to him/her, give notice to the requesting party
 of the non-admission of such specified document(s), so challenged, that the other
 party does not admit the same and that the other party requires proof of same at the
 inquiry (or any adjournment thereof).

Dated this day of 20.....

Signed:
[insert name of requesting party]

SCHEDULE
of

documents requested to be admitted

[specify in date and numbered sequence the document(s) being requested to be admitted, stating, in each instance, whether the document is an original or a copy]

FORMDT24

**FORM OF NOTICE TO ADMIT FACTS
[Rule 52(a)]**

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of applicant or respondent solicitor, as the case may be]*

TAKE NOTICE that the above named *[insert name of applicant or respondent
solicitor]* ("the requesting party") HEREBY REQUESTS you ("the other party") to
admit as fact(s) the purported fact(s) specified in the Schedule hereto without formal
proof of same, for the purposes of this inquiry only:

AND TAKE NOTICE that the requesting party makes this request to the other party
for the following reason, namely, that the requesting party proposes to rely, as part of
the requesting party's case, on the specified purported fact(s) as being facts.

Dated this day of 20.....

Signed:
[insert name of requesting party]

SCHEDULE

*[specify in sufficient detail to be clearly understood each of the purported facts being
requested to be admitted as facts]*

FORMDT25

FORM OF NOTICE OF NON-ADMISSION OF DOCUMENTS
[Rule 52(a)]

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of the party who requested the admission]*

TAKE NOTICE that the document(s) listed in the Schedule hereto, numbered as listed
in the Schedule to your Notice to Admit Documents dated the day of
..... 20....., is/are not admitted AND that proof thereof will be
required at the inquiry herein.

Dated this day of 20.....

Signed:
[name of party refusing to admit]

SCHEDULE

*[specify in date and numbered sequence, by reference to the numbering in the
Schedule to the Notice to Admit Documents, what document(s) are not being
admitted]*

FORMDT26

***FORM OF NOTICE OF NON-ADMISSION OF FACTS
[Rule 52(a)]***

SOLICITORS DISCIPLINARY TRIBUNAL

In the matter of *[insert name of respondent solicitor]*, a solicitor

And in the matter of an application by *[insert name of applicant]* to the Solicitors
Disciplinary Tribunal

And in the matter of the Solicitors Acts, 1954 to 2011

To *[insert name and address of the party who requested the admission]*

TAKE NOTICE that the document(s) listed in the Schedule hereto, numbered as listed
in the Schedule to your Notice to Admit Facts dated the day of
..... 20..... is/are not admitted AND that proof thereof will be
required at the inquiry herein.

Dated this day of 20.....

Signed:
[name of party refusing to admit]

SCHEDULE

*[specify by reference to the numbering in the Schedule to the Notice to Admit Facts,
what purported fact(s) is/are not being admitted as facts]*

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, the Act of 2002 and the Act of 2008), 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.
- (1B) *[inserted by section 35 of the Act of 2008]* where a solicitor member of the Disciplinary Tribunal, during the course of his or her membership of the Disciplinary Tribunal, ceases to be a practising solicitor by virtue of not making an application for a practising certificate, that cesser shall not of itself-
 - (a) cause the solicitor member to cease to be a solicitor member of the Disciplinary Tribunal,
 - or
 - (b) prevent the solicitor member from continuing to serve as a solicitor member of the Disciplinary Tribunal for the remainder of his or her appointment or reappointment as a solicitor member of the Disciplinary Tribunal.
- (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 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.
- (6A) (1) For the avoidance of doubt it is hereby declared that the Society have, and always have had a power to investigate alleged misconduct by a solicitor.

- (2) If subsection (1) would, but for this subsection, conflict with a constitutional right of any person, the operation of that subsection shall be subject to such limitation as is necessary to secure that it does not so conflict but shall otherwise be of full force and effect.

(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 maybe.
- (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 and the submissions (if any) made to it by the Society under subsection (1A) of this section.
- (1A) The Society may make submissions to the High Court in relation to-
 - (a) the opinion of the Disciplinary Tribunal as to the fitness or otherwise of the solicitor to be a member of the solicitors' profession, having regard to the findings of the Disciplinary Tribunal, and
 - (b) the recommendations of the Disciplinary Tribunal as to the sanction which in the opinion of the

Disciplinary Tribunal should be imposed, having regard to their findings, to any finding of misconduct on the part of the solicitor previously made by them (or by their predecessor, the Disciplinary Committee) and not rescinded by the Court, and to any order made by the Court under *the Solicitors Acts 1954 to 2008* in respect of the solicitor.

- (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 duration of time, to be fixed by the Court;
- (iv) 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 his firm, or

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

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

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

[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 section 18 or 21 of the Principal Act, of any act, being an act purported to have been authorised to be done by such section,
- (b) the making to the High Court by the Disciplinary Committee of a report under section 7 or 9 of this Act 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.

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

- 14A. For the avoidance of doubt it is hereby declared that the power of the Society to investigate alleged misconduct by a solicitor may be exercised whether or not the Society receive a complaint in relation to the solicitor.
- 14B. Notwithstanding anything in this Part the issue by a solicitor of a bill of costs that is excessive may constitute misconduct.
- 14C. The registrar may make a complaint to the Society in

relation to a solicitor alleging-

- (a) a contravention by the solicitor of any provision of the *Solicitors Acts 1954 to 2008* or any order or regulation made thereunder,
or
- (b) any conduct by the solicitor tending to bring the solicitors' profession into disrepute.

(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 within his procurement legally required by the Disciplinary Tribunal to be produced or discovered under oath by him, or to answer any question to which the Disciplinary Tribunal may legally require an answer, or

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

the person shall be guilty of an offence.

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

(4) (a) A person guilty of an offence under this section shall be liable –

(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.

- 18A (1) Where, on application by the Society in circumstances where the matter is not otherwise before the High Court, it is shown that a solicitor or any other person has refused, neglected or otherwise failed, without reasonable cause, to comply in whole or in part with an order made by the Solicitors Disciplinary Tribunal, the Court may by order direct the solicitor or other person, as the case may be, to comply in whole or in part with the order of the Solicitors Disciplinary Tribunal.
- (2) An application by the Society pursuant to subsection (1) shall be on notice to the solicitor or other person concerned unless the High Court otherwise orders.
- (3) An order of the High Court under subsection (1) may contain such provisions of a consequential nature as the Court considers appropriate.

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 –

- (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) *[inserted by section 17(a) of the Act of 2002]* Where, on the completion of an inquiry by the Disciplinary Tribunal held under section 7(3) of the Act of 1960, the Disciplinary Tribunal have –

- (a) made an order under section 7(9),
- (b) served on the Society a copy of the order pursuant to section 7(10), and
- (c) sent to the Society a copy of their report pursuant to section 7(5),

of that Act, then, subject to subsection (2) of this section, the Society may arrange to publish the order or notice of the making of the order and its effects, together with a summary of the report, in such a manner as the Society thinks fit.

(2) *[inserted by section 17(b) of the Act of 2002]* 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,

and the Society shall bring the report before the Court.

- (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, after consideration of the report of the Disciplinary Tribunal and the submissions (if any) made to it by the Society under subsection (5A) of this section 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.
- (5A) The Society may make submission to the High Court in relation to the opinion of the Disciplinary Tribunal as to the fitness of the apprentice, having regard to the finding or findings of the Disciplinary Tribunal, to be admitted as a solicitor either at any time or until the apprentice has satisfied the Society or the President of the High Court as to such fitness.
- (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.
- 19A - (1) For the avoidance of doubt it is hereby declared that the Society have a power to investigate alleged misconduct by an apprentice.
- (2) The power of the Society referred to in subsection (1) of this section may be exercised whether or not the Society receive a complaint in relation to the apprentice.
 - (3) If subsection (1) of this section would, but for the subsection, conflict with a constitutional right of any person, the operation of that subsection shall be subject to such limitation as is necessary to secure that it does not so conflict but shall otherwise be of full force and effect.
 - (4) In this section “misconduct“ has the same meaning as it has in section 19 of this Act.

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

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

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.

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.

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.

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 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

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

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 (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.