

The Solicitors Disciplinary Tribunal

Constituted under the Solicitors Act 1974

ANNEX 2

THE SOLICITORS DISCIPLINARY TRIBUNAL (APPEALS) (AMENDMENT)
RULES 2011

FOR APPROVAL

2011 No.

LEGAL PROFESSION (ENGLAND AND WALES)

**The Solicitors Disciplinary Tribunal (Appeals) (Amendment)
Rules 2011**

Made - - - - - *[Date] 2011*

Coming into force in accordance with rule 1

The Solicitors Disciplinary Tribunal in exercise of the powers conferred upon it by section 46 of the Solicitors Act 1974^(a) as applied by article 4(3) of the Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No. 2) Order 2011^(b) makes the following Rules:

PART 1

Introductory

Citation, commencement and interpretation

1. These Rules may be cited as the Solicitors Disciplinary Tribunal (Appeals) (Amendment) Rules 2011 and shall come into force on [[Date] 2011][the date on which an order comes into force designating the Law Society as a licensing authority under Part 1 of Schedule 10 to the Legal Services Act 2007 in relation to one or more reserved activities].

Amendments to the Principal Rules

2. The Solicitors Disciplinary Tribunal (Appeals and Amendment) Rules 2011^(c) are amended as follows.

Amendment to rule 1

3. In rule 1 (citation, commencement and application)—

(a) in paragraph (2)(a), omit “and”; and

(b) after paragraph (2)(b), insert—

“; and

(c) appeals to the Tribunal in respect of decisions made by the Society which are appealable under Part 5 of the 2007 Act or the Society’s licensing rules and which, by virtue of article 34(1) of the Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No. 2) Order 2011 are appeals which may be heard and determined by the Tribunal.”.

^(a) 1974 c. 47.

^(b) S.I. 2011 No. [].

^(c) S.I. 2011 No. [].

Amendment to rule 2

4. In rule 2 (interpretation)—

- (a) in the definition of “appeal”, for “or a section 44E appeal” substitute “, a section 44E appeal or a licensing appeal”;
- (b) insert the following after the definition of “direction”—
“a “licensing appeal” means an appeal of the type mentioned in rule 1(2)(c);”;
- (c) insert the following after the definition of “the Society”—
““the Society’s licensing rules” means licensing rules made by the Society under section 83 of the 2007 Act (licensing rules);”
- (d) insert the following after the definition of “solicitor members” and “lay members”—
“a “Stay” means a prohibition on the respondent implementing the decision in respect of which an appeal is made;”.

Amendment to rule 6

5. In rule 6 (notice of appeal)—

- (a) after paragraph (4)(h), insert—
“(ha) any application for an order for a Stay, if the appellant is allowed to make such an application under the Society’s licensing rules;”;
- (b) after paragraph (4), insert—
“(4A) In the case of a licensing appeal made under the Society’s licensing rules, if no time limit for the making of an appeal is prescribed under those rules, the notice of appeal must be sent or delivered so that it is received by the Tribunal no later than the date on which expires the period of 28 days beginning with the date on which the appellant was notified in writing of the decision which is the subject of the appeal.”.

Amendment to rule 10

6. In rule 9 (directions and case management), after paragraph (b), insert—

- “(ba) hear any application for an Order for a Stay;”

Signed by authority of the Solicitors Disciplinary Tribunal

Jeremy Barnecutt
President

[*][th][st] [Month] 2011

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules amend the Solicitors Disciplinary Tribunal (Appeals and amendment) Rules 2011 (“the principal rules”) so as to extend their scope to include appeals made to the Solicitors Disciplinary Tribunal in respect of decisions of the Law Society under Part 5 of the Legal Services Act 2007 (alternative business structures) and licensing rules made by the Society under Part 5 of that Act. The principal rules already cover appeals made to the Tribunal in relation to decisions made by the Society under section 44D of the Solicitors Act 1974 and paragraph 14C of Schedule 2 to the Administration of Justice Act 1985.

The principal rules make provision about the following, in particular—

- (1) the constitution of appeals panels,
- (2) procedure and rules of evidence,
- (3) other miscellaneous matters.