

## Investigation of possible breaches of standards of prescribed accountancy bodies

934. (1) In this section—

“client” includes an individual, a body corporate, an unincorporated body of persons and a partnership;

“relevant person”, in relation to an investigation of a member of a prescribed accountancy body, means—

(a) a member of the prescribed accountancy body;

(b) a client or former client of such member;

(c) if the client or former client is a body corporate, a person who is or was an officer, employee or agent of the client or former client;

(d) the prescribed accountancy body or a person who is or was an officer, employee or agent of that body; or

(e) any person whom the Supervisory Authority reasonably believes has information or documents relating to the investigation other than information or documents the disclosure of which is prohibited or restricted by law.

(2) If, in the Supervisory Authority's opinion, it is appropriate or in the public interest to undertake an investigation into a possible breach of a prescribed accountancy body's standards by a member, the Authority may do so—

(a) following a complaint, or

(b) on its own initiative,

but no investigation may be undertaken into a matter that is or has been the subject of an enquiry under section 933 relating to that member except with the permission of the court granted on application under section 933 (4).

(3) For the purposes of an investigation under this section, the Supervisory Authority may require a relevant person to do one or more of the following:

(a) produce to the Supervisory Authority all books or documents relating to the investigation that are in the relevant person's possession or control;

(b) attend before the Supervisory Authority;

(c) give the Supervisory Authority any other assistance in connection with the investigation that the

relevant person is reasonably able to give.

(4) For the purposes of an investigation under this section, the Supervisory Authority may—

- (a) examine on oath, either by word of mouth or on written interrogatories, a relevant person,
- (b) administer oaths for the purposes of the examination, and
- (c) record, in writing, the answers of a person so examined and require that person to sign them.

(5) The Supervisory Authority may certify the refusal or failure to the court if a relevant person refuses or fails to do one or more of the following:

(a) produce to the Supervisory Authority any book or document that it is the person's duty under this section to produce;

(b) attend before the Supervisory Authority when required to do so under this section;

(c) answer a question put to the person by the Supervisory Authority with respect to the matter under investigation.

(6) On receiving a certificate of refusal or failure concerning a relevant person, the court may enquire into the case and after hearing any evidence that may be adduced, may do one or more of the following:

(a) direct that the relevant person attend or re-attend before the Supervisory Authority or produce particular books or documents or answer particular questions put to him or her by the Supervisory Authority;

(b) direct that the relevant person need not produce particular books or documents or answer particular questions put to him or her by the Supervisory Authority;

(c) make any other ancillary or consequential order or give any other direction that the court thinks fit.

(7) If the Supervisory Authority finds that the member committed a breach of the prescribed accountancy body's standards, the Supervisory Authority may impose on the member any sanction to which the member is liable under the approved constitution and bye laws of the prescribed accountancy body (including a monetary sanction) and—

(a) the fact of a sanction having been imposed on the member by the Supervisory Authority shall be disclosed by the Authority to the public and that disclosure shall include—

(i) in a case where the member is making an appeal to the court against the decision of the Supervisory Authority, an indication that that is so, and

(ii) if the Supervisory Authority considers it appropriate, such further particulars with respect to the

matter as it thinks fit,

and

(b) section 941 has effect as regards requiring, in certain circumstances, an application to be made to the court for confirmation of the imposition of the sanction referred to in this subsection.

(8) The manner of a disclosure under subsection (7), and the time at which it is made, shall be such as the Supervisory Authority determines to be appropriate.

(9) The costs incurred by the Supervisory Authority in investigating and determining a matter under this section (other than any costs of or incidental to an enquiry by the court under subsection (6)) shall be defrayed by the prescribed accountancy body whose member has been the subject of the investigation; for the purposes of this subsection—

(a) the Supervisory Authority may prescribe by regulations that specified procedures and methods of calculation shall apply in the determination of the amount of costs so defrayed by it and prescribe by regulations requirements otherwise as to the liability of the prescribed accountancy body for, and the manner in which it shall pay, that amount, and

(b) in default of payment of that amount to the Supervisory Authority, the Authority may recover that amount as a simple contract debt in any court of competent jurisdiction.

(10) The member who is the subject of a decision made by the Supervisory Authority under subsection (7) may appeal to the court against the decision.

(11) An appeal under subsection (10) shall be brought within 3 months after the date on which the member concerned was notified by the Supervisory Authority of its decision.

(12) The production of any books or documents under this section by a person who claims a lien on them does not prejudice the lien.

(13) Any information produced or answer given by a member of a prescribed accountancy body in compliance with a requirement under this section may be used in evidence against the member in any proceedings whatsoever, save proceedings for an offence (other than perjury in respect of such an answer).

(14) A finding or decision of the Supervisory Authority under this section is not a bar to any civil or criminal proceedings against the member who is the subject of the finding or decision.