

DRAFT SOLICITORS' PRACTICE (AMENDMENT) REGULATIONS

The Council of the Law Society of Northern Ireland, in exercise of the powers conferred on them by Article 40A, 74(1) and 75(1) of the Solicitors' (Northern Ireland) Order 1976 and all other powers enabling them in that behalf, and with the concurrence of the Lord Chief Justice of Northern Ireland, and of the Department of Justice, given after consultation with the Attorney General hereby makes the following Regulations:

- 1.1** These Regulations relate to the duty imposed by Article 40A of the Order on solicitors to advise a client as to representation in court in certain circumstances.
- 1.2** These Regulations shall be cited as the Solicitors' Practice (Amendment) Regulations.
- 1.3** These Regulations shall come into operation on the day of .

- 2.1** In these Regulations unless the context otherwise requires:-

“authorised solicitor” means a solicitor who holds an authorisation under Article 9A of the Order to have the same right of audience in any proceedings in the High Court or Court of Appeal as counsel in those courts;

“Higher Courts” means the High Court and the Court of Appeal;

“the Council” means the Council of the Society;

“the Order” means the Solicitors' (Northern Ireland) Order 1976 as amended;

“Society” means the Law Society of Northern Ireland.

- 2.2** The Interpretation Act (NI) 1954 applies to the interpretation of these Regulations as applies to a statutory instrument.

3. Duty to advise

- 3.1** The Solicitors' Practice Regulations 1987 shall be amended by the addition after Regulation 8C of the following new Regulation

“8D Where it appears to a solicitor that a client requires, or is likely to require, legal representation in any proceedings in the Higher Courts and

either

- (i) that solicitor is minded to arrange for another solicitor who is an authorised solicitor to provide that representation;

or

- (ii) that solicitor is an authorised solicitor and is minded to provide that representation; and in representing that client in the Higher Courts, a solicitor would need to exercise the right of audience granted by Article 9A of the Order,

the solicitor must advise the client in writing—

- a) of the advantages and disadvantages of representation by an authorised solicitor and by counsel, respectively; which advice, subject to the foregoing generality, shall cover:
 - (i) the gravity and complexity of the case;
 - (ii) the nature of the practice, including specialisation, and experience of the authorised solicitor and counsel respectively; and
 - (iii) the likely cost of instructing an authorised solicitor and counsel respectively.
- b) that the decision as to whether an authorised solicitor or counsel is to represent the client is entirely that of the client.

4. Contravention

- 4.1** If a solicitor contravenes Regulation 8D, any person may make a complaint in respect of the contravention to the Solicitors' Disciplinary Tribunal.