

Solicitors' (Property Selling) Practice Regulations 1990

The Council of the Law Society of Northern Ireland, in exercise of the power conferred on it by Articles 74(1) and 75(1) of the Solicitors' (N.I.) Order 1976 and all other powers enabling it in that behalf and with the concurrence of the Lord Chief Justice of Northern Ireland, hereby makes the following regulations for the purposes mentioned in Article 26(1) of the said Order:

1. These regulations may be cited as the Solicitors' (Property Selling) Practice Regulations 1990 and shall come into force on the 30th day of November 1990.
2. (1) The Interpretation Act (N.I.) 1954 shall apply to the interpretation of these regulations as it applies to a statutory instrument.
 - (2) (a) "joint property selling practice" shall mean any practice established by more than one firm of solicitors for the purpose of property selling.
 - (b) The "Principal Regulations" shall mean the Solicitors' Indemnity Regulations 1976; the Solicitors' Compensation Fund Regulations 1976; the Solicitors' Accounts Regulations 1985; the Solicitors' Practice Regulations 1987; the Solicitors' (Advertising) Practice Regulations 1989; the Solicitors' (Public Relations) Practice Regulations 1989; the Solicitors' (Incorporated Practice) Regulations 1990 and all amendments thereto.
 - (c) "property selling practice" shall mean any practice established by a solicitor for the purpose of property selling and whether without prejudice to the generality of the foregoing, operated as an estate agency; a property centre; a property display centre; or a property registration facility and whether through his existing practice or a separate practice established for that purpose and either as a sole practitioner or jointly with other practitioners or firms of solicitors.
 - (d) "solicitor" shall mean a Solicitor of the Supreme Court and shall include a firm of solicitors.
- (3) References in these regulations to property selling or to property selling practice shall include reference to joint property selling or joint property selling practices.
3. (1) Property selling is work which a solicitor may properly carry on in the course of his practice as a solicitor and as such is subject to these Regulations and the Principal Regulations.

(2) Where a solicitor has been carrying on property selling in the course of his practice prior to the introduction of these regulations, he shall, within three months of their coming into force, take such steps as are necessary to ensure compliance with these regulations.

4. Regulation 19 of the Solicitors' Practice Regulations 1987 is hereby extended to read:—

19 (1) Subject as hereinafter provided, a solicitor shall not act for both vendor and purchaser on a transfer of land for value at arm's length or for both lessor and lessee on the grant of lease for value at arm's length.

(2) Provided no conflict of interest appears and the vendor and/or lessor is not a builder or developer selling or leasing as such this regulation shall not apply if:

(a) the parties are associated companies; or

(b) the parties are related by blood, adoption or marriage; or

(c) both parties are established clients and both parties have been informed in writing that:—

(i) the solicitor is acting for both parties; and

(ii) no conflict of interest appears to the solicitor at the time of receipt of instructions; and

(iii) in the event of such a conflict of interest arising the solicitor will be unable to continue acting for either party in the transaction; or

(d) on a transfer of the land the consideration is less than £3,000; or

(e) one of the parties is the Northern Ireland Co-Ownership Housing Association;

(3) Notwithstanding the provisions of paragraph (2) hereof a solicitor shall not in any circumstances act for the purchaser on the transfer of land for value at arm's length or for the lessee on a grant of lease for value at arm's length where he or a solicitor practising in a joint property selling practice with him is instructed to negotiate the sale of the property concerned.

5. For the purposes of the Regulations — Regulation 22 of the Solicitors' Practice Regulations shall be amended to read:—

“A solicitor shall ensure that every office where he carried on property selling is and can reasonably be seen to be, properly supervised and that every such office is managed either by a solicitor holding a practising certificate or by

an employee who has demonstrable and relevant experience either in property selling, estate agency of financial services or who has been continuously employed as a law clerk in a solicitors' office for not less than fifteen years; and that such solicitor or employee is normally in attendance at that office during the hours when it is open to the public."

6. (a) Where a joint property selling practice has been established, the names of the participating firms of solicitors shall be clearly and publicly displayed in each place of business and details thereof shall be available in writing at the main offices of the practice.
 - (b) Unless all the firms of solicitors, belonging to or eligible to belong to the local solicitors' association in a locality where there is a joint property selling practice, are involved in that practice no reference shall be made to the locality in the practice name.
 - (c) No reference to a property selling practice shall describe it by use of the definite article. Any reference must use the indefinite article.
7. (1) Where a composite fee is quoted for a package of property selling and conveyancing services (and/or some other service) the solicitor must be willing and able, if required:—
 - (a) to quote separate fees for the individual services (which separate fees may not total more than the composite fee); and
 - (b) to carry out any one of those services on the basis of such separate fees.
 8. The Council shall have the power to waive, in writing, any of the provisions of these Regulations and to revoke any such waiver in any particular case or cases.

Made by the Council on the 1st day of December 1990.

