

SOLICITORS (ADVERTISING, PUBLIC RELATIONS AND MARKETING) PRACTICE REGULATIONS 1997 (AS AMENDED)

The Council of the Law Society of Northern Ireland, in exercise of the power conferred on them by Articles 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 hereby make the following regulations for the purposes mentioned in Article 26(1) of the said Order:

1. (1) These Regulations may be cited as the Solicitors (Advertising, Public Relations and Marketing) Practice Regulations 1997.
- (2) These Regulations shall come into operation on 1st day of December 1997¹.
2. (1) In these Regulations, unless the context otherwise requires: -
 - "the Order" means the Solicitors (Northern Ireland) Order 1976;
 - "the Council" means the Council of the Society;
 - "practice" means professional practice of a solicitor and includes any area of practice;
 - "Practice Regulations" means the Solicitors Practice Regulations 1987 subject to any amendments thereof which may be made from time to time;
 - "the Secretary" means the Secretary of the Society and includes any person authorised by the Council to act on behalf of the Secretary;
 - "services" means services provided by a solicitor, and includes any part of such services;
 - "the Society" means the Law Society of Northern Ireland established under the Order;
 - "solicitor" means a solicitor of the Supreme Court and shall include a firm of solicitors, an incorporated practice or any association of solicitors;
- (2) other expressions in these Regulations shall, except where otherwise stated, have the meanings assigned to them by the Order.
- (3) The Interpretation Act (N.I.) 1954 applies to the interpretation of these Regulations as it applies to a statutory instrument.

¹ The 1997 Regulations came into force initially in December 1997 and have since been amended on several occasions, most recently to make changes effective from 1st January 2006. This is a consolidated text of the Regulations, accurate as at 1st January 2006.

3. The Solicitors (Advertising) Practice Regulations 1989 and all amendments thereto, with the exception of the Solicitors Advertising (Amendment) Regulations 1994 and the Solicitors (Public Relations) Practice Regulations 1989 and all amendments thereto are hereby repealed.
4. A solicitor may employ advertising, public relations and marketing techniques to promote his practice by any medium, including the press and electronic media, provided the content of any advertisement or public relations or marketing material or activity:-
 - (a) Is not of such a nature as to bring the profession into disrepute;
 - (b) Does not contain any inaccuracy or misleading or unjustifiable statement;
- 4A Where a solicitor publicises professional fees [whether his own fees or those of another solicitor] in any advertising, public relations or marketing media he shall express the fees clearly and in particular must make clear whether disbursements and VAT are included, and otherwise comply with the terms of Regulation 4 of these regulations
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 - (1) In the promotion of his practice a solicitor shall not make unsolicited visits or telephone calls to a member of the public.
 - (2) For the purposes of this regulation 'member of the public' does not include: a current or former client of the solicitor; another lawyer; an existing or potential professional or business connection; or a commercial organisation or public body.
5. A solicitor may identify a client or items of a client's business in advertising, public relations or marketing material produced to promote his practice provided that
 - (i) the client gives written consent
 - (ii) any such identification is not likely to prejudice the client's interests
6.
 - (1) The provisions of these regulations apply to all forms of publicity including stationery, advertisements, brochures, directory entries, media appearances, press releases promoting a practice and direct approaches to potential clients and other persons, and whether conducted in person, in writing, or in electronic form.
 - (2) A solicitor must not authorise any other person to publicise the solicitors practice in a manner which contravenes these regulations
 - (3) It shall be the responsibility of a solicitor to ensure that any publicity issued with his authority complies with these regulations, and any publicity associated with the name of the solicitor shall, unless the contrary is proved, be deemed to have been issued by that solicitor or with his authority
 - (4) A solicitor shall keep a copy of any publicity material issued by him or with his authority, together with any written instructions given by him to issue or authorise the issue of such publicity material for a period of at least twelve months from the latest date of its issue, and shall furnish copies of any such publicity material or instructions when requested to do so by the Society

7. (a) Where an advertisement or public relations material of or by a solicitor is deemed by the Council to contravene these Regulations the Council will require the solicitor in writing to immediately or by a given future date, withdraw, terminate or cancel the advertisement;
- (b) It shall be the duty of a solicitor to comply fully with any notice duly given to him under this Regulation. A solicitor aggrieved by the terms of any such notice may, within fourteen days of the date thereof, make written representations to the Council, which shall, within two calendar months of the receipt of such representations, either confirm or withdraw said notice, provided that should the Council neither confirm nor withdraw said notice within said period, said notice will be deemed to have been withdrawn at the expiry thereof.



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GUIDANCE NOTES

1. The broad principle underpinning the 1997 Regulations is that solicitors are generally free to publicise their practice as solicitors, subject only to the requirements of the general law and the terms of the 1997 Regulations.
2. It is generally recognised that in the delivery of professional services there can be an imbalance of knowledge between clients and potential clients on the one hand and the service provider on the other. In terms of publicity, the purpose of the 1997 Regulations and these Guidance Notes is to allow solicitors freedom to publicise and promote their practices while providing appropriate safeguards for the consumers of solicitors services; for example by prohibiting misleading or inaccurate advertising.
3. Solicitors must also comply with the general law on advertising including:
 - (a) any regulations made under the Consumer Credit Act 1974, concerning the content of advertisements;
 - (b) Articles 1, 3 and 14 of the Consumer Protection (NI) Order 1987, regarding misleading price indications;
 - (c) the Control of Misleading Advertisements (Amendment) Regulations 2000, in relation to comparative advertising;
 - (d) the Data Protection Act 1998;
 - (e) E-Commerce Directive 2000/31/EC and the Electronic Commerce (EC Directive) Regulations 2002 (S.1.2002 no. 2013); and
 - (f) the Privacy and Electronic Communications (EC Directive) Regulations 2003.
4. Solicitors should also have regard to the British Code of Advertising, Sales Promotion and Direct Marketing. This is based on the main principle that media advertisements should be legal, decent, honest and truthful. (for further information see www.asa.org.uk).
5. The provisions of the regulations apply to all forms of publicity (Regulation 6 (1)) including publicity in electronic form (such as e-mails and websites).
6. The 1997 Regulations provide that publicity related to fees charging must not be misleading or inaccurate, and must be clearly expressed. The following examples are designed to secure the protection of consumers by assisting solicitors to comply with their regulatory obligations.
7. In publicising fees, care should be taken:
 - (a) to make clear whether the publicised fees are fixed or estimated;

- (b) when publicising fees which are reduced by the availability of commission, any fee publicised in these circumstances should be the gross fee;
- (c) offers of discounts can be misleading if there are no clear rates of charges included. Similarly, if services are publicised as being “free” this should genuinely be the case and should not be conditional upon some other factor (e.g. receiving further instructions).

8. The following are examples of publicity on conveyancing services which may breach the 1997 Regulations:

- (a) Publicity which includes an estimated fee pitched at an unrealistically low level;
- (b) Publicity which refers to an estimate or fixed fee plus disbursements, if expenses which are in the nature of overheads (such as normal postage and telephone calls) are then charged as disbursements, unless the publicity explicitly states that such charges will be made; and
- (c) Publicity which includes an estimated or fixed fee for conveyancing services, if additional charges are then made for work on a related mortgage loan or repayment, including work done for a lender, unless the publicity makes it clear that any such additional charge may be payable (e.g. by the use of a phrase like “excluding VAT, disbursements, mortgage related charges and fees for work done for a lender”).

9. Finally the 1997 Regulations do not affect the operation of other relevant legal obligations or regulatory requirements. For example, the fact that fees may have been advertised does not mean that the standard form of quotation prescribed by the Law Society in conveyancing matters does not need to be provided to the client on receipt of instructions. Obviously care should be taken to ensure that the information provided by way of the standard form is consistent with the publicised charges.

Law Society of Northern Ireland

5th January 2006