



STATUTORY INSTRUMENTS.

S.I. No. 239 of 2020



SOLICITORS ACTS 1954 TO 2015 (REGULATION OF PRACTICE
COMMITTEE) REGULATIONS 2020

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THE LAW SOCIETY OF IRELAND, in exercise of the powers conferred on them by Sections 5 and 66 (as substituted by Section 76 of the Solicitors (Amendment) Act 1994 and as amended by Section 182 of the Legal Services Regulation Act 2015) of the Solicitors Act 1954 (as amended), **HEREBY MAKES** the following Regulations regulating procedure in relation to matters coming before the Committee pursuant to the Acts, the Solicitors Accounts Regulations or otherwise.

1. (a) These Regulations may be cited as the Solicitors Acts 1954 to 2015 (Regulation of Practice Committee) Regulations 2020.
- (b) These Regulations shall come into operation on the 1st day of September 2020.

2. (a) In these Regulations -

“Act of 1994” means the Solicitors (Amendment) Act 1994 (No. 27 of 1994), as amended from time to time;

“Acts” means the Solicitors Acts 1954 to 2015;

“Council” means the Council of the Society;

“Committee” means the committee of the Council of the Society to which, inter alia, various powers and functions have been delegated by the Council in relation to the Solicitors Accounts Regulations;

“Authorised Person” means a person appointed pursuant to Section 14 of the Act of 1994, as amended by Section 15 of the Solicitors (Amendment) Act 2002, and Section 197 of the Legal Services Regulation Act 2015, or an authorised person for the purposes of Section 66(10) of the Solicitors Act 1954, as substituted by Section 76 of the Act of 1994, and the Solicitors Accounts Regulations, and for the purposes of exercising any of the Society's functions under Section 63 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010;

“Society” means the Law Society of Ireland;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 7th July, 2020.*

“Solicitors Accounts Regulations” has the same meaning as in the Legal Services Regulation Act 2015.

- (b) Other words and phrases in these Regulations shall have the meaning assigned to them in the Acts.
- (c) In these Regulations, unless the context otherwise requires, the singular includes the plural.

3. These Regulations shall apply where the Committee is investigating conduct on the part of a solicitor and requires the attendance of the solicitor at a meeting of the Committee.

4. These Regulations shall be applied so as to be in conformity with the Acts and in the event of there being an apparent conflict between these Regulations and any provision or provisions of the Acts these Regulations shall be construed so as to be in conformity with the provision or provisions of the Acts.

5. These Regulations shall be construed so as to be in conformity with any delegation of power as may be made from time to time in accordance with the Acts and any Regulations made thereunder and, in particular, by the Council to the Committee and by the Committee to senior officers of the Society.

6. These Regulations are made without prejudice generally to the provisions of the Acts.

7. The Society has the power to investigate alleged misconduct whether or not the Society receives a complaint in relation to the solicitor.

8. Prior to a meeting of the Committee to which these Regulations apply, the Society shall notify the solicitor of:

- (a) the date and time of any meeting of the Committee at which the matter will be considered, the purpose of the meeting, the matters to be considered at the meeting, and the steps which may be taken by the Committee;
- (b) the fact that any failure by the solicitor to attend a meeting of the Committee when required to do so, without reasonable cause, may amount to a conduct issue.

9. A solicitor shall provide a written response to any conduct matter for consideration by the Committee, when required to do so, on or before such date in advance of the meeting as may be specified by the Society.

10. Where a solicitor requests an adjournment of the Committee’s consideration of the matter:

- (a) in all cases, the solicitor shall give reasonable notice in writing to the Society showing good and sufficient reason;
- (b) in all cases where there are sufficient medical grounds the request should be accompanied by medical evidence and the request may be refused in the absence of such medical evidence;
- (c) an adjournment request may be approved in advance of a meeting of the Committee by the Society.

11. Notwithstanding Regulations 3 and 9, if a solicitor does not, without reasonable explanation:

- (a) appear before the Committee when required to do so; and/or
- (b) provide a written response to any conduct matter within the time specified by the Society;

and in the absence of an adjournment having been granted, the Committee may deal with the matter in his/her absence on the basis of the documents already furnished and information available to the Society and in accordance with these Regulations, the Acts, the Solicitors Accounts Regulations and any other relevant legislation.

12. The Committee may seek legal opinion in relation to the investigation of a particular matter. Where it does so, it shall disclose such opinion to the solicitor and afford the solicitor an opportunity to make submissions in response to such opinion before making a decision on any matter in respect of which the opinion has been obtained.

13. The Committee may seek independent expert report(s) to assist it. Where it does so it shall disclose such report(s) to the solicitor and afford the solicitor an opportunity to make submissions in respect of such report(s), to include the opportunity to submit expert report(s) in response.

14. At each Committee meeting:

- (a) the Committee shall, where possible and in a manner consistent with fair procedures, act in an informal and expeditious manner;
- (b) subject to any express provision in these Regulations, the Committee may regulate its procedure;
- (c) a solicitor who is required to attend before the Committee may attend any such meeting personally or by legal representation or both (unless expressly required by the Committee to attend in person when the solicitor shall attend in person with or without legal representation) and shall be permitted to make oral and/or written submissions;
- (d) the meeting shall take place in private and no audio or visual recordings of the meeting shall be permitted, save that a record of the meeting (excluding any deliberations of the Committee)

may at the request of the solicitor and with the consent of the Committee, be taken by a stenographer, subject to a right of the Committee to be provided with a copy of the transcript, free of charge and at the same time as when it is delivered to the solicitor;

- (e) the Committee shall arrange for a minute to be taken (excluding any deliberations of the Committee);
- (f) where an Authorised Person has been appointed, the Authorised Person, or, where the Authorised Person is unavailable, another person nominated by the Society:
 - i. shall be in attendance at a meeting for the purpose of assisting the Committee and the solicitor concerned with any aspects of their report which require clarification and explanation,
 - ii. shall deal with any questions raised by the Committee or the solicitor concerned on any issue arising from their report,
 - iii. may only attend the meeting:
 - a) in the presence of the solicitor, where the solicitor has attended the meeting, or
 - b) where the solicitor has not attended the meeting, for that portion of the meeting in respect of which the solicitor would have been present, had they attended.
- (g) if, in the course of its deliberations, the Committee considers that an issue has arisen which requires further clarification, response or submission from the solicitor and/or the Authorised Person, the solicitor and/or the Authorised Person shall be invited to return to the meeting for further interview and/or response.

15. The Committee shall satisfy itself before making a decision:

- (a) that, where relevant, the solicitor has been notified, prior to any meeting, that the matter is being investigated as a matter of alleged misconduct;
- (b) that the solicitor has had an opportunity to consider all relevant documentation furnished to the Committee;
- (c) that the solicitor has had an opportunity, where relevant, to comment on the appropriateness, or otherwise, of the Committee:
 - (i) issuing a direction pursuant to Section 14A(3)(a) of the Act of 1994; or
 - (ii) issuing a notice pursuant to Section 14A(7)(a) of the Act of 1994; or
 - (iii) making an application for the holding of an inquiry to the Legal Practitioners Disciplinary Tribunal pursuant to Section 14A(6) of the Act of 1994; or

- (iv) taking such other steps or actions as may be available to it pursuant to the Acts, the Solicitors Accounts Regulations or otherwise; or
- (v) taking no further action.

16. The Committee shall give reasons for its decisions.

17. In accordance with its powers under the Acts, and without prejudice to the full extent of those powers, the Committee may, subject to these Regulations, exercise all of the powers under the Acts, the Solicitors Accounts Regulations or otherwise, that have been delegated to it by the Council of the Society.

Signed on behalf of the Law Society of Ireland pursuant to section 79 of the Solicitors Act 1954.

Dated this 15 day of June 2020

MICHELE O'BOYLE,

President of the Law Society of Ireland.

The Legal Services Regulatory Authority concur, pursuant to subsection (1) of Section 66 (as substituted by Section 76 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954, as amended by Section 182 of the Legal Services Regulation Act 2015, to the making of the within Regulations.

Dated this 29 day of June 2020

On behalf of the Legal Services Regulatory Authority

BRIAN DOHERTY,

Chief Executive Officer.

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