



STATUTORY INSTRUMENTS.

S.I. No. 627 of 2017



THE SOLICITORS ACTS 1954 TO 2015 (PRACTISING CERTIFICATE)
REGULATIONS 2017

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The Law Society of Ireland, in exercise of the powers conferred on them by Section 47 of the Solicitors Act, 1954 (as substituted by Section 54 of the Solicitors (Amendment) Act 1994), Section 82 of the Solicitors Act, 1954 and Section 22 of the Solicitors (Amendment) Act 1960 (as substituted by Section 30 of the Solicitors (Amendment) Act 1994) hereby make the following Regulations:

Citation and commencement

1. (a) These Regulations may be cited as The Solicitors Acts 1954 to 2015 (Practising Certificate) Regulations 2017.
- (b) These Regulations shall come into operation on the 1st day of January 2018.

Definitions

2. (a) In these Regulations, unless the context otherwise requires:

“Act of 1954” means the Solicitors Act 1954 [No.36 of 1954];

“Act of 1960” means the Solicitors (Amendment) Act 1960 [No.37 of 1960];

“Act of 1994” means the Solicitors (Amendment) Act 1994 [No.27 of 1994];

“applicant solicitor” means a solicitor required to comply with Regulation 3(a);

“application” means an application delivered to the Registrar by an applicant solicitor for a practising certificate for the practice year, pursuant to Regulation 4 of these Regulations;

“application fee” means the registration fee, the contribution to the Compensation Fund and the contribution to the Solicitors Mutual Defence Fund Limited, paid to the Society by an applicant solicitor on delivery to the Registrar of his or her application;

“Compensation Fund” means the fund maintained by the Society pursuant to Sections 21 and 22 (as substituted, respectively, by Sections 29 and 30 of the Act of 1994) of the Act of 1960;

“duly completed application” means an application which has been duly completed by the applicant solicitor in accordance with the instructions set out therein, and the Guidelines and which is accompanied by the full payment of the application fee;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th January, 2018.*

“EFT payment form” means the form made available by the Society to applicants who wish to pay the application fee by electronic funds transfer;

“Guidelines” means guidelines in respect of certificate applications as may be published by the Society from time to time;

“Law Directory” means the directory of solicitors and firms published by the Society each year;

“legal services” means services of a legal or financial nature and includes any part of such services, and for the avoidance of doubt, includes (without limitation):-

- (i) any investment business services or investment advice provided by a firm,
- (ii) acting as personal representative or trustee,
- (iii) acting as notary public,
- (iv) acting as a commissioner for oaths,
- (v) acting as liquidator or receiver,
- (vi) acting as company secretary,
- (vii) acting as director of any body corporate owned by the principals of a firm that provides trustee, nominee, administration or other services,
- (viii) acting as arbitrator or mediator,
- (ix) acting on a pro bono basis,
- (x) acting as a personal insolvency practitioner, and
- (xi) acting as an expert witness and / or providing opinions as a professional expert;

“practice year” means the calendar year ending on 31 December in any given year;

“practising certificate” means the certificate issued by the Registrar in accordance with Section 46 of the Act of 1954 certifying that the solicitor named therein is entitled to practise as a solicitor during the practice year as and from the date of the certificate;

“Registrar” means the registrar of solicitors for the time being appointed pursuant to Section 8 of the Act of 1954;

“registration fee” means the fee payable by a solicitor admitted to the Roll for three years or more on 1 January in any given year or the fee payable by a

solicitor admitted to the Roll for less than three years on 1 January in any given year;

“Regulation of Practice Committee” means the committee to whom functions of the Society pursuant to Part V of the Act of 1954, as amended and extended by Part VI of the Act of 1994, have been delegated by the Council of the Society;

“relevant date” means 1 February each year;

“relevant form” means:

- (i) the form of application for a practising certificate;
- (ii) the form of application by a solicitor in the full-time service of the state;

as may be published by the Society from time to time;

“Roll” means the roll of solicitors maintained by the Registrar under Section 9 (as substituted by Section 65 of the Act of 1994) of the Act of 1954;

“Section 61 application” means an application made under Section 49 of the Act of 1954, as substituted by Section 61 of the Act of 1994;

“Society” means the Law Society of Ireland.

“solicitor” has the meaning given in section 3 of the Solicitors Act 1954 (as substituted by section 3 of the Solicitors (Amendment) Act 1994).

- (b) Other words and phrases in these Regulations shall have the meanings assigned to them by the Solicitors Acts 1954 to 2015.
- (c) The Interpretation Act 2005 applies to the interpretation of these Regulations as it applies to the interpretation of an Act of the Oireachtas.

Requirement to hold a practising certificate

- 3. (a) Every solicitor (other than a solicitor in the full-time service of the State or a solicitor solely engaging in conveyancing services for a non-solicitor employer) who practises, or is deemed to practise, in the State shall be required to hold a practising certificate.
- (b) For the purposes of Regulation 3(a), a solicitor shall be deemed to practise as a solicitor if he or she engages in the provision of legal services.
- (c) A solicitor employed by a firm or non-solicitor employer and engaged in the provision of legal services shall be required to hold a practising certificate in accordance with Regulation 3(a) irrespective of any designations or titles assigned to that solicitor by the firm.

- (d) Every solicitor employed by a firm or non-solicitor employer is personally responsible for ensuring that he or she complies with Regulation 3(a). A claim by a solicitor that he or she relied on his or her firm to apply for a practising certificate shall not be a defence to a failure to comply with Regulation 3(a).
- (e) A practising certificate shall be the property of the solicitor, regardless of who has paid the application fee.
- (f) It shall be an offence and professional misconduct on the part of a solicitor who fails to comply with Regulation 3(a). Where a solicitor fails to comply with Regulation 3(a) the Society may take any one or more of the following actions:
 - (i) refer the matter to the Solicitors Disciplinary Tribunal;
 - (ii) make an application to the High Court;
 - (iii) report the matter to An Garda Síochána; and
 - (iv) any other action deemed appropriate by the Society.

Application for practising certificate

4. (a) An applicant solicitor shall, on or before the relevant date:

- (i) deliver or cause to be delivered, a hard copy duly completed application to the Registrar at the Society's premises at George's Court, George's Lane, Dublin 7; or
- (ii) submit or cause to be submitted to the Registrar, a duly completed application in electronic form and in such format as may be amended by the Society from time to time,

which application shall include a relevant form duly completed in accordance with the instructions set out therein and full payment of the application fee.

- (b) The Registrar shall, on receipt of an application pursuant to Regulation 4(a) of this Regulation and on the Registrar being of the opinion that there is or are no appropriate and reasonable ground or grounds for not doing so, cause to be issued to the applicant solicitor concerned a practising certificate which shall be dated either—
 - (i) 1 January in the relevant year, where issued during the period beginning on 1 January in that year and ending on the relevant date, or
 - (ii) the date on which it is issued, where issued after the relevant date.
- (c) Applications which are:
 - (i) not completed in accordance with the instructions set out therein;

(ii) not fully completed; or

(iii) submitted without full payment of the application fee;

shall be deemed incomplete and shall be returned to the applicant by the Society.

- (d) Practising certificates shall only be issued following receipt by the Society of a duly completed application and full payment of the application fee and responses (which are deemed to be reasonably satisfactory) to any query raised thereon by the Society.
- (e) Practising certificates shall be dated the date on which the Society receives the duly completed application and full payment of the application fee or a response which is deemed to be reasonably satisfactory to any outstanding queries, whichever is the later, if received after the relevant date.
- (f) Only one practising certificate shall be issued to each solicitor in any practice year.
- (g) If a solicitor's practising certificate is dated after the relevant date and that solicitor has provided legal services in that calendar year before the date of the practising certificate, an application shall be made by that solicitor to the President of the High Court to have his or her practising certificate backdated to 1 January of that year, or the date on which the solicitor commenced providing legal services. Pursuant to the provisions of Section 25(2)(b) of the Solicitors (Amendment) Act 1960 the Society shall be entitled to seek the costs associated with the application from each solicitor who applies to have his or her practising certificate backdated in accordance with this Regulation 4(g), such costs to be measured by the President of the High Court.
- (h) Only those solicitors who have submitted a duly completed application with full payment of fees due to the Society with no outstanding queries raised thereon, and whose practising certificate issues by the 16th of February shall be included in the Law Directory in respect of that year.
- (i) An applicant solicitor who has not held a practising certificate for three years or more prior to the date of an application, shall be required to make a Section 61 application at the same time as making an application for a practising certificate. Where a solicitor to whom this Regulation 4(i) applies fails to enclose a Section 61 application with the application for a practising certificate this shall result in the application being incomplete and it shall not be processed until such time as the Section 61 application is received.
- (j) An applicant solicitor shall provide written notice to the Society before the relevant date where that solicitor held a practising certificate in respect of the previous practice year but does not intend to

practise for all or part of the current practice year and such notice must include the following details:

- (i) a statement that the applicant solicitor has ceased practise or intends to cease practise during the current practice year; or
 - (ii) a statement that the applicant solicitor will not be practising in the current practice year for any reason, including unemployment, career break, change of career, emigration, sick leave or maternity leave; or
 - (iii) a statement that the applicant solicitor will not be providing legal services and will not be applying for a practising certificate until after the relevant date for any reason, including unemployment, career break, sick leave and maternity leave; and
 - (iv) a current correspondence address and email address by which the Society may contact the applicant solicitor, where necessary.
- (k) An applicant solicitor shall immediately notify the Society in writing if there is any change in his or her practising status during the practice year.
- (l) An applicant solicitor shall provide written notice to the Society, in accordance with the provisions of Section 81 of the Act of 1954, if that solicitor has changed firms during the practice year and must include in such notice the date of leaving the former firm, the date of joining the current firm and the name and address of the current firm.
- (m) An applicant solicitor is required to complete an application in accordance with the Guidelines.

Where confirmation is required as to content of an application

5. (a) The Registrar, at any time following delivery of an application to the Registrar by an applicant solicitor (whether or not a practising certificate has been issued by the Registrar to the applicant solicitor pursuant to Regulation 4(b) of these Regulations), may, where the Registrar deems it appropriate and reasonable to do so, require the applicant solicitor to confirm in writing to the Society the accuracy of all or any specified part or parts of the application.
- (b) Where, on receipt by the Society of a confirmation in writing from an applicant solicitor required by the Registrar pursuant to clause (a) of this Regulation, the Registrar deems it appropriate and reasonable to do so, the Registrar may require the applicant solicitor to attend before a meeting of the Regulation of Practice Committee to further confirm the accuracy of all or any specified part or parts of his or her application.

Misconduct of knowingly furnishing false and misleading information

6. An applicant solicitor who, in an application delivered to the Registrar, knowingly furnishes information that is false or misleading in a material respect shall be guilty of misconduct.

Registration Fee, contribution to Compensation Fund and contribution for Solicitors Mutual Defence Fund Limited

7. (a) As and from the coming into operation of these Regulations, the Registration Fee together with the contribution to the Compensation Fund and the contribution for the Solicitors Mutual Defence Fund Limited and other fees specified by Schedule 1 of these Regulations, shall be paid to the Society by an applicant solicitor on delivery to the Registrar of his or her application.
- (b) The application fee shall be paid by the applicant solicitor to the Society either by cheque, draft or by electronic funds transfer. Debit and credit card payments will only be accepted for online applications.
- (c) An applicant solicitor who intends to pay the application fee by electronic funds transfer shall complete and return the EFT payment form with the application and failure to do so shall result in the application being returned to the applicant solicitor as incomplete, notwithstanding that the application fee may have been received by the Society.
- (d) An applicant solicitor paying the application fee by electronic funds transfer shall include in the EFT payment form an identifiable specific reference, such as the firm or company name, the applicant solicitor's name or the applicant solicitor's number. Failure to include such a reference will result in the application being returned to the applicant solicitor as incomplete, notwithstanding that the application fee may have been received by the Society.
- (e) The Society shall not be responsible for any delay in processing applications where payment has been made by an applicant solicitor to an incorrect bank account of the Society. An applicant solicitor who pays the application fee by electronic funds transfer shall ensure that the application fee is paid to the bank account provided in the EFT payment form.
- (f) A solicitor shall not be required to pay a membership subscription fee where that solicitor has been admitted to the Roll for a period of at least fifty years as of 1 January in that year.
- (g) Where a solicitor who is admitted to the Roll during the course of a practice year applies for his or her first practising certificate during that practice year, the application fee shall be based on the number of full calendar months remaining in that practice year following the month of his or her admission to the Roll. That solicitor's membership subscription fee in respect of that practice year (or part thereof) shall be at the reduced rate of twenty euro (€20).

- (h) A solicitor who commences practice during the practice year on a date arising after the relevant date shall calculate the application fee based on the number of full calendar months, or any part thereof, remaining in the practice year including the calendar month in which the application for a practising certificate is made.
- (i) The Society may, in its absolute discretion, issue a refund of the application fee to a solicitor who had made an application to the Society requesting same. In order for a solicitor to be eligible to make an application for a refund of the application fee to the Society, he or she shall:
 - (i) notify the Society in writing immediately upon ceasing to practise; and
 - (ii) submit a fully completed ex gratia refund form, to be completed by the solicitor who is surrendering his or her practising certificate, together with the original practising certificate for the current practice year; and
 - (iii) make the application for a refund in the same practice year in which the solicitor ceased to practise.

Fee for copy of entry on File A or File B

8. The fee payable to the Society by a person who applies to the Registrar, pursuant to Section 17 of the Act of 1960, for a copy of an entry on File A or File B shall be as specified by Schedule 1 of these Regulations.

Collection and use of personal data

9. (a) The Society shall be entitled to collect and maintain personal data (“Personal Data”) relating to each solicitor, including but not limited to:
- (i) name,
 - (ii) practice address,
 - (iii) personal correspondence address,
 - (iv) telephone and fax number(s),
 - (v) email address,
 - (vi) academic qualifications, and
 - (vii) information concerning a solicitor arising from the carrying out by the Society of its regulatory functions under the Solicitors Acts 1954 to 2015 and regulations made thereunder, including sensitive or special categories of Personal Data such as health records and information relating to the commission or alleged commission of a criminal offence.

- (b) The Personal Data relating to a solicitor maintained by the Society may be used by the Society for administration, management, marketing, promotion of the solicitors profession and professional development purposes and in pursuance of the Society's regulatory functions. Personal Data relating to any disciplinary processes pending or not yet dismissed against a solicitor may also be provided by the Society to the Judicial Appointments Advisory Board (or relevant successor body) in respect of a solicitor who is being considered for appointment to judicial office by the Judicial Appointments Advisory Board (or relevant successor body).

Issue of duplicate practising certificate

10. Where a solicitor, to whom a practising certificate for the practice year has been issued pursuant to Regulation 4(b) of these Regulations, certifies to the Registrar that his or her practising certificate has been inadvertently destroyed, lost or mislaid, such solicitor may apply to the Society for a duplicate original of such practising certificate on duly discharging the fee specified by Schedule 1 of these Regulations and on duly undertaking to the Registrar that, in the event of the practising certificate as originally issued being subsequently found in the course of the practice year, that same practising certificate would forthwith be returned to the Registrar.

Where conditions attached to practising certificate

11. (a) Where a practising certificate for the practice year is caused to be issued by the Registrar to a solicitor subject to a specified condition or conditions, the practising certificate shall be endorsed with the words (adapted as appropriate): "Issued subject to [a] specified condition[s] as annexed" and the Registrar at the same time shall cause to be issued to the solicitor concerned a separate document (deemed to be part of the practising certificate) headed with the Society's crest and title and with the words (adapted as appropriate): "Annexe to practising certificate of [name of solicitor] of [a] specified condition[s] attached thereto and applicable as and from [date of commencement of applicability of the specified condition or conditions]" and setting out the text of each specified condition.
- (b) Where the Society gives a direction pursuant to Section 59 of the Act of 1994 that the practising certificate already issued to a solicitor for the practice year should, from a date that is 21 days after the date of receipt by the solicitor concerned of notification in writing by the Society of the giving of such direction, have effect subject to a specified condition or conditions, the solicitor shall (subject to the provisions of the said Section 59 of the Act of 1994 as to the solicitor's right of appeal to the High Court), within such period of 21 days, surrender his or her current practising certificate, and the Society shall, as soon as possible, reissue the practising certificate endorsed with the words (adapted as appropriate): "Issued subject to [a] specified condition[s] as annexed" and the Registrar at the same time shall cause to be issued to the solicitor concerned a separate document (deemed to be part of the practising certificate) headed with the

Society's crest and title and with the words (adapted as appropriate): "Annexe to practising certificate of [name of solicitor] of [a] specified condition[s] attached thereto and applicable as and from [date of commencement of applicability of the specified condition or conditions]" and setting out the text of each specified condition.

- (c) Where a practising certificate issued or reissued to a solicitor for the practice year is subject to a specified condition or conditions as referred to in clause (a) or (b) of this Regulation 11:
 - (i) the solicitor concerned shall comply with the specified condition or each of the specified conditions, as the case may be, and shall ensure that he or she does not provide legal services to any client of the solicitor in breach of such specified condition or conditions, whether or not any such client is made aware of such specified condition or conditions, and
 - (ii) the solicitor concerned, in any display by him or her of his or her practising certificate, shall display with equal prominence adjacent thereto, the annexe thereto setting out the specified condition or conditions to which his or her practising certificate is subject.

SCHEDULE 1

within referred to

	EURO
(a) Registration Fee for the practice year ending on the 31 December 2018 payable to the Society on application for a practising certificate by an applicant solicitor who has been admitted to the Roll for three years or more on the 1 January 2018:	€1,425.00
(b) Registration Fee for the practice year ending on the 31 December 2018 payable to the Society on application for a practising certificate by an applicant solicitor who has been admitted to the Roll for less than three years on the 1 January 2018:	€1,115.00
(c) Contribution to the Compensation Fund for the practice year ending on the 31 December 2018 payable to the Society on application for a practising certificate by an applicant solicitor:	€760.00
(d) Contribution for the Solicitors Mutual Defence Fund Limited for the practice year ending on the 31 December 2018 payable to the Society on application for a practising certificate by an applicant solicitor:	€200.00
(e) Fee payable to the Society on each application, pursuant to Section 17 of the Solicitors (Amendment) Act 1960, for a copy of an entry on File A or File B:	€100.00
(f) Fee payable to the Society on each application, pursuant to Regulation 10 of these Regulations, for the issue of a duplicate original practising certificate for the practice year.	€50.00

Signed on behalf of the Law Society of Ireland pursuant to Section 79 of the Solicitors Act 1954.
21 December 2017.

MR MICHAEL QUINLAN,
President of the Law Society of Ireland.

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