



STATUTORY INSTRUMENTS.

S.I. No. 452 of 2009

SOLICITORS (CONTINUING PROFESSIONAL DEVELOPMENT)
REGULATIONS 2009

(Prn. A9/1660)

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The Law Society of Ireland in exercise of the powers conferred on it by sections 5 and 40 (as amended by section 49 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954 and with the concurrence of the Minister for Justice, Equality and Law Reform hereby make the following Regulations:

Citation and commencement

1. (a) These Regulations may be cited as the Solicitors (Continuing Professional Development) Regulations 2009.
- (b) These Regulations shall come into operation on the first day of January 2010 and thenceforth, subject to sub-clause (c) of this Regulation, the Solicitors (Continuing Professional Development) Regulations 2007) (S.I. No. 807 of 2007) (“the 2007 Regulations”) shall stand revoked.
- (c) The 2007 Regulations shall:—
 - (i) in respect of an application to the Society by a solicitor for a practising certificate for all or any part of the practice year commencing on the first day of January 2010, insofar as relates to the requirements of the 2007 Regulations to undertake at least ten hours of continuing professional development during the period commencing on the first day of January 2009 and ending on the thirty-first day of December 2009, and/or
 - (ii) in respect of any solicitor who prior to the date of coming into operation of these Regulations has become the subject matter of an investigation by the Education Committee or an inquiry by the Solicitors Disciplinary Tribunal which is continuing as of the thirty-first day of December 2009 as to—
 - (I) the alleged breach of the requirements of the 2007 Regulations to undertake at least ten hours of continuing professional development during the period commencing on the first day of January 2008 and ending on the thirty-first day of December 2008; or
 - (II) the alleged breach of the requirements of the Solicitors (Continuing Professional Development) Regulations 2003 (S.I. No. 37 of 2003) to undertake at least twenty hours of

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continuing professional development during the period commencing on the first day of July 2003 and ending on the thirty-first day of December 2005 or during the period commencing on the first day of January 2006 and ending on the thirty-first day of December 2007,

— remain in full force and effect.

Definitions

2. (a) In these Regulations:—

“continuing professional development” means further education or training (or both) to a solicitor, whether relating to law or to management and professional development skills, intended to develop the solicitor in his or her professional knowledge, skills and abilities, and may be referred to in common usage as “CPD”;

“Council” means the Council of the Society;

“e-learning” means the provision of education or training (or both) that is generated, communicated, processed, sent, received, recorded, stored and/or displayed by electronic means or in electronic form, and includes education or training (or both) provided through:

- (i) the internet or other computer network connections, sound only or sound and vision formats, or a combination thereof;
- (ii) the provision of an electronic file, a CD-Rom and/or a DVD;
- (iii) other technologies or formats.

“Education Committee” means the education committee appointed annually by the Council;

“electronic” includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic and any other form of related technology;

“first cycle” means the period from the first day of January 2010 until the thirty-first day of December 2010;

“group study” means an organised session of continuing professional development undertaken in a group of three or more persons that lasts for a period of not less than thirty minutes, whether undertaken by means of lecture, workshop, seminar, tutorial, video-conferenced lecture/tutorial or diploma or certificate course or in such other manner as may be more particularly defined and specified in the Scheme;

“management and professional development skills” includes education or training (or both) in any one or more of, or a combination of, the following areas:

- (i) financial and business management,
- (ii) practice management,
- (iii) self-management,
- (iv) professional ethics,
- (v) regulatory matters,
- (vi) client care,
- (vii) Irish or English language enhancement as it relates to the practice of law,
- (viii) foreign language enhancement as it relates to the practice of law, as may be more particularly defined and specified in the Scheme;

“newly admitted solicitor” means a solicitor who has been admitted to the Roll for less than twelve months prior to the commencement of the first cycle or the second cycle or the third cycle;

“Regulation” means a regulation in these Regulations;

“regulatory matters” means matters relating to the Solicitors Acts 1954 to 2008 and regulations made thereunder, to the current Guide to Professional Conduct of Solicitors in Ireland, to the maintenance of standards and best practice in complying with regulatory obligations applicable to solicitors, to the processing of complaints against solicitors by the Society and to the functions of the Solicitors Disciplinary Tribunal and the Courts in relation to solicitors and decisions relating thereto;

“Roll” means the roll of solicitors maintained by the Society pursuant to section 9 (as substituted by section 65 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954;

“senior practitioner” means a solicitor who has been admitted to the Roll for at least forty years as of the thirty-first of December in the year immediately preceding the first cycle or the second cycle or the third cycle;

“Scheme” means the scheme of continuing professional development of the Society as provided for in Regulation 5 and as approved by the Education Committee;

“second cycle” means the period from the first day of January 2011 until the thirty-first day of December 2011;

“Society” means the Law Society of Ireland;

“solicitor” means a person who has been admitted to the Roll;

“third cycle” means the period from the first day of January 2012 until the thirty-first day of December 2012;

“written relevant material” means written material of a legal nature that is published in a legal periodical or textbook.

- (b) Other words and phrases in these Regulations shall, where applicable, have the meanings assigned to them by the Solicitors Acts 1954 to 2008.
- (c) In these Regulations, unless the context otherwise requires, the singular includes the plural.
- (d) The Interpretation Act 2005 shall apply for the purpose of the interpretation of these Regulations as it applies for the purposes of the interpretation of an Act of the Oireachtas, except insofar as it may be inconsistent with the provisions of the Solicitors Acts 1954 to 2008 or these Regulations.

To whom these regulations apply

3. These Regulations shall apply to:

- (a) a solicitor in the full-time service of the State; and
- (b) a solicitor who holds a practising certificate in respect of all or any part of the first cycle or the second cycle or the third cycle.

General requirement to undertake CPD

4. A solicitor to whom Regulation 3 applies shall undertake continuing professional development during, respectively, the first cycle, the second cycle and the third cycle as provided for in Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.

Provision of CPD

- 5. (a) The Society shall provide from time to time for a scheme of continuing professional development (“the Scheme”) to be undertaken by a solicitor during, respectively, the first cycle, the second cycle and the third cycle for such minimum number of hours within each such cycle as is provided for in clause (b) of this Regulation and as fulfils the requirements provided for in clause (c) of this Regulation; the Scheme to be approved of from time to time by the Education Committee.
- (b) A solicitor shall be required to undertake continuing professional development:
 - (i) during the first cycle, for a minimum of eleven hours;
 - (ii) during the second cycle, for a minimum of twelve hours; and

(iii) during the third cycle, for a minimum of thirteen hours.

(c) A solicitor to whom these Regulations apply shall be required during, respectively, the first cycle, the second cycle and the third cycle to fulfil the following requirements:

(i) in respect of the first cycle, the requirement to undertake continuing professional development for a minimum of eleven hours shall comprise a minimum of three hours of management and professional development skills and a minimum of one hour of regulatory matters and may be completed by means of e-learning and/or group study and/or written relevant material,

as may be more particularly defined and specified in the Scheme;

(ii) in respect of the second cycle, the requirement to undertake continuing professional development for a minimum of twelve hours shall comprise a minimum of three hours of management and professional development skills and a minimum of one hour of regulatory matters, and may be completed by means of e-learning and/or group study and/or written relevant material,

as may be more particularly defined and specified in the Scheme;

(iii) in respect of the third cycle, the requirement to undertake continuing professional development for a minimum of thirteen hours shall comprise a minimum of three hours of management and professional development skills and a minimum of one hour of regulatory matters, and may be completed by means of e-learning and/or group study and/or written relevant material,

as may be more particularly defined and specified in the Scheme.

(d) A solicitor required to undertake continuing professional development pursuant to these Regulations shall maintain a written record of the hours of continuing professional development undertaken by him or her (including written verification thereof) in order to demonstrate the solicitor's compliance with these Regulations and the Scheme; and the Scheme shall provide for the form and content of such written record to be so maintained by the solicitor.

(e) The written record to be maintained by a solicitor to verify his or her hours of continuing professional development, as provided for in clause (e) of this Regulation, shall be produced by the solicitor on being so requested by the Society.

Modification of CPD requirement

6. The requirements of Regulation 5 shall be modified in respect of the following categories of solicitor:—

- (a) A newly admitted solicitor shall be exempt from the requirement to undertake continuing professional development for a period of twelve months commencing on the first day of the month immediately following the date of his or her admission to the Roll to the effect that his or her requirement to undertake continuing professional development during the cycle within which such period of twelve months expires, whether it be in the first cycle, the second cycle or the third cycle, shall be proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme;
- (b) A senior practitioner shall be required to undertake continuing professional development only for a maximum of three hours in each cycle following upon his or her attainment of at least forty years after his or her admission to the Roll, as may be more particularly defined and specified in the Scheme;
- (c) A solicitor who for reasons of maternity and/or parental and/or carers and/or adoptive leave, does not practise or ceases to practise as a solicitor in the course of the first cycle or the second cycle or the third cycle for a period of not less than one week within any such cycle may, on due written certification to the Society of that fact, have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme.
- (d) A solicitor who, for reasons of illness, retirement, unemployment or other substantive reasons, does not practise or ceases to practise as a solicitor in the course of the first cycle or the second cycle or the third cycle for a period of not less than eight weeks within any such cycle may, on due written certification to the Society of that fact, have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme; and
- (e) A solicitor who holds a practising certificate or is in the full-time service of the State for part only of the first cycle or the second cycle or the third cycle may, on due written certification to the Society of that fact, have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme.

Certifying CPD

7. (a) A solicitor who makes application to the Society for a practising certificate for all or any part of the second cycle shall, as part of such application and in such other manner as may be more particularly defined and specified in the Scheme, certify to the Society (and verify such certification, if so requested by the Society, by production of the written record maintained pursuant to Regulation 5 (d)) the fact of the solicitor having undertaken continuing professional development during the first cycle for a minimum of eleven hours in accordance with Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.
- (b) A solicitor who makes application to the Society for a practising certificate for all or any part of the third cycle shall, as part of such application and in such other manner as may be more particularly defined and specified in the Scheme, certify to the Society (and verify such certification, if so requested by the Society, by production of the written record maintained pursuant to Regulation 5 (d)) the fact of the solicitor having undertaken continuing professional development during the second cycle for a minimum of twelve hours in accordance with Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.
- (c) A solicitor who makes application to the Society for a practising certificate for all or any part of the practice year commencing on the first day of January 2013 shall, as part of such application and in such other manner as may be more particularly defined and specified in the Scheme, certify to the Society (and verify such certification, if so requested by the Society, by production of the written record maintained pursuant to Regulation 5 (d)) the fact of the solicitor having undertaken continuing professional development during the third cycle for a minimum of thirteen hours in accordance with Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.
- (d) A solicitor in the full-time service of the State shall, within two months following the end of, respectively, the first cycle, the second cycle and the third cycle, certify to the Society in such manner as may be more particularly defined and specified in the Scheme (and verify such certification, if so requested by the Society, by production of the written record maintained pursuant to Regulation 5 (d)) the fact of the solicitor having undertaken continuing professional development during, respectively, the first cycle for a minimum of eleven hours, and the second cycle for a minimum of twelve hours in and during the third cycle for a minimum of thirteen hours each in accordance with Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.

Breach of regulations to be misconduct

8. (a) Any breach of these Regulations may, upon due inquiry by the Solicitors Disciplinary Tribunal pursuant to section 7 (as substituted by

section 17 of the Solicitors (Amendment) Act 1994 and as amended by section 9 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act 1960, be found by the Solicitors Disciplinary Tribunal to be misconduct within the meaning of section 3 (as amended by section 24 of the Solicitors (Amendment) Act 1994 and by section 7 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act 1960.

- (b) Without prejudice to the generality of clause (a) of this Regulation and for the purpose of ensuring compliance with these Regulations, the Education Committee may investigate the alleged breach by a solicitor of these Regulations and, to that end, may in respect of the solicitor concerned:
- (i) seek explanations from the solicitor,
 - (ii) call the solicitor for interview,
 - (iii) give directions to the solicitor, and/or
 - (iv) direct that the Society refer the matter to the Solicitors Disciplinary Tribunal for inquiry.

Modification of regulations in exceptional circumstances

9. The Society may, in exceptional circumstances and subject to such conditions as the Society deem appropriate, modify any requirement or provision of these Regulations.

Signed on behalf of the Law Society of Ireland pursuant to section 79 of the Solicitors Act 1954.
11 November 2009.

GERARD J. DOHERTY,
President of the Law Society of Ireland.

Pursuant to the provisions of section 40 of the Solicitors Act 1954 (as amended by section 49(e) of the Solicitors (Amendment) Act 1994) I concur in the making of the within Regulations.

17 November 2009.

DERMOT AHERN, T.D.,
Minister for Justice, Equality and Law Reform.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

The principle purposes of the Instrument are to provide for:

- the meaning of Continuing Professional Development or CPD;
- the solicitors to whom the requirement to undertake CPD applies;
- the respective periods or time cycles within which the required hours of CPD must be undertaken;
- the minimum number of hours of CPD required to be undertaken by solicitors in each of three time cycles;
- the modification of the CPD time requirements in respect of certain categories of solicitors;
- the certifying by solicitors to the Law Society of Ireland of the fact of having undertaken the minimum number of hours of CPD;
- the breach of the Regulations to be misconduct.

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