
24. PRACTICE DIRECTIONS 1990

PREFACE

Under article 18(h) of the Articles of Association of the Society the Council is empowered to issue Practice Directions relating to the professional practice, conduct and discipline of solicitors. Article 6 provides that every solicitor shall be absolutely bound by all Practice Directions issued from time to time by the Society.

The Council has issued a number of Practice Directions. Some of the Directions are advisory only but some are mandatory, breach of which will be treated as professional misconduct in respect of which disciplinary action may be taken.

These Practice Directions replace all previous Directions made by the Council. They have been edited but there are no new Directions and no amendments of substance.

In a number of Directions reference is made to particular sums of money. These have been reviewed and some have been revised and are effective from the date of publication of this document.

Practice Directions which dealt with publicity have been repealed and a new Solicitors' Practice Promotion Code is published separately.

The date on which the original Direction came into effect is referred to in those Directions where it may be important to the obligations of solicitors before and after a particular date. Otherwise reference can be made to the table at Appendix 1.

January 1990

Note: These consolidated Practice Directions were first issued on 8 January 1990.

This revised print is current at 17 February 2003

A. CONVEYANCING

1. [Repealed]
2. Sale of flats in uncompleted developments by way of grant or sale of sub-leases
3. Solicitors' Accounts Rules
4. Rule 5C of the Solicitors' Practice Rules - sale of flats in uncompleted developments
5. Management of buildings - deeds of mutual covenant
6. Standard provisions for payment of purchase money in Consent and Non-Consent Schemes
7. Sale and purchase of partitioned residential flats
8. Certified copies of title deeds.
9. Rule 5C(1) of the Solicitors' Practice Rules
- 9A. Rule 5C(1) of the Solicitors' Practice Rules - Home Ownership Scheme and Private Sector Participation Scheme Conveyancing Transactions
- 9B. Rule 5C(1) of the Solicitors' Practice Rules - Financial Secretary Incorporated Lease Extension Cases
10. Rule 5C(1) of the Solicitors' Practice Rules
11. Rule 5C(1) of the Solicitors' Practice Rules
12. Rule 5C of the Solicitors' Practice Rules
Approved Forms A1 and A2 (for Consent Scheme)
Approved Forms B1 and B2 (for non-Consent Scheme)

B. COSTS

1. Solicitors' bills of costs
2. Solicitors (General) Costs Rules - equitable mortgage and legal charge
3. Solicitors (General) Costs Rules - assignment between subsidiary / associate companies

C. CRIMINAL CASES

1. [Repealed]
2. [Repealed]
3. Steps to be taken in criminal matters
4. Video evidence of children

- (c) there is no breach of the provisions of the relevant Crown Grant;
 - (d) there is no breach of the provisions of the relevant Deed of Mutual Covenant.
- (2) A solicitor for the purchaser is under an obligation to draw his client's attention to the above requirements. Where the purchaser persists in proceeding with the transaction despite the non-compliance with such requirements or any of them, his solicitor should obtain from him an acknowledgment in writing to the effect that the purchaser has been advised of the requirements and that notwithstanding such advice, the purchaser has decided to proceed with the transaction.
- (3) This Practice Direction does not apply to the sale and purchase of partitioned non-residential flats or units.

8. CERTIFIED COPIES OF TITLE DEEDS

- (1) It is unethical for a purchaser's solicitor to make certified copies of title deeds or certified copies thereof supplied by the vendor's solicitor unless such copies are made:-
- (a) with the express consent of the vendor's solicitors; or
 - (b) on the instructions and for the purpose of that purchaser who has already paid the vendor's solicitor for the certified copies supplied.
- (2) This Practice Direction came into effect on 1st May 1989 and was amended on 17 February 2003.

9. RULE 5C (1) OF THE SOLICITORS' PRACTICE RULES

- (1) In a conveyancing transaction to which rule 5C (1) of the Solicitors' Practice Rules applies a solicitor acting for one party, or any member of his firm, should not attest the signature of another party, who is not represented by that solicitor.
- (2) This Practice Direction came into effect on 17th April 1990.

9A. RULE 5C(1) OF THE SOLICITORS' PRACTICE RULES - HOME OWNERSHIP SCHEME ("HOS") AND PRIVATE SECTOR PARTICIPATION SCHEME ("PSP") CONVEYANCING TRANSACTIONS

- (1) Solicitors appointed by the Housing Authority to deal with HOS conveyancing transactions (i.e. initial sales, buy-backs and re-sales) and PSPS conveyancing transactions (i.e. buy-backs and re-sales) can attest the signature of the other party (i.e. purchasers in HOS initial sales and re-sales and PSPS re-sales and vendors in HOS and PSPS buy-backs) without representing that other party. In such event the solicitor must make it clear to that other party that the solicitor is acting only for the Housing Authority and not for that other party.
- (2) This Practice Direction came into effect on 10th April 1995 and was amended with effect from 1st May 1996.

9B. RULE 5C(1) OF THE SOLICITORS' PRACTICE RULES - FINANCIAL SECRETARY INCORPORATED ("FSI") LEASE EXTENSION CASES

- (1) Solicitors appointed by the FSI to deal with FSI lease extension cases may attest the signature of the assignees without representing the assignees. In such event the solicitor must make it clear to the assignee that the solicitor is only acting for the FSI and not for the assignee.
- (2) Notwithstanding the provisions of Practice Direction A5, a general waiver is given for non-compliance with Practice Direction A5 involving FSI assignments. In these cases, as the assignments are in completed developments, in respect of which there is an existing deed of mutual covenant (DMC), the terms of the newly drawn up DMC must follow the existing DMC, the provisions of which might not comply with Practice Direction A5.
- (3) This Practice Direction came into effect on 1st May 1996.

10. RULE 5C (1) OF THE SOLICITORS' PRACTICE RULES

- (1) Where, in a conveyancing transaction to which rule 5C (1) applies, A sells to B, B sub-sells to C and there is an agreement in which A is the vendor, B the confirmor and C the purchaser, the solicitor who acts for A may not also act for either B or C.
- (2) This Practice Direction came into effect on 20th August 1990.

11. RULE 5C (1) OF THE SOLICITORS PRACTICE RULES

- (1) Notwithstanding Practice Direction 9, in a conveyancing transaction where a sub-purchaser has been appointed as attorney for a confirmor, the solicitor acting for the sub-purchaser may attest the signature of the sub-purchaser in his capacity as attorney for the confirmor as well as in his own capacity as sub-purchaser.
- (2) This Practice Direction came into effect on 15th July 1991.

12. RULE 5C OF THE SOLICITORS' PRACTICE RULES

- (1) A solicitor or two or more solicitors practising in partnership or in association shall not act for both the vendor and the purchaser under the provisions of rules 5C(2), (3), (4) or (5) unless the appropriate bilingual "Warning to Purchasers" in the forms below, duly signed by the purchaser, is delivered to the solicitor at the time of giving or confirming instructions to the solicitor.
- (2) This Practice Direction came into effect on 1st May 1996.