

*These notes refer to the Justice Act (Northern Ireland)
2011 (c.24) which received Royal Assent on 4 May 2011*

Justice Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Solicitors' rights of audience

Section 89: Rights of audience of solicitors

This section amends the Judicature (Northern Ireland) Act 1978 to provide that a solicitor holding authorisation shall have the same rights of audience as counsel in the High Court and Court of Appeal. It also amends the Solicitors (Northern Ireland) Order 1976 to create certain duties which will apply where a solicitor is minded to engage an authorised solicitor to represent a client in the High Court or Court of Appeal or, where he is an authorised solicitor, to provide that representation himself.

Specifically, in these circumstances, a solicitor will be required to advise their client in writing of the advantages and disadvantages of representation by an authorised solicitor and by counsel respectively and that the decision as to representation is entirely that of the client. The detail of the matters to be covered by this advice is to be prescribed by the Law Society in regulations. These regulations are subject to the concurrence of the Lord Chief Justice and the Department, which must consult with the Attorney General.

When advising a client, a solicitor must act in the best interest of the client and give effect to any decision of the client. The solicitor must inform the court, in a way and timescale provided by court rules, that they have complied with these requirements. If a solicitor breaches any of these duties, any person may make a complaint to the Solicitors' Disciplinary Tribunal.

This section also makes a technical amendment to the County Courts (Northern Ireland) Order 1980 to remove a restriction which prevents a solicitor being retained by another solicitor as an advocate. A solicitor may now instruct an authorised solicitor to act on behalf of a client in the County Court.