



## 2011 CHAPTER 24

VALID FROM 01/09/2012

### **PART 8**

#### **SOLICITORS' RIGHTS OF AUDIENCE**

PROSPECTIVE

##### **Authorisation of Society conferring additional rights of audience**

**88.**—(1) The Solicitors (Northern Ireland) Order 1976 (NI 12) is amended as follows.

(2) In Article 6 (regulations as to the education, training, etc. of persons seeking admission or having been admitted as solicitors) after paragraph (1) insert—

“(1A) The Society shall make regulations with respect to the education, training or experience to be undergone by solicitors seeking authorisation under Article 9A.”.

(3) After Article 9 insert—

##### **“Authorisation of Society conferring additional rights of audience**

**9A.**—(1) A person who is qualified to act as a solicitor may apply to the Society for an authorisation under this Article.

(2) An application under paragraph (1)—

(a) shall be made in such manner as may be prescribed;

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(b) shall be accompanied by such information as the Society may reasonably require for the purpose of determining the application; and

(c) shall be accompanied by such fee (if any) as may be prescribed.

(3) At any time after receiving the application and before determining it the Society may require the applicant to provide it with further information.

(4) The Society shall grant an authorisation under this Article if it appears to the Society, from the information furnished by the applicant and any other information it may have, that the applicant has complied with the requirements applicable to him by virtue of regulations under Article 6(1A).

(5) An authorisation granted to a person under this Article ceases to have effect if, and for so long as, that person is not qualified to act as a solicitor.

(6) The Society may by regulations provide that any person who has completed such education, training or experience as may be prescribed, before such date as may be prescribed shall be taken to hold an authorisation granted under this Article.”.

(4) In Article 10 (practising certificates and register of practising solicitors) after paragraph (2C) insert—

“(2D) Every entry in the register shall include details of any authorisation granted under Article 9A to the solicitor to whom the entry relates.”.

PROSPECTIVE

### **Rights of audience of solicitors**

**89.**—(1) In section 106 of the Judicature (Northern Ireland) Act 1978 (c. 23) (rights of audience in the High Court and Court of Appeal) after subsection (3) insert—

“(3A) A solicitor who holds an authorisation under Article 9A of the Solicitors (Northern Ireland) Order 1976 shall have the same right of audience in any proceedings in the High Court or Court of Appeal as counsel in those courts and any such right is in addition to any right of audience which a solicitor would have apart from this subsection.”.

(2) After Article 40 of the Solicitors (Northern Ireland) Order 1976 (NI 12) insert—

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#### **“Duty to advise client as to representation in court**

**40A.**—(1) Paragraph (2) applies where—

- (a) it appears to a solicitor that a client requires, or is likely to require, legal representation in any proceedings in the High Court or the Court of Appeal;
- (b) either—
  - (i) that solicitor is minded to arrange for another solicitor who is an authorised solicitor to provide that representation; or
  - (ii) that solicitor is an authorised solicitor and is minded to provide that representation; and
- (c) in representing that client in the High Court or Court of Appeal, a solicitor would need to exercise the right of audience conferred by section 106(3A) of the Judicature (Northern Ireland) Act 1978.

(2) The solicitor must advise the client in writing—

- (a) of the advantages and disadvantages of representation by an authorised solicitor and by counsel, respectively; and
- (b) that the decision as to whether an authorised solicitor or counsel is to represent the client is entirely that of the client.

(3) The Society shall make regulations with respect to the giving of advice under paragraph (2).

(4) A solicitor shall—

- (a) in advising a client under paragraph (2), act in the best interest of the client; and
- (b) give effect to any decision of the client referred to in paragraph (2)(b).

(5) For the purposes of this Article compliance with paragraph (2) in relation to any proceedings in a court in any cause or matter is to be taken to be compliance with that paragraph in relation to any other proceedings in that court in the same cause or matter.

(6) If a solicitor contravenes this Article, any person may make a complaint in respect of the contravention to the Tribunal.

(7) In this Article and Article 40B “authorised solicitor” means a solicitor who holds an authorisation under Article 9A.

#### **Duty to inform court as to compliance with Article 40A(2)**

**40B.**—(1) Where—

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- (a) a solicitor has complied with Article 40A(2) in relation to the representation of a client in any proceedings in the High Court or Court of Appeal;
- (b) that client is to be represented in those proceedings by an authorised solicitor; and
- (c) in representing that client in those proceedings the authorised solicitor would need to exercise the right of audience conferred by section 106(3A) of the Judicature (Northern Ireland) Act 1978,

the solicitor shall inform the High Court or (as the case may be) the Court of Appeal of the fact mentioned in sub-paragraph (a) in such manner and before such time as rules of court may require.

(2) For the purposes of this Article compliance with paragraph (1) in relation to any proceedings in a court in any cause or matter is to be taken to be compliance with that paragraph in relation to any other proceedings in that court in the same cause or matter.

(3) If a solicitor contravenes paragraph (1), any person may make a complaint in respect of the contravention to the Tribunal.”.

(3) In Article 50 of the County Courts (Northern Ireland) Order 1980 (NI 3) (rights of audience) in paragraph (1)(c) omit the words “, but not a solicitor retained as an advocate by a solicitor so acting”.

### **Consequential and supplementary provisions**

**90.**—(1) In Article 75 (regulations) of the Solicitors (Northern Ireland) Order 1976 (NI 12) after paragraph (2) insert—

“(2A) Regulations under Article 6(1A), 9A(6) or 40A(3) also require the concurrence of the Department of Justice, given after consultation with the Attorney General.

(2B) The Department of Justice shall not grant its concurrence to any regulations under Article 6(1A) or 9A(6) unless regulations have been made under Article 40A(3) and are in operation.”.

(2) The Department may by order make such amendments to—

- (a) the Criminal Appeal (Northern Ireland) Act 1980 (c. 47),
- (b) the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8),
- (c) the Access to Justice (Northern Ireland) Order 2003 (NI 10),
- (d) section 184 of the Extradition Act 2003 (c. 41),

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as appear to the Department to be necessary or expedient in consequence of, or for giving full effect to, the provisions of this Part.

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