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STATUTORY INSTRUMENTS

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**1997 No. 316**

**The Independent Qualified Conveyancers  
(Scotland) Regulations 1997**

**PART III**

**CONFLICTS OF INTEREST**

**Actual and potential conflicts between client and independent qualified conveyancer**

**9.** Where an independent qualified conveyancer (whether before or after accepting instructions to provide a client with conveyancing services) knows, or ought reasonably to know, of circumstances that result, or may result, in a conflict between the interests of that client and the independent qualified conveyancer or an associate, the independent qualified conveyancer shall not act or, as the case may be, shall cease to act for that client.

**Actual conflicts between clients**

**10.—(1)** Subject to paragraphs (2) and (3), where an independent qualified conveyancer (whether before or after accepting instructions to provide a client with conveyancing services) knows, or ought reasonably to know, of circumstances that result in an actual conflict between the interests of that client and any other person who is a client either of the independent qualified conveyancer or of an associate, the independent qualified conveyancer shall not act or, as the case may be, shall cease to act for that client or those clients.

(2) For the avoidance of doubt, the circumstances in paragraph (1) that result in an actual conflict of interests include any circumstances whereby the independent qualified conveyancer is providing conveyancing services for one party to a transaction and that independent qualified conveyancer or an associate of that independent qualified conveyancer is providing (or arranging to provide) conveyancing services or any specified services for another party to that transaction.

(3) Where there is an actual conflict of interests between two or more clients of the independent qualified conveyancer and he would otherwise require not to act or to cease to act for them in pursuance of paragraph (1), he may act or continue to act for one of them (“the chosen client”) if—

- (a) he considers that it would be in the best interests of the chosen client that he act or continue to act for him;
- (b) he notifies all of those clients in writing—
  - (i) of the circumstances that result in an actual conflict between the interests of those clients; and
  - (ii) that the provisions of paragraph (1) would require him not to act or, as the case may be, to cease to act for those clients but he considers that it would be in the best interests of the chosen client that he act or continue to act for him;
- (c) the client or clients for whom the independent qualified conveyancer is already acting agrees or agree with him in writing that, notwithstanding the provisions of paragraph (1), the independent qualified conveyancer may act or continue to act for the chosen client.

### **Potential conflicts between clients**

**11.**—(1) Subject to paragraph (2), where an independent qualified conveyancer (whether before or after accepting instructions to provide a client with conveyancing services) knows, or ought reasonably to know, of circumstances that may result in an actual conflict between the interests of that client and any other person who is a client either of the independent qualified conveyancer or of an associate, the independent qualified conveyancer shall not act or, as the case may be, shall cease to act for that client or those clients.

(2) Where an independent qualified conveyancer would otherwise require not to act or to cease to act for a client or clients of his in pursuance of paragraph (1), he may act or continue to act for that client or those clients (“the chosen client or clients”) if—

- (a) he considers that it would be in the best interests of that client or those clients that he act or continue to act for him or them;
- (b) he notifies all of those clients in writing—
  - (i) of the circumstances that may result in an actual conflict between the interests of the chosen client or clients and any other person who is either a client of the independent qualified conveyancer or of an associate; and
  - (ii) that the provisions of paragraph (1) would require him not to act or, as the case may be, to cease to act for those clients but he considers that it would be in the best interests of the chosen client or clients that he act or continue to act for him or them;
- (c) the client or clients for whom the independent qualified conveyancer is already acting agrees or agree with him in writing that, notwithstanding the provisions of paragraph (1), the independent qualified conveyancer may act or continue to act for the chosen client or clients.