



STATUTORY INSTRUMENTS.

S.I. No. 229 of 2019



SOLICITORS ADVERTISING REGULATIONS 2019

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Solicitors Advertising Regulations 2019

The Law Society of Ireland, in exercise of the powers conferred on them by section 5 of the Solicitors Act, 1954 and section 71 (as amended by section 4 of the Solicitors (Amendment) Act, 2002) of the Solicitors Act, 1954 HEREBY MAKE the following Regulations.

Citation and commencement

1. (a) These Regulations may be cited as the Solicitors Advertising Regulations 2019.
- (b) These Regulations shall come into operation on the first day of June 2019 and the Solicitors (Advertising) Regulations, 2002 (S.I. No. 518 of 2002) shall stand revoked with effect from the first day of June 2019.

Definitions

2. (a) In these Regulations -
 - “the Act of 1954” means the Solicitors Act, 1954;
 - “the Act of 1960” means the Solicitors (Amendment) Act, 1960;
 - “the Act of 1994” means the Solicitors (Amendment) Act, 1994;
 - “the Act of 2002” means the Solicitors (Amendment) Act, 2002;
 - “advertisement” means any communication (whether oral or in written or other visual form and whether produced by electronic or other means) which is intended to publicise or otherwise promote a solicitor in relation to the solicitor's practice, including -
 - (i) any brochure, notice, circular, leaflet, poster, placard photograph, illustration, emblem, display, stationery directory entry, article or statement for general publication,
 - (ii) any electronic address or any information provided by the solicitor that is accessible electronically,
 - (iii) any audio or video recording, or
 - (iv) any presentation, lecture, seminar or interview,

which is so intended but excluding a communication which is primarily intended to give information on the law;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 31th May, 2019.*

“claims for damages for personal injuries” means claims, whether made in court proceedings or otherwise, for damages or compensation for personal injuries suffered, or alleged to have been suffered, by a person or persons owing to an act or omission or alleged act or omission, of another person or persons;

“client” includes prospective client;

“contentious business” means business done by a solicitor in or for the purpose of or in contemplation of proceedings before a court or tribunal or before an arbitrator appointed under the Arbitration Acts, 1954 to 2010;

“the Disciplinary Tribunal” means the Solicitors Disciplinary Tribunal established by section 6 (as substituted by section 16 of the Act of 1994 and amended by section 8 of the Act of 2002) of the Act of 1960;

“inappropriate location” means a hospital, clinic, doctor's surgery, funeral home, cemetery, crematorium or other location of a similar character;

“legal services” means services of a legal or financial nature provided by a solicitor arising from that solicitor's practice as a solicitor, and includes any part of such services and, for the avoidance of doubt, includes any investment business services provided by a solicitor who is not an authorised investment business firm; and “investment business services” and “authorised investment business firm” have the meanings respectively assigned to them in section 2 of the Investor Compensation Act, 1998, as amended;

“personal injuries” includes any disease and any impairment of a person's physical or mental condition or death;

“proceedings” includes court proceedings and arbitration proceedings;

“published”, in relation to an advertisement, means the communication or the intended communication of words (whether oral or in written or other visual form and whether produced by electronic or other means) to another person which are intended to publicise or otherwise promote a solicitor in relation to the solicitor's practice; and “publication” shall be likewise construed;

“Regulation” means a regulation in these Regulations;

“the Society” means the Law Society of Ireland;

“solicitor” means a person who has been admitted as a solicitor and whose name is on the roll of solicitors maintained pursuant to section 9 (as substituted by section 65 of the Act of 1994) of the Act of 1954; and a reference to a solicitor includes a

reference to a firm of solicitors unless the context otherwise requires and includes a former solicitor or a deceased solicitor unless the context otherwise requires.

- (b) Other words and phrases in these Regulations shall, where applicable, have the meanings assigned to them in the Solicitors Acts, 1954 to 2015.
- (c) In these Regulations, unless the context otherwise requires, the singular includes the plural.
- (d) In construing the provisions of any Regulation in these Regulations, equal regard shall be had to the provisions of each Regulation that may be relevant thereto without regard to the order in which each Regulation appears.
- (e) The Interpretation Act 2005, shall apply for the purpose of the interpretation of these Regulations as it applies to the interpretation of an Act of the Oireachtas, except insofar as it may be inconsistent with the Solicitors Acts, 1954 to 2015 (or any other Act that amends or extends the Solicitors Acts, 1954 to 2015) or these Regulations.

Lawful to advertise

3. Subject to these Regulations, it shall be lawful for a solicitor to advertise.

Limitations on right to advertise

- 4. (a) An advertisement intended to publicise or otherwise promote a solicitor in relation to the solicitor's practice shall be in such a form as shall not-
 - (i) be likely to bring the solicitors' profession into disrepute;
 - (ii) be in bad taste;
 - (iii) reflect unfavourably on other solicitors;
 - (iv) be false or misleading in any respect;
 - (v) be published in an inappropriate location;
 - (vi) expressly or impliedly solicit, encourage or offer any inducement to any person or group or class of persons to make claims for damages for personal injuries or to contact the solicitor concerned with a view to such claims being made; or
 - (vii) be contrary to public policy.
- (b) Without prejudice to the generality of sub-clause (vi) of clause (a) of this Regulation, a solicitor may, where appropriate and save as otherwise provided in these Regulations, include the words "personal injuries" in any advertisement which contains

factual information on the legal services provided by the solicitor and on any areas of law to which those services relate.

- (c) For the avoidance of doubt, a reference in an advertisement published or caused to be published by a solicitor to his or her authorship of a publication on a legal topic shall be deemed to be factual information on the legal services provided by the solicitor and on any areas of law to which those services relate.

Other information that may be contained in an advertisement

5. Where a solicitor proposes to publish or cause to be published information relating to the solicitor's practice concerning other clients or transactions in relation to which the solicitor has provided legal services, the solicitor may only do so –

- (a) with the prior consent of each client concerned (whose name or whose transaction is proposed to be so published) who has been made aware of the proposed form, content, manner and context of such publication; and
- (b) without exaggeration of the nature of the solicitor's involvement in the legal services provided to each such client or provided in connection with any such transaction.

Where advertisement may be published

6. Without prejudice to the generality of Regulation 4, an advertisement may be published or caused to be published by a solicitor by any means which does not infringe these Regulations.

Restrictions on where advertisement may be published

7. An advertisement published or caused to be published by a solicitor shall not-

- (a) be published in an inappropriate location;
- (b) be published in any location or in any manner or context which would infringe these Regulations and in particular Regulation 4(a) (i) to (vii).

Advertisements in respect of contentious business/personal injuries

- 8. (a) An advertisement published or caused to be published by a solicitor, which contains a reference to “personal injuries” (to the extent permitted by section 71(4) (as inserted by section 4 of the Act of 2002) of the Act of 1954) or other contentious business as one or more of the legal services being provided by the solicitor shall also include a clear reference to the prohibition (as provided for in section 68(2) of the Act of 1994) on a solicitor acting for a client in connection with any

contentious business (not being in connection with proceedings seeking only to recover a debt or liquidated demand) on the basis that all or any part of the charges to the client are to be calculated as a specified percentage or proportion of any damages or other moneys that may be or may become payable to the client; and (for greater clarity of what such a reference to such prohibition might be where a listing of legal services being provided by a solicitor includes “personal injuries” or other contentious business) an asterisk (*) should be placed after the words “personal injuries” that would notate the presence of the following words that should be shown adjacent thereto: “(* In contentious business, a solicitor may not calculate fees or other charges as a percentage or proportion of any award or settlement)”.

- (b) For the avoidance of doubt, the limitation on the use by a solicitor of the words “personal injuries” in an advertisement to the setting out in such advertisement of factual information on the legal services provided by the solicitor and on any area of law to which those services relate shall extend to the use of any other word or words that may be more specifically descriptive of categories of cases where claims for damages for personal injuries may arise such as “motor accidents”, “workplace accidents”, “public place accidents” or other words or phrases of a similar nature.
- (c) Without prejudice to the generality of Regulation 4, an advertisement published or caused to be published by a solicitor with a reference to “personal injuries” to the extent permitted by these Regulations and section 71(4) of the Act of 1954, or words or phrases of a similar nature as provided for in clause (b), shall not include words or phrases such as “no win no fee”, “no foal no fee”, “free first consultation”, or other words or phrases of a similar nature which could be construed as meaning that legal services involving claims for damages for personal injuries would be provided by the solicitor at no cost to the client.

Advertisements and costs relating to legal services in respect of contentious business

9. Without prejudice to the generality of Regulation 4, an advertisement published or caused to be published by a solicitor shall not, expressly or by implication, suggest that there are circumstances in which legal services involving contentious business may be provided without there being any risk that the client may be required to pay costs to any other party or parties, unless that actually represents the legal position.

Limitations in relation to electronically accessible advertisement

10. Where an advertisement provided by a solicitor which is accessible electronically links to other information that is accessible electronically

elsewhere, the solicitor shall be deemed for the purpose of compliance with these Regulations to be personally responsible for the publication of such other information insofar as such other information can reasonably be construed as intended to publicise or otherwise promote the solicitor in relation to the solicitor's practice

Communication to give information on the law

11. (a) Without prejudice to the generality of Regulation 4 the following shall be deemed not to be an advertisement but to be a communication which is primarily intended to give information on the law-
 - (i) subject to clause (b) of this Regulation, a book on a legal topic written by a solicitor;
 - (ii) subject to clause (c) of this Regulation, an article on a legal topic written by a solicitor where no part of the space of which is paid for by or on behalf of the solicitor; or
 - (iv) subject to clause (c) of this Regulation, an oral presentation or media interview given by a solicitor relating to a legal topic where no part of it is paid for by or on behalf of the solicitor.
- (b) In relation to subclause (i) of clause (a) of this Regulation, the circulation by a solicitor to persons (whether or not on request) at no cost or reduced cost to such persons of a book on a legal topic written by the solicitor may be deemed not to be a communication which is primarily intended to give information on the law but rather to be in fact a communication which is primarily intended to publicise or otherwise promote the solicitor in relation to the solicitor's practice.
- (c) In relation to subclauses (ii) and (iii) of clause (a) of this Regulation, a repeated publication of the same or substantially similar article on a legal topic written by a solicitor or the repeated oral presentation or media interview given by a solicitor on the same or substantially similar legal topic may be deemed not to be a communication which is primarily intended to give information on the law but rather to be in fact a communication which is primarily intended to publicise or otherwise promote the solicitor in relation to the solicitor's practice.

Direct unsolicited approach to non-client

12. Without prejudice to the generality of Regulation 4 a solicitor shall not make or cause to be made a direct unsolicited approach to any person who is not an existing client in order that communication is made with that person with a view to being instructed to provide legal services, where such unsolicited approach is made-

- a) at an inappropriate location; or
- b) at or adjacent to the scene of a calamitous event or situation affecting that person.

Ensuring compliance with these Regulations

13. (a) An advertisement published or caused to be published by a solicitor which does not otherwise make it clear on the face of it that it is so published shall state that it is published or caused to be published by the solicitor.
- (b) It shall be the responsibility of a solicitor to ensure that any advertisement published or caused to be published by him or her complies with the foregoing provisions of these Regulations.
- (c) An advertisement which includes the name of a solicitor shall be deemed for the purpose of compliance with these Regulations, to be an advertisement published or caused to be published by the solicitor, insofar as the advertisement is intended to publicise or otherwise promote the solicitor in relation to the solicitor's practice.
- (d) A solicitor shall keep a copy of any advertisement published or caused to be published by him or her, together with (where appropriate) the written instructions given by him or her for the publication of such advertisement, for a period of at least twelve calendar months from the latest date of its publication; and shall furnish to the Society a copy of such advertisement and (where appropriate) such written instructions when requested to do so by the Society within that period.

Investigations by Society

14. (a) The Society (whether acting through a member or members of staff of the Society or through a meeting convened by the Society may, whether following receipt of a complaint or on the Society's own initiative, investigate any possible breach of these Regulations by a solicitor (which, for convenience of reference is hereinafter in this Regulation referred to as "the alleged complaint").
- (b) Where the Society decide to proceed to investigate the alleged complaint, the Society shall first by letter (or letters) notify the solicitor of particulars of the alleged complaint and request the solicitor to respond in writing appropriately and in a timely manner to such letter (or letters).
- (c) Where the Society receive a response in writing by or on behalf of the solicitor concerned, the Society may decide to request the solicitor to attend a meeting convened by the Society at which the alleged complaint would be considered; in which event the solicitor shall be informed by the Society of his or her right to

attend such meeting accompanied by another solicitor or by counsel (or both) as the solicitor may deem fit.

- (d) Where it appears to the Society that the solicitor concerned is obstructing the investigation of the complaint by the Society by refusing, neglecting or otherwise failing, without reasonable cause to respond appropriately in a timely manner, or at all, to the Society's letter (or letters) sent to the solicitor (as provided for in clause (b) of this Regulation), the Society shall by letter (or letters) request the solicitor to attend a meeting convened by the Society at which the alleged complaint is to be considered; and the solicitor shall be informed by the Society of his or her right to attend such meeting accompanied by another solicitor or by counsel (or both) as the solicitor may deem fit.
- (e) Where it appears to the Society that the solicitor concerned is obstructing the investigation of the complaint by the Society by refusing, neglecting or otherwise failing, without reasonable cause, to attend a meeting convened by the Society at which the alleged complaint was to have been considered, the Society may apply to the High Court for an order compelling the solicitor to respond appropriately within a specified time to such letter (or letters) or to attend such a meeting (or both).
- (f) Where in the course of the Society's investigation of the alleged complaint the Society consider it necessary to do so, the Society may do one or other or both of the following-
 - (i) (as provided for in section 10 of the Act of 1994) give notice in writing to the solicitor or his or her firm regarding the production or delivery to any person appointed by the Society, at a time and place to be fixed by the Society, of all documents in the possession or under the control or within the procurement of the solicitor or his or her firm in connection with the alleged complaint;
 - (ii) (as provided for in section 14, as amended by section 15 of the Act of 2002, of the Act of 1994) direct an authorised person to attend with or without prior notice at the place or places of business of the solicitor and may (where the Society consider it necessary to do so), on notice to the solicitor, apply to the High Court for an order requiring the solicitor to make available for inspection at his or her place or places of business such specified documents or categories of documents as the Society deem necessary for the purpose of investigating the alleged complaint.
- (g) Where the Society, having considered the alleged complaint and the response or responses (if any) of the solicitor thereto in writing or at a meeting convened by the Society (or both), are of the opinion that the alleged complaint is justified, the Society may-

- (i) where the Society make a determination that the solicitor has in the course of the investigation of the alleged complaint refused, neglected or otherwise failed, without reasonable cause, to respond appropriately in a timely manner, or at all, to the letter (or letters) from the Society and that the Society have incurred costs in consequence of the refusal, neglect or failure, require payment by the solicitor of a sum not exceeding €3,000 (three thousand euro) to the Society by way of contribution towards those costs; and the solicitor shall comply with any such requirement and (subject to any order of the High Court made under section 11(1) of the Act of 1994) the Society may recover any such sum as a liquidated debt payable to the Society;
 - (ii) where the Society are of opinion that the alleged complaint, while justified, is not of sufficient seriousness to warrant an application being made to the Disciplinary Tribunal under subsection (1) of section 7 of the Act of 1960 (as substituted by section 17 of the Act of 1994), the Society may, in addition to or in substitution (in whole or in part) for requiring payment by way of contribution towards the costs incurred by the Society (as provided for in subclause (i) of this clause) issue to the solicitor a reprimand in writing in such terms as the Society deem appropriate and reasonable and (where applicable) so notify the person from whom the alleged complaint was received; or
 - (iii) (in lieu of subclause (ii) of this clause and where the Society are of opinion that the alleged complaint is of sufficient seriousness and so warrants) make application to the Disciplinary Tribunal for an inquiry into the conduct of the solicitor on the ground of alleged misconduct pursuant to subsection (1) of section 7 (as substituted by section 17 of the Act of 1994) of the Act of 1960.
- (h) Nothing in clause (g) of this Regulation shall prevent a solicitor where appropriate and reasonable in the particular circumstances to mitigate any breach or alleged breach of these Regulations by giving an undertaking in writing to the Society that he or she will forthwith desist from such breach or alleged breach and not repeat it in the future.
 - (i) Subject to the outcome of any appeal and any order made by the High Court under section 11(1) of the Act of 1994, the Society shall be entitled to publish to the solicitors' profession in whatever manner the Society deem appropriate the fact of the imposition of a penalty by the Society on a solicitor as provided for in clause (g) (i) and (ii) of this Regulation.
 - (j) A written communication by the Society to a solicitor (whether in the form of a letter, notice or as part of legal proceedings

initiated by the Society or the solicitor) shall be deemed to have been duly given where it is delivered by hand or sent by prepaid registered post or by ordinary post to the up-to-date address of the place of business, or (if more than one) the principal place of business of the solicitor, as noted in the records of the Society; and, when so sent by prepaid registered post or ordinary post, shall be deemed to have been received by the solicitor within three working days after the date of such posting.

Finding of breach of Regulations by Disciplinary Tribunal

15. Without prejudice to the generality of section 3 (as amended by section 7 of the Act of 2002) of the Act of 1960, any breach of these Regulations may, upon due inquiry by the Disciplinary Tribunal pursuant to section 7 (as substituted by section 17 of the Act of 1994 and as amended by section 9 of the Act of 2002) of the Act of 1960, be found by the Disciplinary Tribunal to be misconduct within the meaning of the said section 3 (as so amended by section 7 of the Act of 2002) of the Act of 1960.

Prior approval of advertisement by Society a defence

16. (a) It shall be a defence to any complaint against a solicitor alleging a breach of these Regulations that the solicitor sought and obtained the Society's prior approval in writing of the form, manner and context in which an advertisement was published by or on behalf of the solicitor.
- (b) The Society may from time to time, as appropriate, publish guidelines for the guidance of solicitors in relation to the publication of advertisements.

Signed on behalf of the Law Society of Ireland pursuant to
section 79 of the Solicitors Act, 1954:
Dated this 16 day of May 2019

PATRICK DORGAN,
President of the Law Society of Ireland



I consent, pursuant to section 71(5) (as inserted by section 4 of
the Solicitors (Amendment) Act, 2002) of the Solicitors Act,
1954, to the making of the within Regulations.:
Dated this 25 day of May 2019

CHARLES FLANAGAN,
Minister for Justice and Equality

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
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