



STATUTORY INSTRUMENTS.

S.I. No. 480 of 2015



SOLICITORS (CONTINUING PROFESSIONAL DEVELOPMENT)
REGULATIONS 2015

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The Law Society of Ireland in exercise of the powers conferred on it by Sections 5 and 40 (as amended by Section 49 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954 and with the concurrence of the Minister for Justice and Equality hereby make the following Regulations:

Citation and commencement

1. (a) These Regulations may be cited as the Solicitors (Continuing Professional Development) Regulations 2015.
- (b) These Regulations shall come into operation on the first day of January 2016 and thenceforth, subject to paragraph (c) of this Regulation, the Solicitors (Continuing Professional Development) Regulations 2012 (S.I. No. 501 of 2012) (“the 2012 Regulations”) and the Solicitors (Continuing Professional Development) (Amendment) Regulations 2014 (S.I. No. 329 of 2014) (“the 2014 Regulations”) shall stand revoked.
- (c) The 2012 Regulations shall—
 - (i) in respect of an application to the Society by a solicitor for a practising certificate for all or any part of the practice year commencing on the first day of January 2016, insofar as it relates to the requirements of the 2012 Regulations to undertake at least sixteen hours of continuing professional development during the period commencing on the first day of January 2015 and ending on the thirty-first day of December 2015, and/or
 - (ii) in respect of any solicitor who prior to the date of coming into operation of these Regulations has become the subject matter of an investigation by the Education Committee or any inquiry by the Solicitors Disciplinary Tribunal which is continuing as of the thirty-first day of December 2015 as to:
 - (I) the alleged breach of the requirements of the 2012 Regulations to undertake at least sixteen hours of continuing professional development during the period commencing on the first day of January 2015 and ending on the thirty-first day of December 2015; and/or
 - (II) the alleged breach of the requirements of the 2012 Regulations to undertake at least fifteen hours of continuing professional development during the period commencing on the

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first day of January 2014 and ending on the thirty-first day of December 2014; and/or

- (III) the alleged breach of the requirements of the 2012 Regulations to undertake at least fourteen hours of continuing professional development during the period commencing on the first day of January 2013 and ending on the thirty-first day of December 2013; and/or
- (IV) the alleged breach of the requirements of the Solicitors (Continuing Professional Development) Regulations 2009 (S.I. No. 452 of 2009) (“the 2009 Regulations”) to undertake at least thirteen hours of continuing professional development during the period commencing on the first day of January 2012 and ending on the thirty-first day of December 2012; and/or
- (V) the alleged breach of the requirements of the 2009 Regulations to undertake at least twelve hours of continuing professional development during the period commencing on the first day of January 2011 and ending on the thirty-first day of December 2011; and/or
- (VI) the alleged breach of the requirements of the 2009 Regulations to undertake at least eleven hours of continuing professional development during the period commencing on the first day of January 2010 and ending on the thirty-first day of December 2010

- remain in full force and effect.

Definitions

2. (a) In these Regulations:—

“accounting and anti-money laundering compliance” means compliance with the Solicitors Accounts Regulations 2014 and, insofar as they relate to solicitors, the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 and 2013 (and any subsequent statutory modifications of such Acts);

“anti-money laundering compliance partner” means a solicitor who is a partner in a solicitors practice which is a partnership of solicitors who is nominated from time to time by the members of the partnership and notified in writing to the Society as the partner responsible for ensuring that the requirements of the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 and 2013 (and any subsequent statutory modifications of such Acts) are complied with in relation to the solicitors practice, whether or not such partner has also been so nominated as the compliance partner, provided that where the Society has not been so notified in writing of such a nomination, then for the purposes of these Regulations “anti-money laundering compliance partner” means each and every partner in such solicitors practice;

“compliance partner” means a solicitor who is a partner in a solicitors practice which is a partnership of solicitors who is nominated from time to time by the members of the partnership and notified in writing to the Society as the partner responsible for completing and signing on behalf of all the partners the Form of Acknowledgement in respect of each reporting accountant’s report furnished to the Society in relation to the solicitors practice pursuant to the Solicitors Accounts Regulations 2014, whether or not such partner has also been so nominated as the anti-money laundering compliance partner;

“continuing professional development” means further education or training (or both) to a solicitor, whether relating to law or to management and professional development skills or to regulatory matters, intended to develop the solicitor in his or her professional knowledge, skills and abilities, and may be referred to in common usage as “CPD”;

“Council” means the Council of the Society;

“e-learning” means the provision of education or training (or both) that is generated, communicated, processed, sent, received, recorded, stored and/or displayed by electronic means or in electronic form, and includes education or training (or both) provided through:

- (i) the internet or other computer network connections, sound only or sound and vision formats, or a combination thereof;
- (ii) the provision of an electronic file, a CD-Rom and/or a DVD;
- (iii) other technologies or formats.

“Education Committee” means the education committee appointed annually by the Council;

“electronic” includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic and any other form of related technology;

“first cycle” means the period from the first day of January 2016 until the thirty-first day of December 2016;

“group study” means physical attendance at an organised structured session of continuing professional development undertaken in a group of three or more persons that lasts for a period of not less than thirty minutes, whether undertaken by means of lecture, workshop, seminar, tutorial or diploma or certificate course or in such other manner as may be more particularly defined and specified in the Scheme;

“management and professional development skills” includes education or training (or both) in any one or more of, or a combination of, the following areas:

- (i) financial and business management,
- (ii) practice management,

- (iii) self-management,
- (iv) client care,
- (v) Irish or English language enhancement as it relates to the practice of law,
- (vi) foreign language enhancement as it relates to the practice of law, as may be more particularly defined and specified in the Scheme;

“newly admitted solicitor” means a solicitor who has been admitted to the Roll for less than twelve months prior to the commencement of the first cycle or the second cycle;

“Regulation” means a regulation in these Regulations;

“regulatory matters” means matters relating to the regulation of solicitors, including:

- (a) Solicitors Acts 1954 to 2011 and regulations made thereunder;
- (b) accounting and anti-money laundering compliance;
- (c) the Society’s Guidance Notes for Solicitors on Anti-Money Laundering Obligations;
- (d) risk management;
- (e) the Guide to Professional Conduct of Solicitors in Ireland;
- (f) professional ethics and the maintenance of standards of best practice in complying with regulatory obligations;
- (g) the processing of complaints against solicitors by the Society and the functions of the Solicitors Disciplinary Tribunal and the courts in relation thereto;

“Roll” means the roll of solicitors maintained by the Society pursuant to section 9 (as substituted by section 65 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954;

“senior practitioner” means a solicitor who has been admitted to the Roll for at least forty years as of the thirty-first day of December in the year immediately preceding the first cycle or the second cycle;

“Scheme” means the scheme of continuing professional development of the Society as provided for in Regulation 5 and as approved by the Education Committee;

“second cycle” means the period from the first day of January 2017 until the thirty-first day of December 2017;

“Society” means the Law Society of Ireland;

“sole practitioner” means a solicitor who is practising as a sole principal in a solicitors practice;

“solicitor” means a person who has been admitted to the Roll;

“Solicitors Accounts Regulations” means the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014) and any subsequent regulations which amend or extend such Regulations;

“written relevant material” means written material of a legal nature that is published in a legal periodical or textbook, or other source as may be more particularly defined and specified in the Scheme.

- (b) Other words and phrases in these Regulations shall, where applicable, have the meanings assigned to them by the Solicitors Acts 1954 to 2011.
- (c) In these Regulations, unless the context otherwise requires, the singular includes the plural.
- (d) The Interpretation Act 2005 shall apply for the purpose of the interpretation of these Regulations as it applies for the purposes of the interpretation of an Act of the Oireachtas, except insofar as it may be inconsistent with the provisions of the Solicitors Acts 1954 to 2011 or these Regulations.

To whom these regulations apply

3. These Regulations shall apply to:

- (a) a solicitor in the full-time service of the State; and
- (b) a solicitor who holds a practising certificate in respect of all or any part of the first cycle or the second cycle.

General requirement to undertake CPD

4. A solicitor to whom Regulation 3 applies shall undertake continuing professional development during, respectively, the first cycle and the second cycle as provided for in Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.

Provision of CPD

5. (a) The Society shall provide from time to time for a scheme of continuing professional development (“the Scheme”) to be undertaken by a solicitor during, respectively, the first cycle and the second cycle for such minimum number of hours within each such cycle as is provided for in paragraph (b) of this Regulation and as fulfils the requirements provided for in paragraph (c) of this Regulation; the Scheme to be approved of from time to time by the Education Committee.

- (b) A solicitor shall be required to undertake continuing professional development:
- (i) during the first cycle, for a minimum of eighteen hours;
 - (ii) during the second cycle, for a minimum of twenty hours.
- (c) A solicitor to whom these Regulations apply shall be required during, respectively, the first cycle and the second cycle to fulfil the following requirements:
- (i) in respect of the first cycle, the requirement to undertake continuing professional development for a minimum of eighteen hours shall comprise a minimum of three hours of management and professional development skills and a minimum of two hours of regulatory matters and may be completed by means of e-learning and/or group study and/or written relevant material,

as may be more particularly defined and specified in the Scheme;
 - (ii) in respect of the second cycle, the requirement to undertake continuing professional development for a minimum of twenty hours shall comprise a minimum of three hours of management and professional development skills and a minimum of two hours of regulatory matters and may be completed by means of e-learning and/or group study and/or written relevant material,

as may be more particularly defined and specified in the Scheme;
 - (iii) Without prejudice to the generality of sub-paragraph (i) and sub-paragraph (ii) of this paragraph, a solicitor who is a sole practitioner or a compliance partner and/or an anti-money laundering compliance partner shall be required to undertake, as part of his or her obligations to undertake CPD during, respectively, the first cycle and the second cycle, at least three hours of regulatory matters of which at least two hours shall be accounting and anti-money laundering compliance.
- (d) A solicitor required to undertake continuing professional development pursuant to these Regulations shall maintain a written record of the hours of continuing professional development undertaken by him or her (including written verification thereof) in order to demonstrate the solicitor's compliance with these Regulations and the Scheme; and the Scheme shall provide for the form and content of such written record to be so maintained by the solicitor.
- (e) The written record and written verification(s) to be maintained by a solicitor to verify his or her hours of continuing professional development, as provided for in paragraph (d) of this Regulation, shall be produced by the solicitor on being so requested by the Society.

Modification of CPD requirement

6. The requirements of Regulation 5 shall, subject to paragraph (g) of this Regulation, be modified in respect of the following categories of solicitor:—

- (a) A newly admitted solicitor shall be required to undertake continuing professional development from the first day of his or her admission to the Roll, but may have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme;
- (b) A senior practitioner shall be required to undertake continuing professional development only for a maximum of three hours in each cycle following upon his or her attainment of at least forty years after his or her admission to the Roll;
- (c) A solicitor who for reasons of maternity and/or parental and/or carers and/or adoptive leave, does not practise or ceases to practise as a solicitor in the course of the first cycle or the second cycle for a period of not less than one week within any such cycle may, on due written certification to the Society of that fact, have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme;
- (d) A solicitor who, for reasons of illness, retirement, unemployment or other substantive reasons, does not practise or ceases to practise as a solicitor in the course of the first cycle or the second cycle for a period of not less than eight weeks within any such cycle may, on due written certification to the Society of that fact, have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme;
- (e) A solicitor who holds a practising certificate or is in the full-time service of the State for part only of the first cycle or the second cycle may, on due written certification to the Society of that fact, have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme; and
- (f) A solicitor who engages in practice part-time in the course of the first cycle or the second cycle may, on due written certification to the Society of that fact, have his or her requirement to have undertaken continuing professional development during that particular cycle proportionately or otherwise reduced, as may be more particularly defined and specified in the Scheme.

- (g) Without prejudice to the generality of paragraphs (a) to (f) of this Regulation, a solicitor who is a sole practitioner or a compliance partner and/or an anti-money laundering compliance partner shall be required to undertake as all or part of his/her modified CPD obligations to undertake CPD during, respectively, the first cycle and the second cycle, at least three hours of regulatory matters, of which at least two hours shall be accounting and anti-money laundering compliance.

Certifying CPD

7. (a) A solicitor who makes application to the Society for a practising certificate for all or any part of the second cycle shall, as part of such application and in such other manner as may be more particularly defined and specified in the Scheme, certify to the Society (and verify such certification, if so requested by the Society, by production of the written record and written verification(s) maintained pursuant to Regulation 5 (d)) the fact of the solicitor having undertaken continuing professional development during the first cycle for a minimum of eighteen hours in accordance with Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.
- (b) A solicitor who makes application to the Society for a practising certificate for all or any part of the practice year commencing on the first day of January 2018 shall, as part of such application and in such other manner as may be more particularly defined and specified in the Scheme, certify to the Society (and verify such certification, if so requested by the Society, by production of the written record and written verification(s) maintained pursuant to Regulation 5 (d)) the fact of the solicitor having undertaken continuing professional development during the second cycle for a minimum of twenty hours in accordance with Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.
- (c) A solicitor in the full-time service of the State shall, within two months following the end of, respectively, the first cycle and the second cycle, certify to the Society in such manner as may be more particularly defined and specified in the Scheme (and verify such certification, if so requested by the Society, by production of the written record and written verification(s) maintained pursuant to Regulation 5 (d)) the fact of the solicitor having undertaken continuing professional development during respectively, the first cycle for a minimum of eighteen hours and during the second cycle for a minimum of twenty hours, each in accordance with Regulation 5 and the Scheme but subject, as may be applicable, to Regulation 6.

Breach of regulations to be misconduct

8. (a) Any breach of these Regulations may, upon due inquiry by the Solicitors Disciplinary Tribunal pursuant to section 7 (as substituted by section 17 of the Solicitors (Amendment) Act 1994 and as amended by section 9 of the Solicitors (Amendment) Act 2002) of the Solicitors

(Amendment) Act 1960, be found by the Solicitors Disciplinary Tribunal to be misconduct within the meaning of section 3 (as amended by section 24 of the Solicitors (Amendment) Act 1994 and by section 7 of the Solicitors (Amendment) Act 2002) of the Solicitors (Amendment) Act 1960.

- (b) Without prejudice to the generality of paragraph (a) of this Regulation and for the purpose of ensuring compliance with these Regulations, the Education Committee may investigate the alleged breach by a solicitor of these Regulations and, to that end, may in respect of the solicitor concerned:
- (i) seek explanations from the solicitor,
 - (ii) call the solicitor for a meeting,
 - (iii) give directions to the solicitor, and/or
 - (iv) direct that the Society refer the matter to the Solicitors Disciplinary Tribunal for inquiry.
- (c) Without prejudice to the generality of paragraph (a) of this Regulation and in the course of ensuring compliance with these Regulations the Society (acting through the Education Committee) may determine that a solicitor, the subject of an investigation of an alleged breach of these Regulations has in the course of the investigation refused, neglected or otherwise failed, without reasonable cause, to respond appropriately in a timely manner, or at all, to a written request from the Society and the Society have incurred costs in consequence of the refusal, neglect or failure, and may require payment by the solicitor to the Society of a sum not exceeding €300 by way of contribution towards those costs and the solicitor shall comply with any such requirement.
- (d) A determination under paragraph (c) of this Regulation shall not be made by the Society (acting through the Education Committee) unless the solicitor concerned has been duly notified by the Society in writing in advance that such a determination might subsequently be made if the solicitor continued to refuse or neglect or otherwise fail, without reasonable cause, to respond appropriately in a timely manner to the written request or requests already made to the solicitor by the Society in the course of its investigation of an alleged breach of these Regulations.
- (e) The Society may recover any sum payment of which has been requested by the Society by way of contribution under paragraph (c) of this Regulation as a liquidated debt payable to the Society.

Modification of regulations in exceptional circumstances

9. The Society may, in exceptional circumstances and subject to such conditions as the Society deem appropriate, modify any requirement or provision of these Regulations.

SIGNED on behalf of the Law Society of Ireland pursuant to section 79 of the Solicitors Act 1954.
29 October 2015.

KEVIN O'HIGGINS,
President of the Law Society of Ireland.

Pursuant to the provisions of section 40 of the Solicitors Act 1954 (as amended by section 49(e) of the Solicitors (Amendment) Act 1994) I concur in the making of the within Regulations.

1 November 2015.

FRANCES FITZGERALD TD,
Minister for Justice and Equality.

EXPLANATORY NOTE

(This document is provided for guidance only and does not purport to be a legal interpretation)

The principal purpose of the Instrument is to provide for a two year cycle of Continuing

Professional Development requirements in respect of 2016 and 2017, operative from 1 January 2016.

Purpose of the Act

The purpose of these Regulations is to replace the Solicitors (Continuing Professional Development) Regulations 2012 as the latter expires as of 31 December 2015.

Regulation 1 — Citation and commencement

This is a standard provision and proposes that the Regulations shall come into operation on the first day of January 2016.

Regulation 2 — Definitions

Regulation 2 provides for a number of definitions relevant to these Regulations. This is a standard provision in legislation.

Regulation 3 — To whom these Regulations apply

Regulation 3 provides for those to whom the Regulations apply.

Regulation 4 — General requirement to undertake CPD

This Regulation provides for the requirement to undertake CPD in a specified number of cycles, subject to any applicable modifications.

Regulation 5 — Provision of CPD

This Regulation provides for a specified number of CPD hours to be completed in each of the specific CPD cycles.

In addition, it introduces an additional “regulatory matters” compliance requirement for a solicitor (including a “senior practitioner”) who is a “sole practitioner” or a “compliance partner” and/or an “anti-money laundering compliance partner” of 3 hours “regulatory matters” per CPD cycle, of which at least 2 hours shall be “accounting and anti-money laundering compliance”.

Further, it provides that written record and verification of training must be maintained by the solicitor.

Regulation 6 — Modification of CPD requirement

This Regulation collectively describes the modifications applicable in applicable circumstances.

Regulation 7 — Certifying CPD

The Regulation provides that a solicitor must certify compliance with their CPD obligations in any particular CPD cycle.

Regulation 8 — Breach of regulations to be misconduct

This section provides for the result of any breach of the Regulations. It further provides that the Education Committee may investigate any such breach and refer to the Solicitors Disciplinary Tribunal when required.

Regulation 9 — Modification of regulations in exceptional circumstances

This section provides for the modification of CPD requirements in extenuating circumstances.

Law Society of Ireland

October 2015

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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