



2011 CHAPTER 24

PART 8

SOLICITORS' RIGHTS OF AUDIENCE

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—

“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—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, Section 89. (See end of Document for details)

- (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—

- (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,

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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”.

Status:

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Changes to legislation:

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