

Status: This version of this provision is prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Solicitors (Northern Ireland) Order 1976. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

STATUTORY INSTRUMENTS

1976 No. 582

Solicitors (Northern Ireland) Order 1976

PART III

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE

Control of solicitors' property in certain cases

PROSPECTIVE

[^{F1}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;
- (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.

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

F1 Arts. 40A, 40B inserted (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 89(2), 111(3) (with s. 106(4))

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 6(1A) inserted by [2011 c. 24 \(N.I.\) s. 88\(2\)](#)
- art. 10(2D) inserted by [2011 c. 24 \(N.I.\) s. 88\(4\)](#)
- art. 51(11A) inserted by [2016 c. 14 \(N.I.\) s. 3\(4\)](#)
- art. 71H(3) revoked by [1996 c. 23 s. 107\(2\)Sch.4](#)
- art. 75(1A) inserted by [2016 c. 14 \(N.I.\) s. 3\(6\)](#)
- art. 75(2A)(2B) inserted by [2011 c. 24 \(N.I.\) s. 90\(1\)](#)