

**SOLICITORS (AMENDMENT)
(NORTHERN IRELAND) ORDER 2004**

S.I. 2004 No. 1989 (N.I. 13)

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Solicitors (Amendment) (Northern Ireland) Order was made on 27th July 2004.
2. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel (“the Department”) in order to assist the reader in understanding the Order. It does not form part of the draft Order.

BACKGROUND AND POLICY OBJECTIVES

3. The solicitors’ profession in Northern Ireland is regulated by the Solicitors (Northern Ireland) Order 1976. Provisions of the Order deal with the operation of a Compensation Fund where the Law Society for Northern Ireland may approve grants in circumstances of loss arising from a solicitor’s dishonesty or failure to account for clients’ funds (Articles 56 and 57). The Fund, the cost of which is entirely borne by the solicitors’ profession, in practice complements and underpins separate arrangements whereby solicitors are required by the Society to maintain professional indemnity insurance cover to meet claims arising out of the solicitors’ professional negligence.
4. Schedule 2 to the 1976 Order deals with the structure and financing of the Compensation Fund. There is one statutory opportunity each year to raise funds by way of a levy on solicitors (in January each year). Apart from this the only way to raise additional finance is by borrowing. The Law Society also insures the Fund against major loss. Schedule 2, paragraph 4 permits borrowing by the Compensation Fund but limits the amount which can be borrowed to £100,000. This limit was set in 1976.
5. The main policy objective of the Order is to increase the limit that may be borrowed from this figure to £1million. It is considered that the existing figure is much too low and no longer reflects the increase in the value of client funds held by solicitors in their accounts. In order to maintain the effective management and maintenance of the Fund, the Law Society require the potential to borrow much more than they are currently able to do under the 1976 Order. In addition, the Order intends to permit future consideration of the figure to be undertaken by way of subordinate legislation.

CONSULTATION

6. The Law Society has approached the Department with an urgent request to amend the borrowing limit for the Fund. The amendment is essentially a matter of internal control for the Society and, coupled with the need for swift legislation, the Minister has agreed that on this occasion public consultation is not required.

*This Explanatory Memorandum refers to the Solicitors
(Amendment) (Northern Ireland) Order 2004No. 1989 (N.I. 13)*

COMMENTARY ON ARTICLES

7. [Article 1](#) provides for the title, commencement and interpretation of the Order.
8. [Article 2](#) increases the amount that the Law Society may borrow for the purposes of the Compensation Fund from £100,000 to £1 million. It also allows the Department to vary this figure by way of a negative resolution order.

COMMENCEMENT

9. The Order will come into force on the day after that on which it is made.