

THE LAW SOCIETY OF SCOTLAND

SOLICITORS (SCOTLAND) (CLIENT COMMUNICATION) PRACTICE RULES 2005

Rules dated 24th March 2005, made by the Council of the Law Society of Scotland under section 34(1) of the Solicitors (Scotland) Act 1980 and approved by the Lord President of the Court of Session in terms of section 34(3) of the said Act.

Citation and Commencement

1. (1) These Rules may be cited as the Solicitors (Scotland) (Client Communication) Practice Rules 2005.
- (2) These Rules shall come into operation on 1st August 2005.

Definitions and Interpretation

2. (1) In these Rules, unless the context otherwise requires:–
 - “**the 1986 Act**” means the Legal Aid (Scotland) Act 1986;
 - “**the Act**” means the Solicitors (Scotland) Act 1980;
 - “**advice and assistance**” means advice and assistance as defined in section 6(1) of the 1986 Act to which Part II of the 1986 Act applies;
 - “**civil legal aid**” has the meaning given to it in section 13(2) of the 1986 Act;
 - “**client**” means a person who instructs a solicitor or to whom a solicitor tenders for business;
 - “**the Council**” means the Council of the Society;
 - “**legal aid**” has the meaning given to it in section 41 of the 1986 Act;
 - “**the Society**” means the Law Society of Scotland;
 - “**solicitor**” means a solicitor holding a practising certificate under the Act and includes a firm of solicitors and an incorporated practice; and
 - “**special urgency work**” has the meaning given to it in Regulation 18 of the Civil Legal Aid (Scotland) Regulations 2002.
- (2) The Interpretation Act 1978 applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.
- (3) The headings to these Rules do not form part of these Rules.

Provision of Information

3. A solicitor shall when tendering for business or at the earliest practical opportunity upon receiving instructions to undertake any work on behalf of a client, provide the following information to the client in writing:
 - (a) details of the work to be carried out on behalf of the client;
 - (b) save where the client is being provided with legal aid or advice and assistance, details of either–
 - (i) an estimate of the total fee to be charged for the work, including VAT and outlays which may be incurred in the course of the work; or
 - (ii) the basis upon which a fee will be charged for the work, including VAT and outlays which may be incurred in the course of the work;

- (c) if the client is being provided with advice and assistance or legal aid–
 - (i) where advice and assistance is being provided, details of the level of contribution required from the client, and
 - (ii) where civil legal aid, special urgency work or advice and assistance is being provided, an indication of the factors which may affect any contribution which may be required from the client or any payment which may be required from property recovered or preserved;
- (d) the identity of the person or persons who will principally carry out the work on behalf of the client; and
- (e) the identity of the person whom the client should contact if the client becomes concerned in any way with the manner in which the work is being carried out.

Exceptions

- 4. (1) Where a client regularly instructs a solicitor in the same type of work, he need not be provided with the information set out in rule 3 in relation to a new instruction to do that type of work, provided that he has previously been supplied with that information in relation to a previous instruction to do that type of work and is informed of any differences between that information and the information which, if this paragraph (1) did not apply, would have been required to be provided to him in terms of rule 3.
- (2) Where there is no practical opportunity for a solicitor to provide the information set out in rule 3 to a client before the conclusion of the relevant work for that client then that information need not be provided to that client.
- (3) Where a client is a child under the age of 12 years then the information set out in rule 3 need not be provided to that client.

Waiver

- 5. The Council shall have the power to waive any of the provisions of these Rules either generally or in any particular circumstances or case, provided that such waiver may be made subject to such conditions as the Council may in its discretion determine.

Professional Misconduct

- 6. Breach of these Rules may be treated as professional misconduct for the purposes of Part IV of the Act (Complaints and Disciplinary Proceedings).

Repeals

- 7. The Solicitors (Scotland) (Client Communication) (Residential Conveyancing) Practice Rules 2003 are hereby revoked.