



**T**he attention of practising solicitors is drawn to the Solicitors (Professional Practice, Conduct and Discipline) Regulations 1997 (S.I. 85/1997).

Under these regulations a solicitor is prohibited from acting for both vendor and purchaser in the sale and purchase for value of a newly constructed residential unit or a residential unit in course of construction, where the vendor is the builder of that residential unit or is associated with the builder of that residential unit.

This prohibition does not apply in the following situations unless there is a conflict of interest between the vendor and the purchaser:

1. where the vendor and the purchaser are associated companies or the purchaser is a member, director or employee of the vendor or an associated company of the vendor;
2. where the vendor or, where the vendor is a corporate entity, any member or director of the vendor, is related to the purchaser by blood, adoption or marriage.

In the regulations “residential unit” means a house or apartment intended for use as a residence.

Any breach of the regulations may, on due enquiry by the Solicitors Disciplinary Tribunal, be found to be misconduct.

Practitioners from all areas of the country have brought to the attention of the Law Society the fact that some solicitors acting for builders / vendors in the sale of new estate houses or apartments are also routinely acting for purchasers of those new residential units, in apparent breach of the provisions of the above statutory instrument. This activity has been reported both in cases where the solicitor acting for the builder / vendor acts for the occasional purchaser in the development and in cases where the solicitor acting for the builder / vendor systematically acts for all purchasers in the development. It is a source of great concern to the Society that some practitioners continue to act in breach of the provisions of S.I. 85/1997 in this manner, notwithstanding the fact that the Society has previously successfully prosecuted such a breach of the law before the Disciplinary Tribunal, as reported in the November 2004 issue of the Law Society Gazette.

Breaches of S.I. 85/1997 will be referred to the Complaints and Client Relations Committee and may result in referral to the Disciplinary Tribunal.

Any solicitor who may already be in the course of acting for both parties in the sale and purchase of a new residential unit or a residential unit in the course of construction, in

#### **ACTING FOR BOTH VENDOR AND PURCHASER IN SALE AND PURCHASE OF NEW HOUSES AND APARTMENTS: NOTICE TO ALL PRACTISING SOLICITORS**

## CHAPTER 5

# LAW SOCIETY CONVEYANCING HANDBOOK

NEW HOUSES/HOMEBOND/  
BUILDERS AND NEGATIVE  
SEARCHES FOR HOUSING  
DEVELOPMENTS



**ACTING FOR BOTH  
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(Contd.)

breach of S.I. 85/1997, should immediately make arrangements to cease to so act in cases where the sale has not yet taken place and where a lending institution or other third party has not already acted in reliance upon an undertaking given by the solicitor acting in the transaction.

**REGISTRAR OF SOLICITORS and  
CONVEYANCING COMMITTEE**

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