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## 24. PRACTICE DIRECTIONS 1990

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### PREFACE

Under article 18(h) of the Articles of Association of the Society the Council is empowered to issue Practice Directions relating to the professional practice, conduct and discipline of solicitors. Article 6 provides that every solicitor shall be absolutely bound by all Practice Directions issued from time to time by the Society.

The Council has issued a number of Practice Directions. Some of the Directions are advisory only but some are mandatory, breach of which will be treated as professional misconduct in respect of which disciplinary action may be taken.

These Practice Directions replace all previous Directions made by the Council. They have been edited but there are no new Directions and no amendments of substance.

In a number of Directions reference is made to particular sums of money. These have been reviewed and some have been revised and are effective from the date of publication of this document.

Practice Directions which dealt with publicity have been repealed and a new Solicitors' Practice Promotion Code is published separately.

The date on which the original Direction came into effect is referred to in those Directions where it may be important to the obligations of solicitors before and after a particular date. Otherwise reference can be made to the table at appendix 1.

January 1990

Note: These consolidated Practice Directions were first issued on 8 January 1990.

This revised print is current at 29 September 1997.

**A. CONVEYANCING**

1. Attestation of documents
2. Sale of flats in uncompleted developments by way of grant or sale of sub-leases
3. Solicitors' Accounts Rules
4. Rule 5C of the Solicitors' Practice Rules - sale of flats in uncompleted developments
5. Management of multi-storey buildings - deed of mutual covenant
6. Standard provisions for payment of purchase money in Consent and Non-Consent Schemes
7. Sale and purchase of partitioned residential flats
8. Certified copies of title deeds.
9. Rule 5C(1) of the Solicitors' Practice Rules
- 9A. Rule 5C(1) of the Solicitors' Practice Rules - Home Ownership Scheme and Private Sector Participation Scheme Conveyancing Transactions
- 9B. Rule 5C(1) of the Solicitors' Practice Rules - Financial Secretary Incorporated Lease Extension Cases
10. Rule 5C(1) of the Solicitors' Practice Rules
11. Rule 5C(1) of the Solicitors' Practice Rules
12. Rule 5C of the Solicitors' Practice Rules  
Approved Forms A1 and A2 (for Consent Scheme)  
Approved Forms B1 and B2 (for non-Consent Scheme)

**B. COSTS**

1. Solicitors' bills of costs
2. Solicitors (General) Costs Rules - equitable mortgage and legal charge
3. Solicitors (General) Costs Rules - assignment between subsidiary / associate companies

**C. CRIMINAL CASES**

1. [Repealed]
2. [Repealed]
3. Steps to be taken in criminal matters
4. Video Evidence of Children

## A. CONVEYANCING

### 1. ATTESTATION OF DOCUMENTS

- (1) Where the signing / execution of documents is required by law or practice to be witnessed / attested by a solicitor, the solicitor should be physically present when witnessing / attesting the same where the attestation clause is in the following terms:-

"Signed by .....)  
in the presence of:- )

Solicitor, Hong Kong SAR"

Some solicitors have adopted the practice of attesting to the signature of a document when in fact they were not present and did not witness the actual signing of that document. The effect of this practice is that the resulting document contains a false and dishonest statement by the solicitor.

- (2) If it is impracticable for a solicitor to witness / attest the signing / execution of a document, which by law is not required to be so witnessed / attested, the Council has made the following directions:

- (a) A firm of solicitors may appoint one or more experienced clerk or clerks for the purpose of witnessing / attesting the signing / execution of documents not required by law to be witnessed / attested by a solicitor.
- (b) A clerk so appointed must be physically present when witnessing / attesting the signing / execution of documents.
- (c) The signature of the appointed clerk who acted as witness shall be verified by a solicitor of the firm. The following clause is considered appropriate:

"I hereby verify the signature of (name of appointed clerk):-

Solicitor, Hong Kong SAR"

- (3) (a) Where a document is executed by a limited company, whether under seal or not, the signatures of directors / officers or attorneys appearing on the document may be verified by a solicitor if such signatures are known to the solicitor. The following clauses are considered appropriate:

"Sealed with the Common Seal of )  
ABC Co. Ltd. and signed by )  
.....(directors / )  
officers) whose signatures are )  
verified by:- )

Solicitor, Hong Kong SAR"

OR

"Signed by ..... )  
(directors / officers) for and )  
on behalf of ABC Co. Ltd. whose )  
signatures are verified by:- )

Solicitor, Hong Kong SAR"

OR

"Signed (Sealed and Delivered) )  
by .....(attorney(s)) )  
lawful attorney(s) for ABC Co. )  
Ltd. whose signature(s) is / are )  
verified by:- )

Solicitor, Hong Kong SAR"

- (b) Save as in paragraph (3)(a) above, the signature of an individual must be attested (as opposed to verified) by a solicitor or his appointed clerk.
- (4) Solicitors and their clerks whose signatures appear on a document whether as witnesses, interpreters, identifiers or certifiers should have their names and firm names typed or printed in full immediately below their signatures unless their names and firm names appear elsewhere in the same document. The date on which a document is certified must be indicated.
- (5) Hong Kong Identity Cards or other appropriate means of identification may be used for identification purposes.

## 2. SALE OF FLATS IN UNCOMPLETED DEVELOPMENTS BY WAY OF GRANT OR SALE OF SUB-LEASES

- (1) This Practice Direction is to be read as supplemental to Circular No. 8/80 dated 15th January, 1980. (see below)
- (2) Where a developer (or a sub-seller) is selling any interest in a property under construction which is for less than the whole of the residue of the term of years under which the property is held under the relevant Government grant, the Law Society's Non-Consent Scheme does not apply.
- (3) It follows from paragraph (2) that in such circumstances the vendor and purchaser must be separately represented. The mandatory clauses (see rule 5C of the Solicitors' Practice Rules) may not be amended to achieve the sale of a sub-lease.
- (4) As long as the documentation is properly prepared such transactions are not open to any legal objection. However, because such transactions are unusual and purchasers may misunderstand the true nature thereof, the parties must be separately represented.
- (5) In any transaction to which this Practice Direction applies, the solicitors representing the vendor may not seek payment of their fees from the purchaser or vice-versa.