

4. RULE 5C OF THE SOLICITORS' PRACTICE RULES - SALE OF FLATS IN UNCOMPLETED DEVELOPMENTS

- (1) This Practice Direction is to be read in conjunction with rule 5C of the Solicitors' Practice Rules. It applies to the situation that arises where the vendor offers for sale property in an uncompleted development in circumstances where rule 5C applies and the vendor and the purchaser are separately represented.
- (2) A solicitor may not directly or indirectly permit the vendor or any servant or agent of the vendor, to solicit business on his behalf. A solicitor must be satisfied before accepting instructions from a purchaser that the purchaser has not been improperly induced to give instructions to his firm.
- (3) Where a solicitor accepts instructions from such a purchaser in respect of a flat in an uncompleted development, he must make a detailed comparison between the proposed form of Sale and Purchase Agreement drafted by the vendor and the clauses required by the Council for mandatory inclusion in such an agreement where the solicitor acts for both the vendor and the purchaser.
- (4) The solicitor acting for the purchaser must give the purchaser written advice stating, if such be the case, that the proposed agreement does not contain all the mandatory clauses required by the Law Society in Sale and Purchase Agreements of uncompleted developments and giving details with full particulars of the omissions / variations (if any). The written advice must make it clear to the purchaser the extent to which he may be prejudiced by the omissions / variations in whole or in part of such mandatory clauses.
- (5) Save in exceptional circumstances a period of not less than 48 hours must elapse between the delivery to the purchaser of written advice complying with paragraph (4) above and the execution by the purchaser of the Sale and Purchase Agreement.
- (6) Solicitors are reminded of their duty to approach the vendor's solicitors with appropriate amendments to the Sale and Purchase Agreement with a view to including the contents of the mandatory clauses before allowing their purchaser client to sign it.
- (7) This Practice Direction came into effect on 1st March 1983.

5. MANAGEMENT OF BUILDINGS - DEEDS OF MUTUAL COVENANT

Reference is made to the Society's Circular No. 23-88 on Guidelines for the drafting of Deeds of Mutual Covenant.

The Guidelines shall apply to all developments where approval of the Deeds of Mutual Covenant is not required to be given by the Director of Lands.

Subsequent amendments to the Guidelines shall be notified in Circulars and shall apply with effect from the date as stated in the relevant circulars.

Members who wish to deviate from the Guidelines must apply for a waiver setting out the grounds of the application.

6. [Repealed on 13 April 2004]