



SOLICITORS CEASING PRACTICE

Guidelines for solicitors retiring or ceasing to practice as sole practitioners or sole principals and for solicitors purchasing practices from them



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CESSATION OF PRACTICE

If you are a sole practitioner ceasing to practice or retiring from practice, this booklet will guide you through the regulatory requirements of the Law Society and an overview of assistance which will be available to you.

The booklet will provide you with guidance on the requirements upon you in the following circumstances:

1. The wind up of a practice
2. The sale of a practice
3. Professional indemnity insurance
4. Accounts Regulations
5. Undertakings
6. Staff of the Practice
7. The Law Society of Ireland



Further information on closing a practice can be found on the Society's website at www.lawsociety.ie/Solicitors/Running-a-Practice/Closing-a-Practice/



Where a firm is ceasing, the main cessation requirements are as follows:

- a) Submission of Cessation of Practice Form to the Society
- b) Provision of a home or correspondence address
- c) Distribution and storage of client files
- d) Closing reporting accountant's report
- e) Professional indemnity insurance – run-off cover (including notification of closure to the Special Purpose Fund Manager) or succeeding practice.

Cessation of Practice Form

The Cessation of Practice Form should be completed and submitted to the Society in advance of the date of cessation. The form can be downloaded from the Society's website at www.lawsociety.ie/Solicitors/Running-a-Practice/Closing-a-Practice/

The cessation notification should include:

- a) the date of cessation of the firm,
- b) reasons for cessation,
- c) type of cessation (wind-down closure, take over, merger, change of principals)
- d) information regarding the intended practising status of the principals post-cessation (retirement, transfer to another firm as a principal or assistant solicitor or consultant, in-house solicitor)
- e) the identity of firms to whom client files have been transferred and written confirmation from each firm that the files have been received
- f) the identity of the practising solicitor with access to closed stored files and written confirmation from that solicitor of same
- g) home or correspondence address for each principal and confirmation that same can be provided to clients seeking to contact you
- h) confirmation of run-off cover from the Run-off Fund, or confirmation that a succeeding practice exists (including written confirmation from the succeeding practice)



The Cessation of Practice Form should be completed and submitted to the Society in advance of the date of cessation.

2 | WIND-UP OF PRACTICE

If a practice is not being sold, it must be wound up. It is prudent for a firm to have a wind-down plan in place to ensure that the firm is prepared to execute a voluntary wind-down.

Firms should plan for the costs involved for the wind down of a firm. It is imperative that solicitors notify the Society in writing of an intention to cease practice and provide the Society written confirmation of a contact address.

The voluntary wind down of a firm should be done over a period of time. Ideally, the solicitor should not take any new work but may continue to work on any current files until each file is finalised and closed and there are no current files remaining.

Notifying the Society

Whether a practice is sold or wound up, the Society should be sent notification in writing of the matter, so that the Society's records can be updated. The following information must be provided to the Society in writing:

- Ongoing notification to the Society regarding the progress in distribution of live and closed files.
- Written confirmation (in due course) that all live files have been forwarded to new solicitors nominated by the clients.
- Written confirmation that closed files have been returned to clients where appropriate or held in storage (not at home or in a private residence), and the details of where the files are being stored.
- Written confirmation that closed files in storage are accessible by a nominated practising solicitor upon request by the client or the Society for access to the file, including the identity of the nominated practising solicitor, and written confirmation from the practising solicitor that they are willing to act in that capacity.
- Written confirmation for client files (either live or closed) transferred to a colleague that the colleague understands that decisions relating to those files will be for him/her to make.



Whether a practice is sold or wound up, the Society should be sent notification in writing of the matter, so that the Society's records can be updated.

- Written confirmation that all Wills in respect of the closed firm have been transferred to another firm or returned to clients. Solicitors often notify their local bar association of their cessation from practice to inform them of the arrangements being made in respect of Wills.

If a solicitor is continuing to practice, but in a different practice situation, it should be noted that Section 81 of the Solicitors Acts, 1954 requires a practising solicitor to give notice to the Registrar of Solicitors of any change in the solicitor's place of business, within fourteen days after the change is made.

The Society should be informed of the identity of any practising solicitor(s) to whom files have been transferred. This is important so that Society personnel are in a position to answer queries from clients in relation to the whereabouts of their files after a solicitor has ceased practising or has retired from practice.

Notifying the client

When a sole practitioner ceases to practice, or all the partners in a partnership cease to practice, prompt notification to the clients of the firm should be made¹. It is then a matter for each client to decide to instruct a new solicitor. It would not be proper for any firm to take over the affairs of a client, including money and papers held, without the client concerned first providing their written authorisation to do so. It should be noted for client files of all firms that the file is the property of the client not the firm, subject to the payment of any outstanding fees and discharge of outstanding undertakings, and the client is entitled to their file.

Distribution of files

As an alternative to completing the work on the files, the solicitor may opt to distribute the files to new solicitors nominated by the client(s). Accordingly, it will be necessary to circularise the client informing them of the wind-up of the practice and ask them to nominate a new solicitor. The files will then be distributed in accordance with that nomination. Solicitors should ensure that the practising solicitor, who has access to the open and closed files of the ceasing solicitor's former practice, retains those files for the appropriate statutory periods. Solicitors who cease private practice should note that the mandatory periods for the retention of files and papers can be considerable, ranging from 6 years to an indefinite period. The cost of storage of files for such a long period should be kept in mind.

The practice note on the retention and destruction of files is available to download from the www.lawsociety.ie/practicenotes.

¹ "Changes in the Solicitors Practice" - 9.14 "A Guide to Good Professional Conduct of Solicitors in Ireland" (3rd Edition), Law Society of Ireland.

Solicitors should notify the Society in writing of the identity of the practising solicitor to whom client files have been transferred and provide confirmation in writing that those files have been received. The solicitor ceasing private practice should also provide the Society with the identity of any practising solicitor with access to closed stored files and written confirmation from that solicitor of same. If the solicitor nominated at any time changes, the Society must be immediately notified in writing and an alternative practising solicitor appointed. A practising solicitor must have access to the stored closed files of the firm at all times.

All Wills in respect of a closed firm should be transferred to another firm of solicitors or returned to clients. Solicitors often notify their local bar association of their cessation from practice to inform them of arrangements being made in respect of Wills.

A solicitor ceasing private practice should be aware that clients are often very slow to take up their files in circumstances where a firm is being wound-down. So long as any work is being done on any files, the solicitor must have professional indemnity insurance for the firm and hold a current practising certificate.

The solicitor should consider the expenditure involved in having to take out a practising certificate and professional indemnity insurance on an ongoing basis until the last file is completed. A solicitor should not under-estimate the time that it may take to wind up the practice. For instance, queries may arise in relation to an application for registration in the Land Registry so that registration could not be finalised for many months or even years. Accordingly, an objective of completing the work on every file, within a given deadline may not be achievable.

A solicitor ceasing private practice should arrange with a practising solicitor to take over the live files and complete the work, subject to each client's written authorisation. If clients have already paid their own bill the retiring solicitor may have to pay the new solicitor to complete the file. In those circumstances, the clients would have the option of instructing a different solicitor at the expense of the solicitor ceasing practice.



If you are transferring files to another firm you may refer to the practice note **Transferring Files between Solicitors** which is available to download on www.lawsociety.ie/practicenotes.

Transfer of files

If the files are being transferred to other firms or between various firms, details should be provided to the Society in writing advising of the location of the files along with confirmation that those files have been received. The solicitor should also confirm the position in relation to client monies.

Solicitors should note that the client file is the property of the client once all fees and undertakings have been discharged. If you are transferring files to another firm you may refer to the practice

note Transferring Files between Solicitors which is available to download on www.lawsociety.ie/practicenotes.

Can the Society take the files for me?

No, the Society cannot deal with the wind-down of your firm on your behalf and client files cannot be sent to the Society to distribute. It is the responsibility of each principal of a firm to ensure the proper cessation of the firm and distribution of client files and monies. Failure to do so is considered to be an abandonment of practice and serious misconduct.

The Society only takes client files and monies from a distressed closure of a firm where a High Court order is obtained, normally where a solicitor has been struck off. The principals of such closed firm, or the estate of the principal (if deceased) are responsible for the full payment of the costs involved, including the costs of obtaining the High Court order and can be pursued for same by the Society. The average minimum cost of the closure of a small practice by the Society is €60,000. It should be noted that, in cases where a High Court order has been made for the Society to take files and client moneys, the Society cannot carry out any legal work on the files and can only carry out a file distribution exercise.

Costs

Firms should budget for costs which may arise in the voluntary or involuntary closure of a firm which may include, but are not limited to the following:

- Accountant's fees;
- A destruction exercise for closed files where the statutory period for retention has expired;
- Salaries for staff to complete the work on the closure of the practice;
- Redundancies;
- Costs of other firms who may need to be paid to carry out certain work which the ceasing firm may be responsible for the costs of, including dealing with outstanding undertakings.

3

SALE OF PRACTICE

Notification to the Society

The following information must be provided to the Society as part of the cessation of practice form:

- The date on which the firm is being sold/transferred
- Clarification on whether all files (including closed files) are being sold or transferred to one firm, the identity of the firm, and written confirmation from the firm that they will take the files
- If the files are being distributed between various firms, details relating to the distribution of files should be provided
- Confirmation that all client moneys are being transferred as part of the sale/transfer
- If the new firm is a succeeding practice, written confirmation must be provided from the new firm that they are covered by their PII as a succeeding practice
- If the new firm is not a succeeding practice, confirmation must be provided from the Run-off Fund that the closing firm will be provided with run-off cover from the fund.

Changing firm structure

If a firm is changing from a sole practitioner to a partnership, from a partnership to a sole practitioner or from one sole practitioner to another sole practitioner it is necessary to execute both a cessation and commencement for the practice. This is the case even if the solicitors in the practice remain the same and / or the name of the practice does not change.

Moving from private practice to practice in the full-time service of the state

Sole practitioners, who intend to cease private practice with the intention of commencing practice in the full-time service of the State, are required to execute the cessation of their practice before commencing their new position. A solicitor will be deemed to be practising in the full-time service of the State if they are required to devote the whole of their time to the service of the State as a solicitor and are remunerated in respect of such service wholly out of moneys provided by the Oireachtas.

Solicitors who commence practice in the full-time service of the State are required to submit a separate Service of the State application form to the Society but no fees are payable in respect of this application. Solicitors in the full-time service of the State may

pay for optional items including membership of the Society and the Solicitors Group Life Assurance Scheme. The Society does not issue a practising certificate to a solicitor in the full-time service of the State but this status is reflected on the Register of Practising Solicitors. Information relating to the Solicitors Group Life Assurance Scheme is available in the Member Services Directory.

Solicitors in private practice who have been granted a practising certificate and subsequently commence practice in the full-time service of the State during the practice year, may apply to the Society for an ex gratia refund of their practising certificate fees for the remainder of the year. The granting of an ex gratia refund is solely at the discretion of the Society and there is no automatic entitlement to same.

Sale of practice- valuing a solicitor's practice

There are a variety of ways to value a legal practice. If the purchasing solicitor is only interested in the current active files of the practice, the selling solicitor will have to make an arrangement with another solicitor in relation to the closed files.

“Work in Progress” (WIP) means the work which has already been carried out by the firm before the sale of the practice but which has not yet been billed. WIP is one of the assets which the purchasing solicitor may arrange to pay the solicitor ceasing practice. The parties to the sale may value the work done on a case by case basis as a proportion of an estimated final bill for that matter. The amount will reflect the proportion of the work done. An amount equal to this value will be one of the elements of the total purchase price to be paid for the practice by the purchasing solicitor.

Alternatively, the purchaser will not be asked for any amount for WIP but will be required, when collecting bills for each case on which the selling solicitor did some work, to pay the selling solicitor the proportion of the bill attributable to the selling solicitor's work.

If the latter option is used, it means that the purchasing solicitor may be accountable to the solicitor ceasing practice for many years thereafter. However, this arrangement may suit the purchasing solicitor if he/she has difficulty in raising capital to pay for the practice.



www.lawsociety.ie/Careers/Advice-and-Supports/self-employment

Matters for negotiation and agreement between the parties

The Support Services of the Society have published Information for Solicitors on Buying a Legal Practice. Section 5 of Information for Solicitors on Buying or Selling a Legal Practice outlines in detail the traditional ways to value a legal practice and the full document is available on the Society's website at <https://www.lawsociety.ie/Careers/Advice-and-Supports/self-employment/>.

In the event that the firm is sold the solicitor should provide the Practice Regulation Section of the Law Society with the cessation of practice form as set out in paragraph 1.1 of this booklet as well as the following matters:

- The date of which the firm is sold
- Clarification on whether or not all files, including closed files, are being sold
- Confirmation that all client moneys are being transferred as part of the sale
- Whether the purchasing firm is a succeeding practice and if so, written confirmation from the purchasing firm to this effect

Buy Sell Merge

Buy Sell Merge is a free, online platform provided to members of the Law Society who are interested in acquiring a practice, selling or merging with another practice. This is a confidential facility. Often, solicitors pondering the buying, selling or merging of a practice find it helpful if they can discreetly make contact with colleagues with complimentary interests.

Buy Sell Merge facilitates solicitors to make those initial tentative steps, safe in the knowledge that their identity cannot be disclosed. Further information on how the facility can assist you is available in the Member Services Directory or on the Law Society website at www.lawsociety.ie/buysellmerge. Registration for this service is completed online.

Contact Person at the Law Society: Practice Support Administrator, supportservices@lawsociety.ie Tel (01) 672 4937.



Contact Person at the
Law Society:
Practice Support
Administrator,
[supportservices@
lawsociety.ie](mailto:supportservices@lawsociety.ie)
Tel (01) 672 4937

DEATH OF A PRINCIPAL | 4 IN PRACTICE

Section 31 Applications – Practice Manager

Section 61 of the Solicitors Act 1954, as substituted by section 31 of the Solicitors (Amendment) Act 1994 provides:

Where a solicitor who was a sole practitioner has died, his personal representative may appoint another solicitor to carry on his practice for such period and on such terms as the Society may think fit

No legal services can be provided by the firm until such time as a solicitor is appointed under Section 31 as the firms are prohibited by the Professional Indemnity Insurance Regulations from practising without a principal or practice manager in place.

A Section 31 application should immediately be made to the Law Society on the death of the principal of the firm and the nominated solicitor must be approved in advance by the Society before taking up the position. Once approved, the nominated solicitor becomes the practice manager for the firm. Applications should be sent to firms@lawsociety.ie or in writing to the Practice Regulation Section, Regulation Department, Law Society of Ireland, George's Court, George's Place, Dublin 7.

It should be noted that the practice manager is paid for by the estate of the deceased principal, not the Society.

The practice manager has 6 months to arrange the wind-up, sale or transfer of the firm. This provides time for the grant of probate to be dealt with and completion of the administration of the estate.

Professional indemnity insurance must remain in place for the duration of the wind-up of the firm by the practice manager.

The practice manager is entitled to sign cheques and negotiable instruments in the course of winding up the firm.

The practice manager is also authorised to handle client funds.



Further details on planning for emergencies in a sole practitioner firm, including agreements for management, power of attorney and enduring power of attorney, can be found on the Society's website at www.lawsociety.ie/Solicitors/Practising/Practice-Notes/Planning-for-Emergencies-in-a-Sole-PractitionersPrincipals-Firm/.

Advice for sole practitioners

It is the strong recommendation of the Society that sole practitioners set up arrangements with a colleague to apply to the Society to act as a practice manager in the event of the sole principal's death or incapacitation. If possible, details of this arrangement should be included in the Will of the sole principal.

5 | PROFESSIONAL INDEMNITY INSURANCE

The Run Off Fund exists as part of the Special Purpose Fund. The Special Purpose Fund consists of two elements, the Assigned Risk Pool and the Run Off Fund and is managed by the Special Fund Manager who is appointed by the Law Society.

Run-off fund

From 1 December 2011, any firm which ceases with professional indemnity insurance in place, where there is no succeeding practice and the necessary run-off criteria are met, will automatically be provided with run-off cover on an indefinite basis², through the Run-off Fund. The Run-off Fund was established in the indemnity period 2011/2012 to assist firms in ceasing practice, to make retirement and the cessation of practice more affordable and manageable, improve public protection, prevent abuse of the system, and provide incentives for solicitors ceasing practice to do so in an orderly fashion.

The Run-off Fund exists as part of the Special Purpose Fund. The Special Purpose Fund consists of two elements, the Assigned Risks Pool and the Run-off Fund. The Special Purpose Fund is not run by the Law Society. It is managed by the Special Purpose Fund Manager who is appointed by the Law Society but acts as an agent for the participating insurers in the market. Current contact details on the Special Purpose Fund Manager can be found on the Society's website at www.lawsociety.ie/PII.



[www.lawsociety.ie/
Solicitors/Practising/PII/
Run-off-Cover/](http://www.lawsociety.ie/Solicitors/Practising/PII/Run-off-Cover/)

Further information on the Run-off Fund, including Run-off Fund Guidelines, can be found on the Society's website at www.lawsociety.ie/Solicitors/Practising/PII/Run-off-Cover/ or from the SPF Manager directly.

A firm which intends to cease practice must provide the Special Purpose Fund Manager written notice of its intention to cease practice at least 60 days prior to ceasing practice or 60 days prior to the expiry of its coverage period, whichever is the earlier.

Your firm must have PII in place as at the date of cessation. As such, firms are advised to cease prior to 30 November each year



to avoid having to pay a full year's PII cover. The PII cover on the closed firm remains in place until the end of the indemnity period in which the firm ceased (30 November) and the firm then enters the Run-off Fund if eligible.

A new regulation 8(b) was included in the 2014 regulations, which introduced the requirement for a firm to cease practice on the date specified in the firm's notice of intention to cease practice, even if that firm's PII cover extends beyond the notified date of cessation. This ensures that firms actually cease on their nominated date of cessation and cannot provide legal services past that date. Firms are advised, if possible, not to have a nominated closing date earlier than the date of cessation of your PII cover (normally 30 November) to give the maximum possible period for an orderly closure. Firms may close their doors and refuse any new business earlier than the date of cessation of their cover, and take the extra time to thoroughly and properly wind-down their practice with PII in place. If firms wish to change their notified date of cessation, this must be done in advance of the date of cessation, not retroactively, and must be notified to the Special Purpose Fund Manager.

From 1 December 2017, three levels of run-off cover were introduced, depending on the compliance of the run-off firm:

1. Compliant run-off firms will have cover in the Run-off Fund with the same minimum terms and conditions as those which exist in the market.



From 1 December 2017, three levels of run-off cover were introduced, depending on the compliance of the run-off firm.

2. Non-compliant run-off firms will have reduced cover in the Run-off Fund with the same minimum terms and conditions as those which exist in the market, with the exception that there will be no cover payment by insurers of such excesses for claims made by financial institutions.
3. ARP run-off firms³ will have cover in the Run-off Fund at the same level that exists in the ARP, with aggregate cover and no cover for claims by financial institutions.

Succeeding practice

A succeeding practice means a practice that satisfies any one or more of the following conditions⁴ in relation to another practice (such other practice being a preceding practice for these purposes) as set out in the PII regulations in force as at the date of cessation of the firm:

- (i) The firm is held out as being a successor to the practice or part thereof of the preceding practice by whatever means such holding out occurs, or;
- (ii) The firm is conducted by a partnership where half or more of the principals are identical to those persons who were principals of any partnership that conducted the preceding practice, or;
- (iii) The firm it is conducted by a sole practitioner who was the sole practitioner conducting the preceding practice, or;
- (iv) The firm is conducted by a sole practitioner who was one of the principals conducting the preceding practice, or;
- (v) The firm is conducted by a partnership in which the sole practitioner conducting the preceding practice is a partner and where no other firm has been held out as a successor to the preceding practice, or;
- (vi) The partnership which, or sole practitioner who, conducts the practice has assumed the liabilities of the preceding practice.

Determination of whether a firm is or will be deemed to be a succeeding practice depends on the particular circumstances in question. The Society considers it essential that a solicitor purchasing a practice liaise with their broker and / or insurer with a view to ascertaining its views on whether the firm would be considered to be a succeeding practice and to discuss the impact on the firms' PII prior to providing the Society with written confirmation that it is a succeeding practice.

³ Firms covered by the Assigned Risks Pool as at the date of cessation

⁴ The conditions listed may be changed by future PII regulations. The definition of succeeding practice that applies is the definition in the current PII regulations as at the date of cessation of the firm.

It should be noted that if any of the principals of the closed firm seek to be a principal of a firm at any point in the future, that firm will be automatically be succeeding practice if it meets the definition of succeeding practice as set out in the PII regulations in force as at the date the closed firm entered the Run-off Fund. There is no time limit on the succeeding practice rule.

Under the PII regulations, a firm will not be permitted to practise if, at any point, it meets the definition of a succeeding practice for a closed firm in the Run-off Fund. Such firms are defined as phoenix firms. The firm may resume practising if it provides the Society with written confirmation from its insurer that it is covered as a succeeding practice to the closed firm, and provides written confirmation from the Special Purpose Fund Manager that there were no claims made against the closed firm in the Run-off Fund.

The closed firm in the Run-off Fund is only eligible for cover for so long as a succeeding practice does not exist. Once a succeeding practice is established, at any time, the closed firm must be removed from the Run-off Fund.

Further information on professional indemnity insurance can be found on the Society's website at www.lawsociety.ie/PII or by contacting the Society's PII helpline at piihelpline@lawsociety.ie or telephone +353 1 879 8707.

Infant cases

If the retiring solicitor has acted in matters concerning infants it should be noted that the law permits actions to be taken by an individual up to three years after a date when the individual should reasonably have discovered the loss. Where an infant case is concerned, the three year period will only commence when the infant attains his/her majority.

6 | ACCOUNTS REGULATIONS

A solicitor ceasing private practice is required to comply with their obligations under the Solicitors Accounts Regulations S.I. No 519 of 2014 to provide a closing accountant's report to the Society.

When a practice ceases, a closing reporting accountant's report is required to be submitted to the Society covering the period from the date of the last annual reporting accountant's report to the date at which the practice ceased to hold, control, receive or pay client moneys. This report must be filed with the Society within two months of the date of cessation of the practice and should have zero balances as per the bank statements at the accounting date. If you have any query in relation to this requirement please contact the Financial Regulation Section at financialregulation@lawsociety.ie.

Change of structure closing accountant's report

If your firm has changed structure as detailed in paragraph 2.2 above, it is the recommendation of the Law Society that the bank accounts of the practice are closed and new bank accounts opened. However, if it is not practical to close the bank accounts then the Society will need the following items in addition to a closing accountant's report at the cessation date:

1. A letter from your reporting accountants stating that they are aware of the change of structure of the firm and confirming that the client account will not be closed;
 2. A letter from your bank stating they are aware of the change of structure of the firm, and;
 3. A copy of your latest bank mandate.
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Clients' moneys on sale of practice

If the practice is being sold and a balance remains on the client account, this amount should be transferred to the purchasing solicitor. The purchasing solicitor should ensure that the amount agrees with the cash position in the client account. The purchasing solicitor should also be given the relevant ledger cards to enable the ownership of the clients' funds to be identified. The purchasing solicitor will then be responsible for accounting to the clients and to the Society for the clients' monies.

Clients' moneys on wind-up of practice

In a wind-up situation all remaining balances must be distributed to the clients. The retiring solicitor must take all necessary and reasonable steps to trace the clients, including advertising if appropriate.

Undertakings - personal liability

When a solicitor gives an undertaking he/she undertakes a personal liability for which the solicitor continues to be responsible, even if the practice is sold or wound up.

Enforcement of undertakings

If an undertaking constitutes a contract it can be enforced at law. However, even if the undertaking does not constitute a contract it can be enforced by the Law Society. The recipient of the undertaking may make a formal complaint to the Law Society if the undertaking has not been complied with and remains outstanding. If the solicitor ceasing practice is required to comply with the undertaking the result may be the personal financial loss to the solicitor.

The statute of limitations does not apply to the enforcement of undertakings in matters relating to professional conduct.

Release of undertakings on the sale of a practice

If the practice is sold each undertaking should be noted on a register of undertakings. The purchasing solicitor should write to the recipient in each case substituting his/her own undertaking for the previous undertaking and seeking a release of that undertaking given by the solicitor ceasing practice.

If for any reason it is not appropriate for the purchasing solicitor to give an undertaking, that solicitor should contact the recipient of the undertaking notifying them of the purchase of the practice and thereafter the purchasing solicitor should make every effort to ensure that the recipient of the undertaking is left in as near a position as possible to that which they would have been, had there been compliance with the undertaking by the solicitor ceasing practice. Please see the attached practice note on taking over undertakings from closed practices published by the Guidance & Ethics Committee. It can be downloaded from www.lawsociety.ie/Solicitors/Practising/Practice-Notes/Taking-Over-Undertakings-From-Closed-Practices1/#.WrDQe2rFKM8.



www.lawsociety.ie/Solicitors/Practising/Practice-Notes/Taking-Over-Undertakings-From-Closed-Practices1/#.WrDQe2rFKM8

Release of undertakings on the wind-up of a practice

In a wind-up situation the retiring solicitor should ensure that the solicitor newly nominated by the client follows the same procedure as above.

8 | STAFF OF THE PRACTICE

When a business is closed or transferred to a new legal entity the law protects the rights of employees in those circumstances.

Protective legislation

When a business is closed or transferred to a new legal entity the law protects the rights of employees in those circumstances. When a practice is sold, the retiring solicitor and the purchasing solicitor should be aware that the sale may be a transfer of undertakings within the meaning of the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003, which protects certain rights of employees in the event of a relevant transfer of business. These regulations provide that the rights and obligations of the original owner arising from an employment contract relationship existing at the date of the transfer will, by reason of such transfer, be transferred to the new owner.

Redundancies

In certain circumstances, due to the sale or wind-up of a practice, a redundancy situation may arise. All eligible employees are entitled to a statutory redundancy payment when they are made redundant. In circumstances where the retiring solicitor is insolvent, the Insolvency Payments Scheme is a scheme set up by the Department of Employment and Social Protection to pay certain outstanding entitlements to an employee where employment has been terminated.

Trainee solicitors

If the solicitor ceasing practice is a training solicitor the Law Society should be notified of the situation and, if possible, assistance given to the trainee solicitor to transfer to a new training solicitor.

When a solicitor ceases to practice they may continue to be a member of the Law Society.

Complaints

A solicitor continues to be subject to regulation by the Law Society, as set out in the Solicitors Acts 1954 to 2015, even if the solicitor does not hold a practising certificate. Consequently, the retiring solicitor must co-operate with the Law Society in the investigation of any complaint.

Membership of the Law Society

When a solicitor ceases to practice they may continue to be a member of the Law Society.

The Law Society provides a wide range of support services for its members. Members receive the Society's publications including the Gazette, Law Directory and general practice updates. The Member Services Directory provides a comprehensive list of member services and is available at: <https://www.lawsociety.ie/Solicitors/Representation/Member-Benefits/>.

Some of the contents include:

- Details of Member Benefits including financial schemes and relevant contacts within the Society;
- Available services in the department of Career and Practitioner Support;
- An outline of the Education and Training within the Society;
- Information and Guidance for the Profession;
- Information on available Professional and Personal Support;
- An outline of facilities within the Society.

Members can also attend seminars and conferences and can vote in annual elections for the Council of the Law Society, and attend the Annual General Meeting.

For further information please log onto the members' area of the Law Society website www.lawsociety.ie or contact the Society's Member Services Executive, Ph; 01 879 8700 or email memberservices@lawsociety.ie.

Law Society website – members’ area

The members’ area of the Law Society website is an invaluable source of professional information. Access is restricted to members of the Society through the use of the member’s solicitor number and surname. Any difficulties with logging in to the Society’s website may be addressed to webmaster@lawsociety.ie.

The members’ area lists the services and functions of the Society and details the various individuals within the Society responsible for them.

All practice notes published in the Gazette since 1986 have been reproduced on the site and members can search for individual notes by committee, date or title.

A number of precedent documents have also been published – these can be downloaded from the Society’s website and printed in Word or PDF format. The “Latest News” section sets out checklists of fees, tax bands and allowances, in addition to general legal information. This section also comprises a number of options, including news from the Society’s committees and news from other jurisdictions.



[www.lawsociety.ie/
Solicitors/Representation/
Member-Benefits/](https://www.lawsociety.ie/Solicitors/Representation/Member-Benefits/)

Law Society Retirement Trust Scheme

Self-employed members of the Law Society under the age of 75, or those who are employed in non-pensionable employment can apply to join the scheme. This scheme offers members an easily accessible option and further details regarding benefits of the scheme are available at <https://www.lawsociety.ie/Solicitors/Representation/Member-Benefits/> in the Member Services directory and from justASK@mercerc.com. The Solicitors Retirement Committee regularly monitors the scheme and it operates within a robust governance structure.

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Blackhall Place	T	+353 1 672 4800	E	general@lawsociety.ie
Dublin 7	F	+353 1 672 4801	W	www.lawsociety.ie