



# *Law Society of Ireland*

**Please reply to: 33 Manor Street, Dublin 7, tel 01 868 1220, fax 01 868 1232**

Law Society of Ireland, Blackhall Place, Dublin 7, tel 01 672 4800, fax 01 672 4801

**DX: 79 Dublin E-mail: [general@lawsociety.ie](mailto:general@lawsociety.ie) Website: [www.lawsociety.ie](http://www.lawsociety.ie)**

Private and confidential  
The Advocacy Division,  
Competition Authority,  
Parnell House,  
14 Parnell Square,  
Dublin 1.

19<sup>th</sup> January, 2004

**Re: Submission to Competition Authority on study of Architects' Profession**

Dear Sirs,

I refer to the above matter and enclose a hard copy of the comments made by the Conveyancing Committee of the Law Society of Ireland in relation to this matter.

Yours sincerely,

**Catherine O'Flaherty, Solicitor,  
Secretary, Conveyancing Committee.**

**Encl.,**

*COMPETITION AUTHORITY*  
*STUDY OF COMPETITION IN PROFESSIONAL SERVICES*  
*CONSULTATION DOCUMENT 2 - ARCHITECTS*

*Comments by the  
Conveyancing Committee  
of the Law Society of Ireland*



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**COMPETITION AUTHORITY**  
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**CONSULTATION DOCUMENT 2 – ARCHITECTS**

**Comments by**  
**the Conveyancing Committee**  
**of the Law Society of Ireland**

## COMPETITION AUTHORITY

### STUDY OF COMPETITION IN PROFESSIONAL SERVICES

#### CONSULTATION DOCUMENT 2 – ARCHITECTS

##### Comments by the Conveyancing Committee of the Law Society of Ireland

The Conveyancing Committee of the Law Society has considered the consultation document in relation to architects and the following comments by the Society are confined to its perusal of the section of the document relating to compliance certification i.e. from paragraphs 4.28 to 4.34 and the two consultation questions, Q9 and Q10.

- 4.29 It is correct to say that the Conveyancing Committee of the Law Society declined to accept that membership of any professional body should be the criterion for approval as a certifier because it did not seem to the Committee to be appropriate for the Committee to purport to assess the competence of people based on the qualifications required by the professional body. Members of the Committee did receive presentations from different professional bodies on their requirements for admission and in most cases these were very impressive. The reason the Committee recommends solicitors to caution clients about accepting certificates from architectural technicians is that the people who educate the technicians did not claim to educate them in any material respect in relation to the law of planning and development which is becoming an increasingly complex area. In the circumstances the Committee was advised that if a solicitor accepted a certificate of compliance from a technician which turned out to be incorrect the Courts were likely to find the solicitor liable in negligence. As a matter of fact many technicians have been in practice in the building industry for many years and solicitors and the Committee recognises this experience as a qualification.
- 4.32 The Committee accepts that the list in its practice note of 1993 is not an exhaustive list of individuals. As a matter of practice certificates of many people who would not have those qualifications are accepted on a day-to-day basis by many members of the profession. We should point out that the Conveyancing Committee does not claim to be best placed to decide who is suitable for providing certification of compliance with planning and building regulations. However, it does claim expertise in advising whether it would be prudent for a solicitor to advise a client to proceed with a case on the basis of a particular certificate of compliance.
- 4.33/4 The Conveyancing Committee would be very pleased if the Department of the Environment or some other arm of the Government would provide guidelines as to who is competent to provide compliance certification. The Committee takes the view that architectural technicians can make a good case for certifying compliance with building regulations but, based on the experience of its members and its investigations, does not believe that there is a similar case to be made in relation to technicians certifying compliance with planning.

Certificates of compliance in relation to planning and building regulations are normally given by the same person in relation to a development and solicitors acting for a developer would normally advise their client who is retaining some person to provide architectural services in connection with the development, to choose someone whose certificates in relation to both planning and building regulations would be acceptable to end users. The Committee also noted that there seemed to be significant variations in the standards of training for architectural technicians.

Your question Q.9 reads: ***Are individuals with similar skills and qualifications to architects such as architectural technologists effectively prevented from providing compliance certification?***

It seems to the Committee that this question is based on the false premise that architectural technologists have similar skills and qualifications to architects. While the technician representatives made very strong arguments that their members are all very highly trained and very skilled, the main college that provides courses for architectural technicians did not claim that it was training technicians in the area of planning, which the Committee regards as fundamental.

Your question Q.10 reads: ***Regarding the need for expertise and independence what is the most appropriate method or organisation for determining who should be able to provide compliance certification?***

A few local authorities in the country used to provide certificates of compliance for a modest fee. The Committee made representations to other local authorities that they should do likewise but received the usual response that they did not have the resources. However the local authorities are the logical people to determine whether planning permissions they issued have been complied with or not. While it may seem reasonable that the Department of the Environment should provide independent transparent guidelines regarding who is competent to provide compliance certification, this is not as simple as it looks and would, in effect, be an extremely difficult exercise, but perhaps one worth exploring.

**The Conveyancing Committee  
Law Society of Ireland**

**January, 2004**