

Serial Number **60/1936.**



THE SOLICITORS' GUARANTEE FUND RULES, 1936.

Enacting authority : The Council of the New Zealand Law Society with the approval of the Governor-General in Council.

Act pursuant to which the regulations were made : The Law Practitioners Act, 1931.

Date on which the regulations were made : 25th day of September, 1936.

Date of approval by the Governor-General in Council : 11th day of November, 1936.

Date of notification in *Gazette* : 19th day of November, 1936.

I. These rules may be cited as the Solicitors' Guarantee Fund Rules, 1936, and shall come into force on the day following notification in the *Gazette* of the making hereof.

II. In these rules, unless the context otherwise requires,—

“ Act ” means the Law Practitioners Act, 1931 :

“ Committee of Management ” means the committee to which the powers of the Council of the New Zealand Law Society may be delegated pursuant to section 79 of the Act :

“ Council ” means the Council of the New Zealand Law Society, and where the Council of the New Zealand Law Society has delegated to a Committee of Management pursuant to section 79 of the Act any of its powers in relation to the fund, means in regard to such delegated powers and as to matters within the scope of such delegation the Committee of Management for the time being :

“ Fund ” means the Solicitors' Fidelity Guarantee Fund established under the Act :

“ Statutory declaration ” means a statutory declaration as defined in section 4 of the Acts Interpretation Act, 1924.

Notices of Claims against Fund.

III. (1) Every claimant against the fund shall, within twelve months after he has become aware of the theft in respect of which he claims, give to the Council or Committee of Management notice in writing of such claim.

(2) Every such notice shall be deemed to be given to the Council or Committee of Management if it is delivered personally to the secretary for the time being of the New Zealand Law Society at Wellington, or if it is posted by registered post properly addressed to such secretary.

(3) Every such notice shall be signed by the claimant or by some person duly authorized on his behalf, and shall contain full particulars of the matters by reason of which he alleges that he is entitled to claim against the fund, and shall contain full particulars of the amount of his claim.

(4) Every such notice by a claimant shall be in the Form No. 1 in the Schedule hereto with such variation or variations as the exigencies of the particular case may require.

(5) Every such claimant shall either himself or by some person duly authorized on his behalf also make and declare a statutory declaration in Form No. 2 of the Schedule hereto, with such variation as the exigencies of the case may require, that the particulars set out in the notice under the preceding subsections of this rule are full and correct.

Settlement of Claims.

IV. As soon as may be after receipt of any notice given under paragraph (1) of Rule III, and of the declaration required by paragraph (5) of Rule III, the Council shall consider the claim, and may adjourn from time to time its consideration of the claim.

V. The Council may, with respect to any claim if it thinks fit,—

(a) Make or cause to be made such inquiries or obtain such reports as it thinks fit touching the claim, or touching any other claim or possible claims in respect of the solicitor or of the solicitor's agent or servant in respect of whose acts the claim is made :

(b) Require the claimant to verify by statutory declaration of himself or of some person having actual knowledge of the same any statement, fact, or other matter whatsoever touching his claim :

(c) Require the claimant to produce either as exhibits to a statutory declaration or otherwise all or any deeds, documents of title, receipts, and negotiable instruments and all or any other documents or writings of any nature or description whatsoever touching his claim :

(d) Require the claimant to submit himself to examination by the Council or by some person appointed by the Council in that behalf as to matters touching his claim :

(e) Negotiate with, or appoint some person on behalf of the Council to negotiate with, the claimant as to the compromise of his claim.

VI. (1) The Council may with respect to any claim either (a) allow the claim in full ; (b) compromise the claim ; or (c) refuse to allow the claim.

(2) If the Council allows the claim in full or compromises the claim, then, if the claim is allowed in full, the amount of the claim, or, if the claim is compromised, the amount of the compromise shall, subject to the provisions of section 88 of the Act, thereupon be paid by the Council to the claimant out of the fund.

Leave to commence Actions against Fund.

VII. (1) Every claimant desiring the leave of the Council pursuant to the provisions of subsection (1) of section 85 of the Act to commence any action in relation to the fund shall make application in writing to the Council for such leave.

(2) Every such application shall be signed by the claimant or by some person duly authorized on his behalf, shall give full particulars of the claimant's contemplated action against the fund, shall contain a full statement of the reasons for and the grounds of such application, and shall be accompanied by a statutory declaration by the claimant or by some person having actual knowledge of the same verifying such particulars and such reasons and grounds.

(3) Every such application and statutory declaration shall be served upon the Council in the manner provided by paragraph (2) of Rule III.

Revocation.

VIII. (1) The Solicitors' Fidelity Guarantee Fund Claims Rules, gazetted on page 3769 of the *Gazette* of 11th December, 1930, are hereby revoked as from the date of the coming into force of these rules.

(2) All notices, declarations, acts, matters, and things which originated under the rules hereby revoked and are of continuing effect at the time of coming into force of these rules shall enure for the purposes of these rules as if they had originated under these rules, and shall, where necessary, be deemed to have so originated, and any proceedings of any nature commenced under the rules hereby revoked may be continued and completed under these rules.

SCHEDULE.

[Form No. 1.

CLAIM IN RESPECT OF THEFT BY A SOLICITOR, OR BY A SERVANT OR AGENT OF A SOLICITOR.

To the Council of the
New Zealand Law Society, Wellington.

TAKE notice that I [we], [*Name in full*], of [*Address in full and occupation*], having suffered pecuniary loss by reason of the theft by [*Name in full*], a solicitor (or, a servant or agent of [*Name in full*] a solicitor) with respect to whom the Law Practitioners Act, 1931, applies of [*Amount of money or description and value of other valuable property stolen*] entrusted to the said solicitor (or to [*Name in full of servant or agent*], the servant or agent of the said solicitor) in the course of his practice as a solicitor (or as a solicitor-trustee) hereby claim against the Solicitors' Fidelity Guarantee Fund established under the said Act for the sum of pounds shillings and pence (£.) as reimbursement in respect of such loss.

PARTICULARS OF CLAIM.

[*Here state full particulars of the matters by reason of which the claimant alleges that he is entitled to claim against the fund, setting out as fully as possible the history of dealings with the practitioner leading up to the claim, and giving copies of such letters, ledger accounts, statements, and other documents as are relevant.*]

PARTICULARS OF AMOUNT OF CLAIM.

[*Here state full particulars of amount of claim.*]
Dated at, this day of, 19..

Signature :

Witness to signature—
Signature of witness :
Occupation :
Address :

[Form No. 2.]

DECLARATION BY CLAIMANT DESIRING THE COUNCIL TO CONSIDER SETTLEMENT
OF HIS CLAIM.

I [*Name in full*], of [*Address in full and occupation*], being desirous that the Council of the New Zealand Law Society shall consider the settlement of my claim against the Solicitors' Fidelity Guarantee Fund, hereby solemnly and sincerely declare that the particulars given by me in the notice to the said Council (which notice is annexed hereto and marked "A") are a full and true statement of the facts concerning my claim.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Justices of the Peace Act, 1927.

Declared at, this day of, 19..

Signature of declarant

Before me—

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Solicitor or Justice of the Peace.

Issued under the authority of the Regulations Act, 1936.