

**Reprint  
as at 1 April 1983**



## **Solicitors' Guarantee Fund Rules 1936** (SR 1936/60)

Galway, Governor-General

### **Order in Council**

This 25th day of September 1936

Present:

His Excellency the Governor-General in Council

Pursuant to the Law Practitioners Act 1931, His Excellency the Governor-General makes the following rules.

### **Contents**

	Page
1	2
2	2
<i>Notices of claims against fund</i>	
3	2
<i>Settlement of claims</i>	
4	3
5	3

---

#### **Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**These rules are administered by the Ministry of Justice.**

6		4
	<i>Leave to commence actions against fund</i>	
7		4
	<i>Revocation</i>	
8		4
	<b>Schedule</b>	5

## Rules

### 1

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.

### 2

In these rules, unless the context otherwise requires,—

**Act** means the Law Practitioners Act 1982

**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 164 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 164 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.

Rule 2 **Act**: amended, on 1 April 1983, pursuant to section 193(1) of the Law Practitioners Act 1982 (1982 No 123).

Rule 2 **Committee of Management**: amended, on 1 April 1983, pursuant to section 193(1) of the Law Practitioners Act 1982 (1982 No 123).

Rule 2 **Council**: amended, on 1 April 1983, pursuant to section 193(1) of the Law Practitioners Act 1982 (1982 No 123).

### *Notices of claims against fund*

### 3

- (1) Every claimant against the fund shall, within 12 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 authorised 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 form 1 of the Schedule 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 authorised on his behalf also make and declare a statutory declaration in form 2 of the Schedule, 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*

#### 4

As soon as may be after receipt of any notice given under paragraph (1) of rule 3, and of the declaration required by paragraph (5) of rule 3, the Council shall consider the claim, and may adjourn from time to time its consideration of the claim.

#### 5

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.

**6**

- (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 174 of the Act, thereupon be paid by the Council to the claimant out of the fund.

Rule 6(2): amended, on 1 April 1983, pursuant to section 193(1) of the Law Practitioners Act 1982 (1982 No 123).

*Leave to commence actions against fund***7**

- (1) Every claimant desiring the leave of the Council pursuant to the provisions of subsection (1) of section 171 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 authorised 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 3.

Rule 7(1): amended, on 1 April 1983, pursuant to section 193(1) of the Law Practitioners Act 1982 (1982 No 123).

*Revocation***8**

- (1) The Solicitors' Fidelity Guarantee Fund Claims Rules, gazetted on page 3769 of the *Gazette* of 11 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 1

Claim in respect of theft by a solicitor, or by a servant or agent of a solicitor

To the Council of the *[specify]*

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 1982 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 *[amount]* 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: *[place, date]*

Signature:

Witness to signature—

Signature of witness:

Occupation:

Address:

Schedule form 1: amended, on 1 April 1983, pursuant to section 193(1) of the Law Practitioners Act 1982 (1982 No 123).

## Form 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 [*place, date*].

Signature of declarant:

Before me—

Signature:

(Solicitor *or* Justice of the Peace)

Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 19 November 1936.

## Contents

- 1 General
- 2 Status of reprints
- 3 How reprints are prepared
- 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
- 5 List of amendments incorporated in this reprint (most recent first)

## Notes

### **1 General**

This is a reprint of the Solicitors' Guarantee Fund Rules 1936. The reprint incorporates all the amendments to the rules as at 1 April 1983, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

### **2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)



- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5     *List of amendments incorporated in this reprint (most recent first)***

Law Practitioners Act 1982 (1982 No 123): section 193(1)