



STATUTORY INSTRUMENTS.

S.I. No. 548 of 2018



SOLICITORS (COMPENSATION FUND) REGULATIONS 2018

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THE LAW SOCIETY OF IRELAND, in exercise of the powers conferred on them by sections 4, 5 and 73 of the Solicitors Act, 1954, sections 21 and 24 of the Solicitors (Amendment) Act, 1960 and section 29 of the Solicitors (Amendment) Act, 1994 HEREBY MAKE the following Regulations:

1. Citation

- (a) These Regulations may be cited as the Solicitors (Compensation Fund) Regulations 2018.
- (b) These Regulations shall come into operation on 1 February 2019.
- (c) The Solicitors (Compensation Fund) Regulations, 2013 (S.I. No. 442 of 2013) shall cease to have effect as from 11:59 pm on 31 January 2019.

2. Interpretation

- (a) In these Regulations, the following terms shall have the following meanings —

"the Principal Act" means the Solicitors Act, 1954;

"the Act of 1960" means the Solicitors (Amendment) Act, 1960;

"the Acts" means the Solicitors Acts, 1954 to 2015;

"the Application Form" means the form set out in the schedule to these Regulations which may be amended by the Regulation of Practice Committee from time to time;

"the Compensation Fund" has the meaning assigned to it by section 3 of the Act of 1960, as substituted by section 29 of the Solicitors (Amendment) Act, 1994;

"Council" includes any committee to which functions of the Council may for the time being be delegated under section 73 of the Principal Act;

"Regulation of Practice Committee" means the committee to which the implementation of the regulations that provide for the time-limit and form for claims on the Compensation Fund is delegated and such other committee as is delegated those functions from time to time; and

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 25th December, 2018.

"Society" means the Law Society of Ireland.

- (b) Other words or expressions used in these Regulations shall have the meanings assigned to them in the Acts.
- (c) The Interpretation Act, 2005 shall apply for the purpose of interpreting these Regulations as it applies to the interpretation of an Act of the Oireachtas, except insofar as it may be inconsistent with the Acts or with these Regulations.
- (d) A reference in these Regulations to any, directive, statute, statutory provision, statutory instrument or other similar instrument includes:—
 - (i) any subordinate legislation made under it, and
 - (ii) any provision which it has superseded or re-enacted (with or without modification) or amended, and any provision superseding it or re-enacting it (with or without modification) or amending it either before, at or after the date of commencement of these Regulations.

3. Any person proposing to apply to the Society for a grant from the Compensation Fund in respect of a loss shall make the application by submission of a completed Application Form to the Society within twelve months after the date when the loss first came to his or her knowledge or within such extended time period as agreed by the Regulation of Practice Committee in accordance with Regulation 4.

4. The Regulation of Practice Committee may from time to time in its sole discretion and upon application being made to the Society, extend the twelve month time limit referred to in Regulation 3 in the case of an individual application where there are, in the opinion of the Society, exceptional circumstances arising which merit such an extension being granted.

5. The Regulation of Practice Committee, before deciding whether or not to make a grant out of the Fund may request the applicant to bring the facts in connection with his/her claim to the attention of An Garda Síochána with the express purpose of providing An Garda Síochána with a comprehensive witness statement to assist in the investigation of allegations of dishonesty against the solicitor in question.

6. Any notice to be made under these Regulations shall be in writing and may be communicated in the following manner:—

- (a) it may be served-
 - (i) by delivering it by hand to that person, or
 - (ii) by sending it by registered post in an envelope addressed to that person at his/her last known place of business or residence in the

State or, if he/she is a solicitor, at the last address appearing in the register of practising solicitors;

- (iii) by sending it by ordinary prepaid post in an envelope addressed to that person at his/her last known place of business or residence in the State or, if he/she is a solicitor, at the last address appearing in the register of practising solicitors;
- (b) a notice sent by ordinary prepaid post shall be deemed to have been served 48 hours after posting (in the absence of evidence that it has been mis-delivered or returned undelivered), and in proving such service by post it shall be necessary to prove only that the notice was contained in an envelope that was duly addressed and posted in accordance with this Regulation;
- (c) where that person is absent from the State or his/her whereabouts is unknown and cannot be ascertained by reasonable inquiries, or where the notice or document, having been sent by registered post in the manner specified in subparagraph (ii) of paragraph (a) of this Regulation has been returned undelivered, the High Court may make such order for substituted or other service, or for the substitution for service of notice by advertisement or otherwise, as may seem just.

Dated this 11th day of December 2018.

SIGNED on behalf of the Law Society of Ireland this 11th day of December 2018.

PATRICK DORGAN,
President of the Law Society of Ireland.

I concur in the making of the above regulations.

SIGNED this 13th day of December 2018.

THE HON. MR. JUSTICE PETER KELLY,
President of the High Court.

SCHEDULE

Application Form

**THE LAW SOCIETY OF IRELAND
CLAIMS FOR REFUNDS OF MONEY PAID TO A SOLICITOR
APPLICATION FORM**

Use this form to:

- claim compensation because you say that your solicitor was dishonest;
- claim refunds from a solicitor's firm where the courts or the Law Society now controls the money; or
- both.

When you have filled in this form, please send it to:

The Claims Administrator

Law Society of Ireland

George's Court

George's Lane

Dublin 7

Or

DX 1025 Four Courts

Other contact details:

Phone: (01) 879 8700

Fax: (01) 879 8969

Email: cfclaims@lawsociety.ie

Web: www.lawsociety.ie

You have 12 months to make a claim

You must make a claim for money that will be paid out of the Compensation Fund within 12 months of the date you first become aware that your money is missing. If there are exceptional circumstances in your case, you may apply to extend this time.

Please complete all questions

Part 1: Your details

Title

Mr Mrs Ms Miss

Other (please give details)

First names

Surnames

Address

Daytime phone number

Have you already contacted us about this claim? Yes No

Part 2: Details of the solicitor you are making the claim against

Name of the solicitor

Name and address of the solicitor's firm

Part 3: How much are you claiming?

Are you claiming for compensation from the Compensation Fund?

Yes No

If 'Yes', please fill in how much you are claiming.

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List all the items in your claim. Continue on a separate sheet of paper if you need to.

Are you claiming for a refund of your money now controlled by the courts or the Law Society?

Yes No

If 'Yes', please fill in how much you are claiming.

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Part 4: Details of other interested people

Does anyone else have an interest in this application? Yes No

If 'Yes', please fill in the information below.

Name of interested person or people

Address of interested person or people

How does this person or **do** these people have an interest in your claim?

Part 6: Time limits

You must submit any claim for money from the Compensation Fund within 12 months of the date you first become aware that your money is missing. If there are exceptional circumstances in your case, you can apply to the Law Society to extend this time.

On what date (or approximate date) did you first become aware of the loss?

Explain how you became aware of the loss.

If this was more than 12 months ago and there are exceptional circumstances please explain them here. Continue on a separate sheet of paper if you need to.

Lined writing area for explaining exceptional circumstances.

Part 7: Statement of the facts

Explain why the solicitor was holding your money.

List the dates the solicitor received the money.

Attach supporting documentation to this application form.

What work was the solicitor doing for you?

What work do you say the solicitor has not completed?

Explain why you say your solicitor was dishonest.

Continue on a separate sheet of paper if you need to.

Part 8: Proving your claim

The section 'How can I prove my claim?' at the end of the Law Society of Ireland **Guide to Claiming Refunds of Money Paid to a Solicitor** explains what documents you should send to us to prove your claim. Please read it before you fill in this section.

Are you sending us any documents that prove:

- **your loss; or**
- **your right to a refund of money now in the control of the courts or the Law Society?**

Yes No

If 'Yes' please attach your documents and explain why each document is relevant.

If 'No' please explain why no documents are being submitted.

Part 9: Your new solicitor

If you are employing a solicitor to make this application, please give their details.

Name of your new solicitor

Name of the new solicitor's firm

Address of your new solicitor's firm

If you know it, the firm's Document Exchange (DX) number

The firm's phone number

Part 10: Your affidavit (This is a sworn written document.)

Do not sign this form until you are with the Commissioner for Oaths or a practising solicitor.

Are you claiming for a refund of money from a solicitor's firm where the courts or the Law Society now controls the money?

Yes No

Before swearing the document please carefully read numbers 1-7 below

1. If the Law Society refunds me money through the Compensation Fund that was misappropriated by my solicitor, the Law Society will be entitled to any rights I may have against the solicitor. I note that the relevant law is the Solicitors Acts 1954 to 2015 and understand that the Law Society may sue in my name, on the basis that the Law Society will be responsible for any associated legal costs relating to such a claim.
2. I transfer to the Law Society any rights I may have to recover money from the solicitor, up to the amount that the Law Society refunds to me.
3. I acknowledge that the Law Society may give the information relating to my application to others involved in the regulation of solicitors.
4. I acknowledge that the Law Society may give the information relating to my application to appropriate Garda authorities.
5. I confirm that I believe the information I have given in this form is true and accurate.
6. I acknowledge that I must tell the Law Society about other information that may be relevant to this application, for example, any money I recover elsewhere in relation to this loss.
7. If I am signing this form as the representative of someone else, I confirm that they have authorised me to sign it.

Part 10: Your affidavit (This is a sworn written document.)

Sworn by

Date

At (address)

Before me, a sworn Commissioner for Oaths or practising solicitor, and I know the person swearing to this document (the claimant).

Claimant's signature

Signature of Commissioner for Oaths or practising solicitor

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€3.81



Wt. (B33827). 285. 12/18. Essentra. Gr 30-15.