
STATUTORY INSTRUMENTS

1976 No. 582

Solicitors (Northern Ireland) Order 1976

PART IV

THE COMPENSATION FUND AND PROFESSIONAL INDEMNITY

The Compensation Fund

55. The Society shall establish a fund to be known as the Compensation Fund which shall be maintained and administered in accordance with Schedule 2.

Grants in case of loss

56. Where the Council, on an application for a grant being made to the Society, are satisfied that a person has suffered loss in consequence of dishonesty on the part of a solicitor, or of an^[F1] employee] of a solicitor, in connection with that solicitor's practice or purported practice as a solicitor or in connection with any trust of which that solicitor is or was a trustee then, subject to the provisions of Article 58, the Society may, if the Council think fit, make to that person a grant out of the Compensation Fund for the purpose of making good or mitigating that loss.

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Grants in case of hardship

57. Where the Council, on application for a grant being made to the Society, are satisfied that a person has suffered or is likely to suffer hardship in consequence of the failure on the part of a solicitor to account for money which has come to his hands in connection with his practice or purported practice as a solicitor or in connection with any trust of which he is or was a trustee then, subject to the provisions of Article 58, the Society may, if the Council think fit, make to that person a grant out of the Compensation Fund for the purpose of relieving such hardship.

Provisions as to grants in case of loss or hardship

58.—(1) The following provisions of this Article shall have effect in relation to grants under Article 56 or 57—

- (a) the Society shall not make a grant unless the Council are satisfied that the solicitor in respect of whose act or default or in respect of whose^[F2] employee's] act or default the application is made (unless he is dead or it is impracticable to give notice to him) has been given sufficient notice of the substance of the application and has not given, either to the applicant or to the Society, such explanation as satisfies the Council that no grant should be made;
- (b) the fact that the applicant is himself a solicitor or the^[F2] employee] of a solicitor shall not disqualify him from receiving a grant;

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- (c) the Society shall, to the extent of the amount of the grant, be subrogated to any rights and remedies of the person to whom it is made in relation to the act or default in respect of which it is made and such person shall not be entitled, whether by way of bankruptcy or other legal proceedings or otherwise, to receive any sum out of the assets of the solicitor,^[F2] or employee] in respect of that act or default until the Society have been reimbursed the full amount of the grant;
 - (d) the fact that a person has received or may be likely to receive a grant from the Society shall not constitute any defence to an action brought by such person in respect of the act or default in relation to which such grant has been or may be made and the Society shall be entitled (whether before or after payment of the grant) upon giving to such person a sufficient indemnity against costs to require him to sue in his own name but on behalf of the Society for the purpose of giving effect to any rights conferred on the Society by subparagraph (c) and to permit the Society to have the conduct of the proceedings.
- (2) In this Article references to the person to whom a grant has been made, or to any solicitor,^[F2] or employee] in respect of whose act or default a grant has been made, shall include in the event of his death, bankruptcy or other disability, references to his personal representative or to any other person having authority to administer his estate.

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Subvention grants

59. Where the Council, on an application being made to the Society, are satisfied that a solicitor has suffered or is likely to suffer loss or hardship by reason of his liability to any of his or his firm's clients in consequence of some act or default of any^[F3] of his partners or employees] of that solicitor, in circumstances where but for the liability of that solicitor a grant might have been made out of the Compensation Fund to some other person, then, subject to the provisions of Article 60, the Society may, if the Council think fit, make to such solicitor a grant (in this Part referred to as a “subvention grant”) out of the Compensation Fund for the purpose of relieving that loss or hardship.

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Provisions as to subvention grants

- 60.** The following provisions shall have effect in relation to subvention grants—
- (a) the Society shall not make a grant to a solicitor in respect of any act or default of his partner unless the Council are satisfied that the partner (unless he is dead or it is impracticable to give notice to him) has been given sufficient notice of the substance of the application and has not given, either to the applicant or to the Society, such explanation as satisfies the Council that no grant should be made;
 - (b) a grant may (if the Council think fit) take the form of a loan upon such terms and conditions (including conditions as to the time and manner of repayment, as to the payment of interest and as to security for repayment) as the Council may determine;
 - (c) in relation to a grant made by way of loan, the Society may, upon such terms or conditions (if any) as the Council may think fit, at any time or times waive or refrain from enforcing the repayment of the whole or any part of the loan or any instalment of the loan or the payment of any interest or any of the other terms or conditions upon which the loan was granted;

- (d) a grant may be made to a solicitor whether or not he had a practising certificate in force at the date of any relevant act or default;
- (e) where a grant has been made otherwise than by way of loan, the provisions of sub-paragraphs (c) and (d) of paragraph (1), and paragraph (2), of Article 58 shall apply in relation to such grant as they apply in relation to grants under Article 56 or 57;
- (f) where a grant has been made by way of loan and thereafter—
 - (i) the repayment of any amount (being either the whole or some part of the loan) has been waived; or
 - (ii) the borrower fails to repay any amount (being either the whole or some part of the loan) the repayment of which has not been waived;then to the extent of any such amount the provisions of sub-paragraphs (c) and (d) of paragraph (1), and paragraph (2), of Article 58 shall apply to such grant as they apply in relation to grants under Article 56 or 57.

Power to make regulations as to procedure

61. The Council may make regulations with respect to the procedure to be followed in giving effect to the provisions of this Part and Schedule 2 and with respect to any matters incidental, ancillary or supplemental to those provisions or concerning the administration or protection of the Compensation Fund.

Grants may be made whether or not solicitor had practising certificate

62. A grant may be made under this Part whether or not the solicitor in respect of whose act or default or in respect of whose^[F4] employee's] act or default an application is made had a practising certificate in force at the time of the act or default and notwithstanding the fact that he has since such time died or ceased to practise or has been suspended from practice or had his name removed from or struck off the roll.

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Professional indemnity

63.—(1) The Council may by regulations (in this Order referred to as “indemnity regulations”) make provision for indemnity against claims in respect of any description of civil liability incurred—

- (a) by a solicitor or former solicitor in connection with his practice or with any trust of which he is or was a trustee;
- (b) by an^[F5] employee or former employee] of a solicitor or former solicitor in connection with that solicitor's practice or with any trust of which that solicitor or the^[F5] employee] is or was a trustee.

(2) Indemnity regulations may—

- (a) authorise or require the Society to establish and maintain an indemnity fund or funds;
- (b) authorise or require the Society to take out and maintain indemnity insurance with authorised insurers;
- (c) require solicitors to take out and maintain indemnity insurance with authorised insurers.

(3) Without prejudice to the generality of paragraphs (1) and (2), indemnity regulations may—

- (a) specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified;

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- (b) provide for the management, administration and protection of any fund maintained under paragraph (2)(a) and require solicitors to make payments to any such fund;
 - (c) require solicitors to make payments by way of premium on any insurance policy maintained by the Society under paragraph (2)(b);
 - (d) prescribe the conditions which an insurance policy must satisfy for the purposes of paragraph (2)(c);
 - (e) authorise the Society to determine the amount of any payments required by the regulations subject to such limits, or in accordance with such provisions, as may be prescribed by the regulations;
 - (f) specify circumstances in which, where a solicitor for whom indemnity is provided has failed to comply with the regulations, the Society or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which he has failed to comply;
 - (g) specify circumstances in which solicitors are exempt from the regulations;
 - (h) empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the regulations are being complied with; and
 - (i) contain incidental, procedural or supplementary provisions.
- (4) If any solicitor fails to comply with indemnity regulations, any person may make a complaint in respect of that failure to the^{F5} Tribunal].
- (5) The Society may, without prejudice to any of their other powers, carry into effect any arrangements which they consider necessary or expedient for the purpose of providing indemnity under this Article.

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