

S.I. 1984 No. 86

Legal Profession
CAP. 370A

ATTORNEYS-AT-LAW COMPENSATION FUND RULES, 1984

Authority : These rules were made on 19th April, 1984 by the Council of the Bar Association under section 51 (b) of the *Legal Profession Act*.

Commencement: 19th April, 1984.

1. These Rules may be cited as the *Legal Profession (Attorneys-at-Law) (Compensation Fund) Rules, 1984*.

2.(1) In these Rules “loser” means:

- (a) a person who has sustained loss in consequence of dishonesty on the part of any attorney-at-law or any clerk or servant of any attorney-at-law; or
- (b) a person who has suffered hardship or is likely to suffer hardship in consequence of the failure of an attorney-at-law to account for money due.

(2) The loss or hardship to which paragraph (1) refers must be in connection with the attorney-at-law’s practice as an attorney-at-law or any trust of which the attorney-at-law is a Trustee and whether or not he was the holder of a valid Practising Certificate when the act of dishonesty or the failure to account for money due was committed and notwithstanding that subsequent to the commission of that act or failure, the attorney-at-law has died, his name has been removed from the Roll or he has ceased to practise or been suspended from practice.

3. Before or at the time of making an application to the Bar Association for a grant out of the Compensation Fund, a loser shall complete, sign and deliver

to the Secretary of the Association a notice in the form A set out in the *Schedule* or in a similar form approved by the Association.

4. The notice to which Rule 3 refers, shall be delivered to the Secretary of the Bar Association within 6 months (or such other period not exceeding 2 years as the Association allows in any particular case) after the loss or hardship in respect of which the notice is delivered first came to the knowledge of the loser.

5. A notice shall be accompanied by an application for a grant out of the Compensation Fund, except where it is impracticable to deliver the application with the Notice in which case the application shall be delivered to the Secretary of the Bar Association as soon as practicable after the delivery of the notice.

6.(1) Subject to paragraph (2), an application shall be made in the Form B set out in the *Schedule* or in a similar form approved by the Bar Association.

(2) The Bar Association may require an applicant to make a statutory declaration in support of his application.

(3) The Bar Association may require an application to be supported by oral evidence to be tendered and documents to be produced to it or any Committee appointed and authorised by it to exercise or assist in the performance of the Association's functions conferred by section 50 of the Act.

7. The Bar Association before determining whether to make a grant out of the Compensation Fund may require an applicant to pursue any civil remedy that is available in respect of the loss or to institute criminal proceedings in respect of the dishonesty leading to the loss or to make an application to the Disciplinary Committee.

8. The Bar Association may waive any of these rules in any particular case or permit the amendment in any respect of any notice or application.

9. Any requirement of the Bar Association under these rules may be communicated by notice in writing which may be delivered personally or sent by post to the addressee at his last known address.

SCHEDULE

FORM A

NOTICE OF HARDSHIP OR LOSS

I,.....

(enter full name)

of,
hereby give Notice that

I have suffered or am likely to suffer hardship in consequence of the failure of.....

(enter full name of attorney-at-law or firm of attorneys-at-law)

to account for \$.....

(enter amount)

Delete the inappropriate alternative and complete as necessary.

(OR)

I have sustained a loss of approximately \$

(enter amount)

which I believe to be due to the dishonesty of

.....

(enter full name of attorney-at-law or firm of attorneys-at-law)

or his/their clerk(s)

Delete the inappropriate alternative and complete as necessary.

The details relating thereto are set out in the Schedule of particulars attached to the application which accompanies this Notice

(OR)

The details relating thereto are set out briefly in the Schedule of Particulars attached to this Notice and I also give Notice that an application for a grant may be made in due course.

Date..... Signed.....

To: The Secretary

The Barbados Bar Association

Bridgetown.

FORM B

FORM OF APPLICATION FOR GRANT OUT OF THE COMPENSATION FUND

I,

(full name of applicant)

of,

(full address of applicant)

hereby apply to the Council of The Bar Association that in the exercise of the absolute discretion conferred upon them by the Legal Profession Act Cap. 370A, they make to me a grant of \$

(enter amount)

or any sum which they may think proper out of the Compensation Fund.

For the purpose of relieving or mitigating hardship suffered or likely to be suffered by me in consequence of the failure of

.....

(enter name of attorney-at-law or firm of attorneys-at-law)

(OR)

for the purpose of relieving or mitigating a loss which I believe to have been sustained by reason of the dishonesty of

.....

(enter name of attorney-at-law or firm of attorneys-at-law)

or his/their clerk(s)

A Notice of Hardship or Loss was forwarded to the Barbados Bar Association on

(give date Notice dispatched)

Delete the inappropriate alternative and complete as necessary.

Delete the inappropriate alternative and complete as necessary.

and full details relative to this claim are set out in the Schedule of Particulars attached to this application.

Signed.....

NOTE:- The Council reserve the right at their discretion to require the applicant to make a statutory declaration in support of this application.

SCHEDULE OF PARTICULARS

(for use with Forms A and/or B)

(this should contain the following information which should be given concisely in numbered paragraphs:

1. The circumstances in which and the date or dates upon which the money or other property, in respect of which the loss has been sustained or hardship suffered, came into the possession of the attorney-at-law or his clerk or servant.
2. Full particulars of the money or property.
3. The facts relied upon in support of the allegation of dishonesty or failure to account.
4. The circumstances in and date upon which the loss or hardship first came to the knowledge of the loser.
5. Particulars of any relevant documents which can be produced in support of this application.
6. Whether it is known that any other application is likely to be made in respect of the facts set out in this Schedule.

7. Whether any civil, criminal or disciplinary proceedings have or will be taken in respect of the facts set out in this application. If proceedings have already been taken give the result.
8. The name and address of any attorney-at-law instructed on behalf of the loser.
9. Any other relevant particulars)