

ADVOCATES (COMPENSATION FUND) RULES 2018

(G.N.S 11 of 2018)

In exercise of the powers conferred by subsection 16E(13) of the Advocates Ordinance (*Cap. 2*), the Law Society makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the Advocates (Compensation Fund) Rules 2018.
- (2) These Rules are deemed to have come into operation on 2 February 2018.

Contribution to be paid annually in advance

2. Contribution to the Compensation Fund for the succeeding year shall be paid annually in advance by each advocate on application by him for an Annual Certificate.

Notice in Form A

3. Before or at the time of making an application to the Law Society for a grant out of the Compensation Fund, an applicant shall complete, sign and deliver to the Secretary of the Law Society a notice in Form A as set out in the Schedule.

Notice to be delivered to Secretary

4. Every such notice shall be delivered to the Secretary of the Law Society within six months (or such other period not exceeding two years as the Law Society may allow) after the loss in respect of which the notice is delivered, first come to the knowledge of the applicant.

Notice to accompany an application

5. Every such 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 Law Society as soon as practicable after the delivery of the notice.

Application in Form B

6. Every application shall be made in Form B as set out in the Schedule or in a form to the like effect approved by the Law Society. The Law Society may require an applicant to make a statutory declaration in support of his application.

Law Society may require oral evidence of documents

7. The Law Society may require an application to be supported by oral evidence to be tendered and documents to be produced to the Law Society or any committee appointed and authorised by the Law Society to exercise or to assist the Law Society in the exercise of its functions under section 16E of the Advocates Ordinance.

Law Society may require pursuit of civil remedy or criminal proceeding

8. The Law Society may before deciding whether or not to make a grant out of the Compensation Fund require, in respect of any application, the pursuit of any civil remedy which may be available in respect of the loss, or the institution of criminal proceedings in respect of the dishonesty leading to the loss, or the making of an application to the Disciplinary Board.

Waiver

9. The Law Society may waive any of the provisions of these Rules or permit the amendment of any notice or application.

Requirement of Law Society to be communicated by notice

10. Any requirement of the Law Society under these Rules may be communicated by a notice in writing which may be delivered personally or sent by post to the addressee at

his last known address. Any such notice sent by post shall be deemed to have been received by the addressee within forty-eight hours (excluding Sundays and Public Holidays) of the time of posting.

SCHEDULE
FORM A
ADVOCATES ORDINANCE
(CAP.2)

ADVOCATES (COMPENSATION FUND) RULES 2018
NOTICE OF LOSS

To:
The Secretary,
Law Society,
Kota Kinabalu, Sabah,
Malaysia.

I.....
(Full name)

of
(Address)

hereby give notice that I have incurred a loss of approximately RM
which I believe to be due to the dishonesty of
.....
(Full name of advocate or firm of advocates)

or his/their* clerk(s). The details relating thereto are set out in the Schedule of Particulars attached –

- * (a) to the application which accompanied this Notice;
- * (b) to this Notice and I also give Notice that application for a grant may be made in due course.

Dated thisday of20

.....
(Signature)

**Delete as necessary*

FORM B
ADVOCATES ORDINANCE
(CAP.2)

ADVOCATES (COMPENSATION FUND) RULES 2018
FORM OF APPLICATION FOR A GRANT OUT OF THE COMPENSATION FUND

To:
The Secretary,
Law Society,
Kota Kinabalu, Sabah,
Malaysia.

I.....
(Full name)

of
(Address)

hereby apply to the Law Society that in the exercise of the absolute discretion conferred upon the Law Society by the Advocates Ordinance (Cap.2), the Law Society makes to me a grant of RM or any sum which the Law Society may think proper out of the Compensation Fund for the purpose of relieving or mitigating a loss which I believe to have incurred by reason of the dishonesty of

.....
(Full name of advocate or firm of advocates)

or his/their* clerk(s). A Notice of Loss was forwarded to the Law Society on

.....
(Date Notice Despatched)

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

Dated thisday of20

.....
(Signature)

**Delete as necessary*

(SCHEDULE OF PARTICULARS TO BE ANNEXED TO FORM A OR B)

This Schedule should contain the following information which should be given concisely numbered paragraphs:

1. The circumstances in which and the date or dates on which the money or other property, in respect of which the loss incurred came into the possession of the advocate or his clerk or servants.
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 the date on which the loss first came to the knowledge of the applicant.
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 advocate instructed on behalf of the applicant.
9. Any other relevant particulars.