



Lawyers and Conveyancers Act (Conveyancing Practitioners: Fidelity Fund) Regulations 2008

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 30th day of June 2008

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 94, 108, 310, and 311 of the Lawyers and Conveyancers Act 2006, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Lawyers and Conveyancers Act (Conveyancing Practitioners: Fidelity Fund) Regulations 2008.

2 Commencement

These regulations come into force on 1 August 2008.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
- Act** means the Lawyers and Conveyancers Act 2006
- Board** means the Executive Board of the Society
- Conveyancing Practitioners' Fidelity Fund** or **Fidelity Fund** means the Conveyancing Practitioners' Fidelity Fund established under regulation 5
- Council** means the Council of the Society
- Society** means the New Zealand Society of Conveyancers.
- (2) Any term that is defined in the Act and used, but not defined in these regulations, has the meaning given in that Act.

4 Delegation of functions, duties, and powers of Society

The Society may, in writing, delegate (either generally or specifically) to any person or body any functions, duties, and powers of the Society under these regulations.

5 Conveyancing Practitioners' Fidelity Fund established

For the purpose of section 304(b) of the Act, the Conveyancing Practitioners' Fidelity Fund is established.

6 Maintenance and management of Fidelity Fund

- (1) The Society must take appropriate steps to maintain and manage the Fidelity Fund.
- (2) The Society must prepare, in respect of each financial year, an annual budget for the Fidelity Fund.

7 Costs payable out of Fidelity Fund

The Society may pay out of the Fidelity Fund the costs of establishing, maintaining, managing, and administering the Fidelity Fund.

8 Insurance arrangements

The Society may make such insurance arrangements in relation to the Fidelity Fund as it considers appropriate.

9 Investment of money

The Society may invest any money held in the Fidelity Fund in any manner it considers appropriate and prudent.

10 Maximum amount payable

The maximum amount that may be paid out of the Fidelity Fund to an individual claimant by way of compensation is \$1,000 or an amount equal to 60% of the money in the fund, whichever is the greater at the time the claim is admitted by the Board.

11 Notice of claim

- (1) A notice of claim against the Fidelity Fund required by section 324(3) of the Act must—
 - (a) be in form 1 of the Schedule; and
 - (b) be signed by the claimant or a person authorised to sign on the claimant's behalf; and
 - (c) contain full particulars of—
 - (i) the matters giving rise to the claim; and
 - (ii) the amount of the claim.
- (2) The Board may require the notice of claim to be accompanied by a statutory declaration in form 2 of the Schedule signed by

the claimant or a person authorised to sign on the claimant's behalf.

- (3) The Board may, as it thinks fit, allow for any variations in, or dispense with, any form under this regulation.

12 Dealing with claim

- (1) The Board must consider and deal with a claim with all reasonable expedition consistent with the nature of the claim and the surrounding circumstances.
- (2) In order to facilitate or assist the consideration of a claim, the Board may, as it thinks fit, do all or any of the following:
 - (a) make or cause to be made any inquiries or obtain any reports that it thinks fit concerning the claim or concerning any other claim or possible claims relating to the conveyancing practitioner or other person in respect of whose acts the claim is made:
 - (b) request that the claimant, or any person having actual knowledge of the matter, verify by statutory declaration any statement, fact, or other matter relating to the claim:
 - (c) request that the claimant produce as exhibits to a declaration or otherwise all deeds, documents, and any other material of any nature or description relating to the claim:
 - (d) request that the claimant appear before any person appointed by the Board in respect of any matter relating to the claim.

13 Audit of Fidelity Fund accounts

- (1) The Board must ensure that the accounts of the Fidelity Fund are audited annually by a chartered accountant appointed for the purpose by the Council.
 - (2) The audited accounts must be presented at each annual general meeting of the Society and included in the Society's annual report.
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Schedule

r 11

Forms

Form 1

r 11(1)(a)

**Claim against Conveyancing Practitioners'
Fidelity Fund**

To the New Zealand Society of Conveyancers

Notice is given that *[full name and address of claimant]* has suffered pecuniary loss by reason of theft by *[name of conveyancing practitioner, incorporated conveyancing firm, or agent of conveyancing practitioner or incorporated conveyancing firm]* of *[\$[amount of money or value of property stolen]* entrusted to the practitioner, firm, or agent or in the course of the provision of regulated services, and accordingly claims against the Conveyancing Practitioners' Fidelity Fund the sum of *[\$[amount]* as reimbursement in respect of the loss.

Particulars of claim

[Specify particulars of the matters giving rise to the claim, setting out fully the dealings with the person concerned leading up to the claim and attaching copies of any letters, accounts, statements, or other documents that are relevant.]

Particulars of amount of claim

[Specify particulars showing how the amount of the claim is calculated.]

Date:

Signature of claimant:

Signature of witness:

Name of witness:

Occupation:

Address:

Form 2

r 11(2)

Declaration in support of claim against
Conveyancing Practitioners' Fidelity Fund

I, [*full name, address, occupation*], being a claimant against the Conveyancing Practitioners' Fidelity Fund, solemnly and sincerely declare that the particulars set out in the notice of claim are full and true in all material respects.

And I make this declaration conscientiously believing the same to be true by virtue of the Oaths and Declarations Act 1957.

Declared at [*place, date*]

Before me: [*name, signature*]

(A person authorised to take a statutory declaration under the Oaths and Declarations Act 1957.)

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 August 2008, provide for rules relating to the establishment, maintenance, and management of the Conveyancing Practitioners' Fidelity Fund and related matters. These rules are enacted as regulations (under section 108 of the Lawyers and Conveyancers Act 2006) to ensure that they are binding on all persons.

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These regulations are administered by the Ministry of Justice.
