

SCHEDULES

[^{F1}SCHEDULE 1A

INCORPORATED PRACTICES: SUPPLEMENTARY PROVISIONS

F1 1989 NI 14

Compensation Fund

27.—(1) On an application for recognition under Article 26A a body corporate shall pay to the Society with any fee required to be paid by virtue of paragraph (2)(a) of that Article a contribution to the Compensation Fund of such amount as the Council may from time to time determine; and Schedule 2 shall apply to an amount paid to the Society in pursuance of this sub#paragraph as if it were an annual contribution paid in pursuance of paragraph 2 of that Schedule.

(2) Where the Council, on an application for a grant being made to the Society, are satisfied—

- (a) that a person has suffered loss in consequence of dishonesty on the part of an officer or employee of a recognised body in connection with that body's business or purported business as a recognised body or in connection with any trust of which it is or was a trustee; or
- (b) that a person has suffered or is likely to suffer hardship in consequence of the failure on the part of a recognised body to account for money which has come into its possession in connection with that body's business or purported business as a recognised body or in connection with any trust of which it is or was a trustee;

then, subject to the provisions of sub-paragraph (3), 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 or (as the case may be) relieving such hardship.

(3) The following provisions shall have effect in relation to grants under sub-paragraph (2)—

- (a) the Society shall not make a grant unless the Council are satisfied that the recognised body in respect of whose act or default or in respect of whose officer's or employee's act or default the application is made has been given sufficient notice of the substance of the application and had not given, either to the applicant or to the Society, such explanation as satisfied the Council that no grant should be made;
- (b) the fact that the applicant is a solicitor, an employee of a solicitor, a recognised body or an officer or employee of such a body shall not disqualify the applicant from receiving a grant.

(4) Where the Council, on an application being made to the Society, are satisfied that a member of a recognised body has suffered or is likely to suffer loss or hardship by reason of his liability to any of that body's clients in consequence of some act or default of any officer or employee of that body, in circumstances where but for the liability of that member a grant might have been made out of the Compensation Fund to some other person, then, subject to the provisions of sub-paragraph (5), the Society may, if the Council think fit, make to that member a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

(5) The following provisions shall have effect in relation to grants under sub#paragraph (4)—

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- (a) the Society shall not make a grant to a member of a recognised body in respect of any act or default of another member of that body unless the Council are satisfied that the other member (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.
- (6) Sub-paragraph (7) applies—
- (a) to a grant made under sub-paragraph (2);
 - (b) to a grant made under sub-paragraph (4) otherwise than by way of loan; and
 - (c) where a grant has been made under sub-paragraph (4) 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;to such a grant to the extent of any such amount.
- (7) Where this sub-paragraph applies to a grant—
- (a) 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 winding-up, bankruptcy or other legal proceedings or otherwise, to receive any sum out of the assets of the recognised body or an officer or employee of that body in respect of that act or default until the Society have been reimbursed the full amount of the grant;
 - (b) 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 head (a) and to permit the Society to have the conduct of the proceedings.
- (8) In subparagraphs (2) to (7)—
- (a) references to the person to whom a grant has been made or to any member, officer or employee of a recognised body 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;
 - (b) references to any recognised body in respect of whose act or default a grant has been made shall include, in the event of the winding up of that body, a reference to its liquidator.]

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 6(1A) inserted by [2011 c. 24 \(N.I.\) s. 88\(2\)](#)
- art. 10(2D) inserted by [2011 c. 24 \(N.I.\) s. 88\(4\)](#)
- art. 51(11A) inserted by [2016 c. 14 \(N.I.\) s. 3\(4\)](#)
- art. 71H(3) revoked by [1996 c. 23 s. 107\(2\)Sch.4](#)
- art. 75(1A) inserted by [2016 c. 14 \(N.I.\) s. 3\(6\)](#)
- art. 75(2A)(2B) inserted by [2011 c. 24 \(N.I.\) s. 90\(1\)](#)