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## No. S 720

### LEGAL PROFESSION ACT (CHAPTER 161)

### LEGAL PROFESSION (UNCLAIMED MONEY FUND) RULES 2019

#### ARRANGEMENT OF RULES

#### Rule

1. Citation and commencement
2. Definitions
3. Use of money in Fund to fund pro bono services
4. Application to transfer unclaimed client money to Fund
5. Consideration of reasonable effort
6. Application for payment of transferred unclaimed client money
7. Written notification of decision or determination
8. Record-keeping requirements
9. Powers of inspection by Council
10. Power to waive provisions
11. Rules prevail over practice directions, guidance notes and rulings
12. Forms

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In exercise of the powers conferred by section 70N(1) of the Legal Profession Act, the Council of the Law Society of Singapore, with the approval of the Minister for Law, makes the following Rules:

#### **Citation and commencement**

**1.** These Rules are the Legal Profession (Unclaimed Money Fund) Rules 2019 and come into operation on 1 November 2019.

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## Definitions

2. In these Rules, unless the context otherwise requires —

“applicant” means a solicitor or Singapore law practice that makes an application under section 70K(1) of the Act;

“claimant”, “Fund” and “transferred unclaimed client money” have the meanings given by section 70I of the Act;

“client” has the meaning given by section 70K(6) of the Act;

“client account” has the meaning given by rule 2(1) of the Legal Profession (Solicitors’ Accounts) Rules (R 8);

“excluded transaction” means a transfer (whether direct or indirect) of money that is the subject of an application under section 70K(1) of the Act to the applicant, by any other solicitor or Singapore law practice that previously held the money for or on behalf of the client entitled to the money;

“identifying particulars” —

(a) in relation to an individual — means his or her full name (including any alias), personal identification number (such as NRIC number, passport number or foreign identification number), nationality, residential address and telephone number; and

(b) in relation to a body corporate or unincorporated — means its name, address of its place of business or registered office, telephone number, date and place of its registration or incorporation, and its Unique Entity Number (UEN);

“responsible officer”, in relation to a Singapore law practice, means the sole proprietor, a partner or a director of that Singapore law practice, as the case may be;

“Society’s website” means the website at <https://www.lawsociety.org.sg>.

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**Use of money in Fund to fund pro bono services**

**3.—**(1) For the purposes of section 70J(3)(b) of the Act, the Council may transfer from the Fund the moneys mentioned in section 70J(3)(b)(i) of the Act, any transferred unclaimed client money prescribed under paragraph (2), and any transferred unclaimed intervention money —

- (a) to any other fund of the Society for the purpose of funding pro bono services provided by the Society; and
- (b) to the general fund of the Society for the purpose of transferring the money to a wholly-owned subsidiary of the Society to fund pro bono services provided by that subsidiary.

(2) The transferred unclaimed client money prescribed for the purposes of section 70J(3)(b)(ii) of the Act is any transferred unclaimed client money —

- (a) that does not exceed \$200; or
- (b) that was held in a client account immediately before 1 November 2019 and remained so held before being transferred to the Fund, and in respect of which no transaction (other than an excluded transaction) occurred during the period of 6 years immediately before 1 November 2019.

**Application to transfer unclaimed client money to Fund**

**4.—**(1) An application under section 70K(1) of the Act must —

- (a) be made in the form specified on the Society’s website for the application;
- (b) contain the following information:
  - (i) the identifying particulars of every client for whom, or for whose account, the applicant holds the money to which the application relates;
  - (ii) details of every matter or transaction between the applicant and the client in respect of the money, including —

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- (A) the date of each matter or transaction;
  - (B) the amount of money received by the applicant for each matter or transaction; and
  - (C) where 2 or more clients are entitled to the money — the amount of money to which each client is entitled;
- (iii) the total amount of money that the applicant proposes to pay into the Fund;
- (c) be accompanied by evidence of the effort made by the applicant to pay the money to the client; and
  - (d) conform with the requirements of the Act, these Rules, and any practice directions, guidance notes and rulings issued by the Council in respect of any matter relating to these Rules.
- (2) The Society may require an applicant to provide any other information or document the Society considers necessary to determine whether to approve the application.
- (3) The Society may refuse to consider an application made under section 70K(1) of the Act if —
- (a) the application is incomplete or not made in accordance with this rule; or
  - (b) the applicant fails to provide the information or document required by the Society under paragraph (2), if any.
- (4) The requirements in paragraph (1)(b) and (c) do not apply to an applicant if —
- (a) the application relates to money held in the applicant's client account immediately before 1 November 2019;
  - (b) the application is made before 1 November 2021; and
  - (c) the applicant gives a written confirmation to the Society that no transaction (other than an excluded transaction) occurred in respect of the money during the period of 6 years immediately before 1 November 2019.

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(5) Subject to paragraph (4), the requirement in paragraph (1)(c) does not apply to an applicant if —

- (a) the application involves an amount not exceeding \$200; and
- (b) the applicant gives a written confirmation to the Society that the applicant has made reasonable effort to pay the money to every client entitled to the money.

### **Consideration of reasonable effort**

**5.**—(1) Without limiting the Society’s powers under any other law, where the requirement in rule 4(1)(c) applies to an applicant in an application under section 70K(1) of the Act, the Society may, in determining whether to approve the application, consider whether the applicant has made reasonable effort to pay the money to which the application relates to every client entitled to the money.

(2) For the purposes of paragraph (1), the factors that the Society may take into account include (but are not limited to) the following:

- (a) the information mentioned in rule 4(1)(b) and the supporting documents, if any;
- (b) the length of time that the applicant has held the money;
- (c) the costs incurred by the applicant, and any other solicitor or Singapore law practice that previously held the money for or on account of the client (if any), in attempting to pay the money to the client;
- (d) where the money was held in the applicant’s client account immediately before 1 November 2019 — whether any transaction (other than an excluded transaction) occurred in respect of the money during the period of 6 years immediately before that date.

### **Application for payment of transferred unclaimed client money**

**6.**—(1) An application by a claimant under section 70L(1) of the Act must —

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- (a) be made in the form specified on the Society’s website for the application;
  - (b) contain the following information:
    - (i) the identifying particulars of —
      - (A) the claimant;
      - (B) the solicitor or Singapore law practice that held the money immediately before the money was paid into the Fund, or, if the claimant does not have these identifying particulars, the identifying particulars of any other solicitor or Singapore law practice that held the money at any time before the money was paid into the Fund; and
      - (C) the person who authorised the claimant to receive the money, if any;
    - (ii) the date on which the money was paid to a solicitor or Singapore law practice mentioned in sub-paragraph (i)(B);
  - (c) be accompanied by a court order or statutory declaration mentioned in section 70L(3)(a) or (b) of the Act, as the case may be; and
  - (d) conform with the requirements of the Act and these Rules.
- (2) The Society may require a claimant to provide any other information or document the Society considers necessary to determine whether the requirements in this rule are satisfied.
- (3) The Society may refuse to consider an application made under section 70L(1) of the Act if —
- (a) the application is incomplete or not made in accordance with these Rules; or
  - (b) the claimant fails to provide the information or document required by the Society under paragraph (2), if any.

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**Written notification of decision or determination**

7. The Society must provide the applicant or claimant with written notification of the following, whichever is applicable:

- (a) the Society's decision to approve, or not to approve, an application made under section 70K(1) of the Act;
- (b) the Society's determination that an application made under section 70L(1) of the Act satisfies, or does not satisfy, the requirements in rule 6;
- (c) the Society's decision, in an application made under section 70L(5) of the Act, on whether to pay or not to pay the whole or any part of the amount claimed in the application to the claimant.

**Record-keeping requirements**

8.—(1) A solicitor or Singapore law practice that pays transferred unclaimed client money into the Fund following the approval of an application made under section 70K(1) of the Act must keep records of the following for 6 years beginning on the date of the payment (called in this rule the record-keeping period):

- (a) the file reference number of the matter to which the money relates;
- (b) the name of the solicitor in charge of the matter;
- (c) the identifying information of the client;
- (d) the date on which the money was paid to the solicitor or Singapore law practice;
- (e) the amount of the money (excluding any accrued interest) in the client account of the solicitor or Singapore law practice immediately before the transfer;
- (f) the amount deducted from the money for expenses incurred by the solicitor or Singapore law practice in attempting to return the money to the client, if any;
- (g) the amount of the money paid into the Fund;
- (h) the date on which the money was paid into the Fund;

(i) the effort made by the solicitor or Singapore law practice to pay the money to the client.

(2) The solicitor or Singapore law practice must produce the records mentioned in paragraph (1) to the Society, or a person authorised by the Society, upon request.

(3) The requirements in paragraphs (1) and (2) continue to apply to the solicitor for the remainder of the record-keeping period, even if he or she ceases to practise at any time during the record-keeping period.

(4) If, during the record-keeping period, the Singapore law practice is dissolved or goes into liquidation, or has its law firm licence, limited liability law partnership licence or law corporation licence (as the case may be) revoked under section 133, 145 or 161 of the Act, the requirements in paragraphs (1) and (2) —

(a) cease to apply to that Singapore law practice; but

(b) apply to every person who is a responsible officer of that Singapore law practice immediately before the dissolution, liquidation or revocation, for the remainder of the record-keeping period.

### **Powers of inspection by Council**

**9.—**(1) For the purpose of ascertaining whether these Rules have been complied with, the Council acting —

(a) on its own motion; or

(b) on a written complaint lodged with it by a third party,

may by order require a solicitor or responsible officer of a Singapore law practice to produce any document or record, or to provide any information or explanation, to a person appointed by the Council to conduct an inspection.

(2) Upon being required to do so, the solicitor or responsible officer must produce the document or record, or provide the information or explanation, to the person appointed by the Council.

(3) The person appointed by the Council must prepare for the information of the Council a report on the result of an inspection



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under paragraph (1), and the report may be used as a basis for proceedings under the Act.

(4) An order of the Council under paragraph (1) —

(a) must be made in writing by a member of the Council; and

(b) must be served —

(i) by giving it to the solicitor or responsible officer personally; or

(ii) by sending it by prepaid registered post to the last known residential address or last known business address of the solicitor or responsible officer,

as the case may be.

(5) Before appointing a person under paragraph (1), the Council must consider any objection made by the solicitor or responsible officer, on personal or other proper grounds, to the appointment of that person.

(6) Before making an order under paragraph (1) on a written complaint lodged with it by a third party, the Council —

(a) must be satisfied that there is prima facie evidence that a ground of complaint exists; and

(b) may require the complainant to pay to the Council a reasonable sum to be fixed by the Council to cover the costs of the inspection, and the costs of the solicitor or Singapore law practice against which the complaint is made.

(7) The Council may deal with any sum so paid in any manner it thinks fit.

### **Power to waive provisions**

**10.** The Council may, subject to any terms and conditions the Council may impose, waive any provision of rule 4 or 6 if the Council thinks that it is impractical for an applicant or a claimant to comply with that provision.

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**Rules prevail over practice directions, guidance notes and rulings**

11. To the extent of any inconsistency, these Rules prevail over any practice direction, guidance note or ruling issued by the Council in respect of any matter relating to these Rules.

**Forms**

12.—(1) The Society must provide and cause to be published on the Society's website any forms it thinks fit for the purposes of these Rules.

(2) All forms used for the purposes of these Rules must be completed in the English language and in accordance with the directions specified in the form or by the Society.

(3) Where strict compliance with any form is not possible, the Society may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in any other manner the Society thinks fit.

Made on 10 October 2019.

GREGORY VIJAYENDRAN  
*President,*  
*Council of the Law Society of*  
*Singapore.*

[LS/12/LRD/2018/UMFRules; AG/LEGIS/SL/161/2015/25 Vol. 1]

(To be presented to Parliament under section 185 of the Legal Profession Act).