

BY-LAW 10

Made: May 1, 2007
Amended: June 28, 2007

UNCLAIMED TRUST FUNDS

APPLICATION TO PAY MONEY TO SOCIETY

Application form

1. (1) A licensee who makes an application under subsection 59.6 (1) of the Act shall complete an application form provided by the Society.

Information: application based on clause 59.6 (1) (a)

(2) A licensee who makes an application under subsection 59.6 (1) of the Act based on circumstances described in clause 59.6 (1) (a) of the Act shall provide to the Society the following information:

1. The licensee's name, address, telephone number, fax number and, if any, e-mail address.
2. If the licensee holds the money in trust together with one or more other persons, the name, if applicable, and contact information of each of those persons.
3. The amount of the money.
4. The conditions, if any, subject to which the money is held in trust.
5. The name and last known address and telephone number, according to the licensee and each person who together with the licensee holds the money in trust, of each person who is entitled to the money or a part of the money.
6. The social insurance number, if known, of each individual who is, and the corporation number, if known, of each corporation that is, entitled to the money or a part of the money.
7. The date of birth, if known, of each individual who is entitled to the money or a part of the money.

8. If two or more persons are entitled to the money, the amount of the money to which each person is entitled, according to the financial records of the licensee and each person who together with the licensee holds the money in trust.
9. If a person who is entitled to the money is a corporation, information as to whether the corporation exists at the time of the application, according to the official records of the government of the jurisdiction in which the corporation was incorporated or continued.
10. If a person who is entitled to the money is a corporation that exists at the time of the application, the name and address of each director, officer and shareholder of the corporation, according to the official records of the government of the jurisdiction in which the corporation was incorporated or continued.
11. The name and last known address, according to the licensee and each person who together with the licensee holds the money in trust, of the person from whom the money was received.
12. The date on which the money was received.
13. The reasons for which the money was received.
14. The efforts made by the licensee and each person who together with the licensee holds the money in trust to locate each person entitled to the money.
15. Any other information that the Society may require.

Information: application based on clause 59.6 (1) (b)

(3) A licensee who makes an application under subsection 59.6 (1) of the Act based on circumstances described in clause 59.6 (1) (b) of the Act shall provide to the Society the information described in paragraphs 1 to 4 of subsection (2) and the following information:

1. The period of time for which the money has been held in trust.
2. The reasons why the licensee is unable to determine who is entitled to the money.
3. Any other information that the Society may require.

Supporting documents

(4) A licensee who makes an application under subsection 59.6 (1) of the Act shall provide to the Society copies of documents that are in the licensee's possession and control that may be required by the Society to support the information provided under subsection (2) or (3).

Certification

(5) A licensee who makes an application under subsection 59.6 (1) of the Act shall certify that all information provided under subsection (2) or (3) is correct to the best knowledge of the licensee.

Consideration of application

2. (1) The Society shall consider every application under subsection 59.6 (1) of the Act made in accordance with section 1 of this By-Law and, on the basis of the information provided under subsection 1 (2) or subsection 1 (3) of this By-Law and any documents provided under subsection 1 (4) of this By-Law, shall,

- (a) if the Society is satisfied that the condition for making the application set out in clause 59.6 (1) (a) or (b) of the Act is met, approve the application; or
- (b) if the Society is not satisfied that the condition for making the application set out in clause 59.6 (1) (a) or (b) of the Act is met, refuse to approve the application.

Application based on clause 59.6 (1) (a)

(2) If an application under subsection 59.6 (1) of the Act is based on circumstances described in clause 59.6 (1) (a) of the Act, in considering the application, the Society shall have regard to,

- (a) what efforts the licensee has made to locate the person entitled to the money; and
- (b) whether or not there is any reasonable prospect the person entitled to the money can be located.

Application based on clause 59.6 (1) (b)

(3) If an application under subsection 59.6 (1) of the Act is based on circumstances described in clause 59.6 (1) (b) of the Act, in considering the application, the Society shall have regard to the nature of trust in which the money was held and the circumstances in which the trust arose.

CLAIMS FOR PAYMENT OF MONEY

Interpretation: “claimant”

3. In section 4, “claimant” means a person who makes a claim under subsection 59.10 (1) of the Act.

Making claim

4. (1) A claimant shall complete a claim form provided by the Society.

Information

- (2) A claimant shall provide to the Society the following information:
 1. The claimant's name, address and telephone number.
 2. If the claimant is a corporation, the claimant's corporation number.
 3. The amount of the money that the claimant is claiming payment of.
 4. The name of the licensee to whom the money was paid in trust and, if the money was paid to the licensee and one or more other persons for them together to hold the money in trust, the name of each of those other persons.
 5. The last known address, according to the claimant, of the licensee to whom the money was paid in trust and, if the money was paid to the licensee and one or more other persons for them together to hold the money in trust, the last known address, according to the claimant, of each of those other persons.
 6. The date on which the money was paid in trust to the licensee, or to the licensee and one or more other persons, or, if the money was paid in trust to the licensee, or to the licensee and one or more other persons, in two or more separate payments, the date of each separate payment.
 7. The reason or reasons why the money was paid in trust to the licensee, or to the licensee and one or more other persons.
 8. The reason or reasons why the claimant did not claim payment of the money from the licensee or the licensee and the person or persons who held the money in trust.
 9. Any other information that the Society may require.

Supporting documents

- (3) A claimant shall provide to the Society copies of documents that are in the claimant's possession and control that may be required by the Society to support the information provided under subsection (2).

Certification

(4) A claimant shall certify that all information provided under subsection (2) is correct to the best knowledge of the claimant.

Consideration of claim

5. (1) The Society shall consider every claim under subsection 59.10 (1) of the Act made in accordance with section 4 of this By-Law and, on the basis of the information provided under subsection 4 (2) of this By-Law and any documents provided under subsection 4 (3) of this By-Law, shall,

- (a) grant the claim; or
- (b) deny the claim.

Society denies claim

(2) If the Society denies the claim under clause (1) (b), the Society shall so notify the claimant and the claimant may apply to the committee of benchers appointed under section 6 for a reconsideration of the claim.

Time for making application

(3) An application for a reconsideration under subsection (2) shall be commenced by the claimant notifying the Society in writing of the application within thirty days after the day specified in the Society's notice to the claimant that his or her claim has been denied.

Committee of benchers

6. (1) Convocation shall appoint a committee of at least three benchers to consider applications for reconsideration made under subsection 5 (2).

Term of office

(2) A bencher appointed under subsection (1) shall hold office until his or her successor is appointed.

Quorum

7. (1) Three benchers who are members of the committee appointed under section 6 constitute a quorum for the purposes of considering an application for a reconsideration made under subsection 5 (2).

Procedure

(2) Subject to subsection (3), the procedure applicable to the consideration by the committee appointed under section 6 of an application for a reconsideration made under subsection 5 (2) shall be determined by the committee.

Written submission

(3) Unless the committee permits a person to make oral submissions to it, all submissions to the committee shall be in writing.

Powers

8. (1) The committee appointed under section 6 shall consider every application for a reconsideration made under subsection 5 (2) and shall,

- (a) grant the claim; or
- (b) deny the claim.

Dispositions final

(2) Subject to section 59.11 of the Act, the committee's disposition of a claim is final.

FORMER LICENSEES

Former licensees

9. This By-Law also applies, with necessary modifications, in respect of former licensees.
