

1996—No. 189

LEGAL PROFESSION ACT 1987—REGULATION

(Relating to the deposit of trust account funds with the Law Society)

NEW SOUTH WALES



[Published in Gazette No. 63 of 24 May 1996]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Legal Profession Act 1987, has been pleased to make the Regulation set forth hereunder.

JEFFREY SHAW, Q.C., M.L.C.,
Attorney General.

The Legal Profession Regulation 1994 is amended:

(a) by inserting after clause 18 (1) the following subclause:

(1A) Despite subclause (1), if, in the case of a particular solicitor or firm, on any day during the period beginning with the end of the previous applicable period and ending with the 15th banking day after the end of that period, the sum of the lowest balance recorded in the trust account during that 15-day period and the amount (if any) on deposit with the Law Society on that day is less than the sum of the amounts referred to in subclause (1) (a) and (b), the amount that the solicitor or firm is to deposit and keep deposited with the Law Society is the amount that is equivalent to 80% of the lesser sum.

(b) by omitting from clause 18 (2) the matter “subclause (1)” and by inserting instead the matter “subclauses (1) and (1A)”;

(c) by inserting in clause 18 (3) after the matter “subclause (1)” the matter “, (1A)”;

(d) by inserting after clause 18 (4) the following subclause:

(4A) Despite this clause, if a particular Solicitor or firm is unable to comply with the requirements of clause 19 (1) or (2), the solicitor or firm must request the Law Society, in a form approved by the Society, to determine the amount that the solicitor or firm is to deposit and keep deposited with the Society.

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- (e) by inserting in clause 19 (1) after the matter “clause 18 (1)” the matter “or (1A)”;
- (f) by inserting after clause 19 (2) the following subclause:
 - (3) The solicitor or firm of solicitors must have the amount determined by the Law Society under clause 18 (4A) on deposit with the Law Society not later than 5 banking days after the Law Society notifies the solicitor or firm of its determination.

EXPLANATORY NOTE

The object of this Regulation is to vary the requirements of the Legal Profession Regulation 1994 relating to the deposit of trust account funds with the Law Society. The fluctuation in trust account balances concomitant on ordinary legal practice gives rise to the need for greater flexibility in those requirements.

This Regulation is made under the Legal Profession Act 1987 and, in particular, sections 64 (Deposit of trust funds with Law Society) and 216 (the general regulation-making power).
