

# **THE LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR**

## **PROCEDURE FOR THE DISPOSAL OF UNCLAIMED TRUST FUNDS**

Pursuant to Section 70.1 of the *Law Society Act, 1999*, members who have held money in trust on behalf of a person whom the member has been unable to locate for 2 years or more, must pay those monies to the Society.

### **Unclaimed trust funds**

70.1 (1) A member who has held money in trust on behalf of a person whom the member has been unable to locate for 2 years or more, shall pay the money to the society.

(2) Where a member has paid money to the society under subsection (1), the liability of the member to pay that money to the person on whose behalf the member previously held it or to that person's legal representative, is extinguished.

(3) The society shall hold in trust any money paid to it under subsection (1).

(4) The society is entitled to retain, for its purposes, interest on any money held by it under subsection (3).

(5) A person or the legal representative of a person who, but for subsections (1) and (2) could have claimed money held in trust by a member, may claim the money from the society and, on being satisfied that the person is entitled to it, the society shall pay the money to the person.

(6) A claim against the society under subsection (5) is not enforceable after the expiration of 10 years after the money is received by the society under subsection (1) and, after expiration of the 10 year period, the society shall pay the money, excluding any interest retained under subsection (4) to the foundation for its purposes.

(7) The society shall, for the purpose of public notice, publish in Part I of the Gazette the available identifying information regarding the unclaimed trust funds at the end of the 9th year after the money is received by the society before taking the action referred to in subsection (6).

(8) Where a claim is made under subsection (5) and the society is not satisfied that the person is entitled to the money, that person or the legal representative of that person may apply to the Trial Division for a review of the decision of the society and the court may, where it is satisfied that the person is entitled to the money, allow the claim.

Individual amounts can be provided separately or as a lump sum, by cheque made payable to the **'Law Society of Newfoundland and Labrador in Trust'**. Members must also provide particulars respecting the monies attributable to each client. The information required includes:

- (i) client name, lawyer name and amount in trust;
- (ii) status of the file (i.e release to be registered, client deceased, cannot locate file, cannot locate client; etc.);
- (iii) reason for funds being held in trust (i.e. to pay for release of mortgage, etc.);
- (iv) date of last trust activity, and
- (v) steps taken to locate client.

To comply with Section 70.1, members only need to send a letter to the Law Society with the relevant information requested for each client, and the cheque(s).