

L.N. 18 of 2002

Solicitors' Accounts (Amendment) Rules 2002

(Made by the Council of The Law Society of Hong Kong under section 73 of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice)

1. Rule added

The Solicitors' Accounts Rules (Cap. 159 sub. leg.) are amended by adding---

"9A. Duty to remedy breaches

(1) Any breach of these rules must be remedied promptly upon discovery. This includes the replacement of any money improperly withheld or withdrawn from a client account. [cf. Solicitors' Accounts Rules 1998 r. 7(1) U.K.]

(2) Each principal of a firm shall be jointly and severally liable to carry out the duty to remedy any breach of these rules. This duty extends to replacing missing client's money or trust money from the principal's own resources, even if the money has not been misappropriated by the principal himself, and whether or not a claim is subsequently made on the fund established under rule 3 of the Solicitors (Professional Indemnity) Rules (Cap. 159 sub. leg.). [cf. Solicitors' Accounts Rules 1998 r. 7(2) U.K.]

(3) In this rule---

"firm" (律師行) means a sole practitioner or a partnership of 2 or more solicitors, carrying on the business of practising as a solicitor;

"principal" (主管) means a sole practitioner or partner of a firm;

"solicitor" (律師) means a solicitor of the Court."

2. Obligation to keep accounts

Rule 10 is amended---

(a) by adding---

"(6A) Subject to paragraph (8), the books and accounts, ledgers and records kept by a solicitor under this rule must be kept in Hong Kong.";

(b) by adding---

"(8) Notwithstanding paragraph (6A), the Council may specifically exempt a foreign lawyer from that paragraph upon such conditions as it thinks fit."

3. Rule added

The following is added---

"10A. Reconciliations

A solicitor who holds or receives clients' money or pays money into client accounts must---

(a) at least once a calendar month compare the balance shown on clients' cash book with the total of---

(i) the balances shown on the statements and passbooks (after allowing for all unrepresented items) of all client accounts and of any account which is not a client account but in which the solicitor holds client's money under rule 9(2)(a); and

(ii) any client's money or trust money held by the solicitor in cash; and
(b) as at the same date when he makes a comparison pursuant to paragraph (a)---

(i) prepare a listing of all the balances shown by the clients' ledgers of the liabilities to clients (and other persons, and trusts), and compare the total of those balances with the balance shown on the clients' cash book; and

(ii) prepare a reconciliation statement, which must show the cause of the difference, if any, shown by each of the comparisons referred to in subparagraph (i) and paragraph (a).

[cf. Solicitors' Accounts Rules 1998 r. 32(7) U.K.]".

Approved this 23rd day of January 2002.

Andrew LI

Chief Justice

Made this 30th day of January 2002.

Herbert H. K. TSOI Paul C. Y. TAN

Denis G. Brock Anthony W. K. CHOW

Junius K. Y. HO Lester G. HUANG

Frederick K. C. KAN Anson K. C. KAN

Alex T. H. LAI Allan C. Y. LEUNG

Vincent W. S. LIANG Michael J. LINTERN-SMITH

Amy Y. K. LIU Peter C. L. LO

Cecilia K. W. WONG

Explanatory Note

These Rules amend the Solicitors' Accounts Rules (Cap. 159 sub. leg.) ("principal Rules") to---

(a) impose a duty on the principals of a firm of solicitors to remedy any breach of the principal Rules promptly upon discovery

(rule 1);

(b) require a solicitor to keep clients' books and accounts, ledgers and records in Hong Kong (rule 2);

(c) require a solicitor to prepare monthly reconciliation statements on balances of client accounts (rule 3).