

**L.N. 151 of 2012****Solicitors' Accounts (Amendment) Rules 2012****Contents**

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## **Solicitors' Accounts (Amendment) Rules 2012**

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

### **1. Commencement**

These Rules come into operation on a day to be appointed by the President of The Law Society of Hong Kong by notice published in the Gazette.

### **2. Solicitors' Accounts Rules amended**

The Solicitors' Accounts Rules (Cap. 159 sub. leg. F) are amended as set out in rules 3 to 13.

### **3. Rule 1A added**

After rule 1—

#### **Add**

#### **“1A. Principles**

A solicitor must—

- (a) comply with the requirements of rule 2 of the Solicitors' Practice Rules (Cap. 159 sub. leg. H) as to the solicitor's integrity, the duty to act in the client's best interests, and the good reputation of the solicitor and the profession;
- (b) keep other people's money separate from money belonging to the solicitor or the practice of the solicitor;
- (c) except when these rules specifically provide otherwise, keep other people's money in a bank account identifiable as a client account which

must include the words “client account (當事人帳戶)” in its title, bank statements and cheques;

- (d) use a client’s money for that client’s matters only;
- (e) use trust money that is subject to a trust of which the solicitor is a trustee for the purposes of that trust only;
- (f) establish and maintain proper accounting systems and proper internal controls over those systems to ensure compliance with these rules;
- (g) keep proper accounting records to show accurately the position with regard to the money held for each client and each trust;
- (h) account for interest on other people’s money in accordance with these rules;
- (i) co-operate with the Society in checking compliance with these rules; and
- (j) deliver annual accountant’s reports as required by the Ordinance.”.

#### 4. Rule 2 amended (interpretation)

(1) Rule 2, definition of *client account*—

(a) **Repeal**

“a current or deposit account at a bank”

**Substitute**

“, subject to rule 15, a current or deposit account at a bank located and licensed in Hong Kong”;

(b) Chinese text—

**Repeal**

“及”.

(2) Rule 2—

**Repeal the definition of *solicitor*****Substitute**

“*solicitor* (律師) includes a solicitor of the Court, a firm of solicitors, a solicitor corporation, a foreign lawyer and a foreign firm;”.

- (3) Rule 2, English text, definition of *solicitor-trustee*—

**Repeal**

“and”.

- (4) Rule 2, English text, definition of *trust money*—

**Repeal the full stop****Substitute a semicolon.**

- (5) Rule 2—

**Add in alphabetical order**

“*disbursements* (代墊付費用) means any sum spent or to be spent by a solicitor on behalf of the client or trust;

*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;

*office money* (律師行款項) means money held or received by a solicitor which is not client’s money, and to which the only person entitled is the solicitor himself or herself or, in the case of a firm of solicitors, one or more of the partners in the firm;

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

*working day* (工作日) means any day other than—

- (a) a general holiday; or
- (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).”.

**5. Rule 5 amended (splitting)**

Rule 5(b), after “a client account”—

**Add**

“provided that he must transfer all office money out of the client account within 14 days of receipt”.

**6. Rule 6A added**

After rule 6—

**Add**

**“6A. Interest on client account**

- (1) Subject to paragraph (2), on each occasion when a solicitor holds or receives client’s money in respect of a particular matter, the solicitor must without delay deposit the money in a designated interest bearing client account and must account to the client for any interest earned on the account, failing which the solicitor must pay to the client a sum equivalent to the interest which would have accrued for the benefit of the client if the money had been deposited in a Hong Kong dollar savings account of The Hongkong and Shanghai Banking Corporation Limited.

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- (2) A solicitor is only required to account to a client of the solicitor for any interest earned in accordance with paragraph (1) where the solicitor holds a sum of money in the amount specified in column 1 of the Schedule for a period which equals to or exceeds the period specified in column 2 of the Schedule opposite to that amount and the amount of interest accrued exceeds \$500.
- (3) (a) Without prejudice to any other remedy available to a client who feels aggrieved that interest, or an equivalent sum, has not been paid to the client under these rules, the client is entitled to require the solicitor to obtain from the Council a certificate as to whether or not interest ought to have been earned for the client, and if so, the amount of interest.
- (b) On receipt of the client's request for a certificate mentioned in subparagraph (a), the Council must cause the matter to be investigated and, if it determines that interest should have been earned for the client, issue a certificate to that effect setting out the amount of interest which should have been earned in accordance with these rules.
- (c) On the issue of the certificate, the sum certified on that certificate to be due is payable by the solicitor to the client.
- (4) Subject to paragraph (5), nothing in these rules is to—
- (a) affect any agreement in writing whenever made between a solicitor and a client of the solicitor as to the application of the client's money or interest on the money;
- (b) apply to money received by a solicitor, being money subject to a trust of which the solicitor is a trustee; or

- (c) affect any agreement in writing for payment of interest on money held by the solicitor as a stakeholder.
- (5) Any arrangement made to the effect that no interest is payable in respect of money deposited with a solicitor is void.
- (6) A solicitor who deposits client's money in accordance with paragraph (1) is entitled to charge the client and be paid a sum that is fair and reasonable by way of an administration charge in respect of the work undertaken in the deposit and withdrawal of money and accounting to the client for the interest earned on the money.
- (7) The Council may, on prior written application, suspend or waive the operation of this rule taking into consideration the prevailing interest rate and the costs associated with the administration of this rule.”.

**7. Rule 7A amended (authority required for drawing money from client account)**

(1) Rule 7A(1)—

**(a) Repeal**

“one of the following persons has specifically authorized in writing its withdrawal, namely”

**Substitute**

“the withdrawal has been specifically authorized in writing by”;

**(b) Subparagraph (b), after “Ordinance (Cap. 50)”—**

**Add**

“, and countersigned by a person referred to in subparagraph (a)”;

(c) Subparagraph (c), after “if any”—

**Add**

“, and countersigned by a person referred to in subparagraph (a)”.

(2) After rule 7A(2)—

**Add**

“(3) The Council may, on prior written application, suspend or waive the operation of this rule as required for the drawing of money from client account.”.

**8. Rule 9 amended (exceptions)**

(1) Rule 9(2)(c)—

**Repeal**

everything after “expressly”

**Substitute**

“—

(i) on account of costs incurred, in respect of which a bill of costs or other written intimation of the amount of the costs has been delivered; or

(ii) as an agreed fee if a bill has been delivered.”.

(2) After rule 9(2)—

**Add**

“(2A) On receipt of any payment which includes disbursements as well as client’s money of the nature described in paragraph (2), a solicitor must—

(a) determine the composition of the payment without delay;



- (b) for any part of the payment that is for disbursements anticipated but not yet incurred, pay that part of the payment into the client account; and
- (c) for any part of the payment that is for disbursements incurred but not yet paid, either—
  - (i) pay that part of the payment into the client account; or
  - (ii) pay it into the office account and settle the disbursements in any event not later than the 4th working day following the receipt from the client, failing which the payment should be paid into the client account not later than the 5th working day following the receipt.”.

**9. Rule 9A amended (duty to remedy breaches)**

Rule 9A—

**Repeal paragraph (3).**

**10. Rule 10 amended (obligation to keep accounts)**

(1) Rule 10(5)—

**Repeal**

“as are necessary for the operation of a mechanical”

**Substitute**

“or, as the case may be, the information stored in a computer and retrievable in a permanent and visible form, that are necessary for the operation of a mechanical or computerized”.

(2) After rule 10(5)—

**Add**

- “(5A) If books, ledgers or records are kept by a computerized accounting system, every solicitor must ensure that—
- (a) the computer system has enough capacity and back-up capability to record the information required to be kept under these rules; and
  - (b) the computer system is backed up at least once a month.”.

**11. Rule 11 amended (powers of Council)**

- (1) Rule 11(1), before “bank pass books”—

**Add**

“management accounts including monthly profit and loss accounts,”.

- (2) Rule 11(2), before “bank pass books”—

**Add**

“management accounts including monthly profit and loss accounts,”.

**12. Rule 15 added**

After rule 14—

**Add**

**“15. Waiver**

The Council may, on prior written application, waive in writing the provision relating to the location of a client account subject to the conditions that it may impose.”.

**13. Schedule added**

At the end of the rules—

**Add**

**“Schedule**

[rule 6A]

**Interest on Client Account**

Amount	Period
Exceeding \$3,000,000	4 working days
Exceeding \$250,000 but not exceeding \$3,000,000	2 weeks
Exceeding \$100,000 but not exceeding \$250,000	4 weeks
Exceeding \$50,000 but not exceeding \$100,000	8 weeks”.

Approved this 7th day of September 2012.

Geoffrey MA  
Chief Justice

Made this 28th day of September 2012.

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### Explanatory Note

These Rules amend the Solicitors' Accounts Rules (Cap. 159 sub. leg. F) (*the principal Rules*) to—

- (a) set out the principles that must be observed by a solicitor in handling client's money (rule 3);
- (b) extend the application of the principal Rules as amended by these Rules (*the Amended Rules*) to a solicitor corporation, a foreign lawyer and a foreign firm (rule 4);
- (c) impose a duty on a solicitor to account for any interest earned on the client's money if the amount of money and the period for holding the money are within those amounts and periods as specified in the Schedule (rule 6);
- (d) set out certain exceptions to the solicitor's duty to pay client's money held or received by the solicitor into the client account (rule 8);
- (e) clarify the extent of a solicitor's obligation to keep accounts (rule 10); and
- (f) empower the Council of The Law Society of Hong Kong to, for the purpose of ascertaining whether a firm has complied with the Amended Rules, require a solicitor to produce the management accounts including monthly profit and loss accounts of the firm for inspection (rule 11).