

**INTERDISCIPLINARY SEMINAR  
ATTORNEYS AND ACCOUNTANTS  
OCTOBER 7, 1995**

**ACCOUNTING BY ATTORNEYS - SOLICITORS' ACCOUNT RULES (UK  
RULES)**

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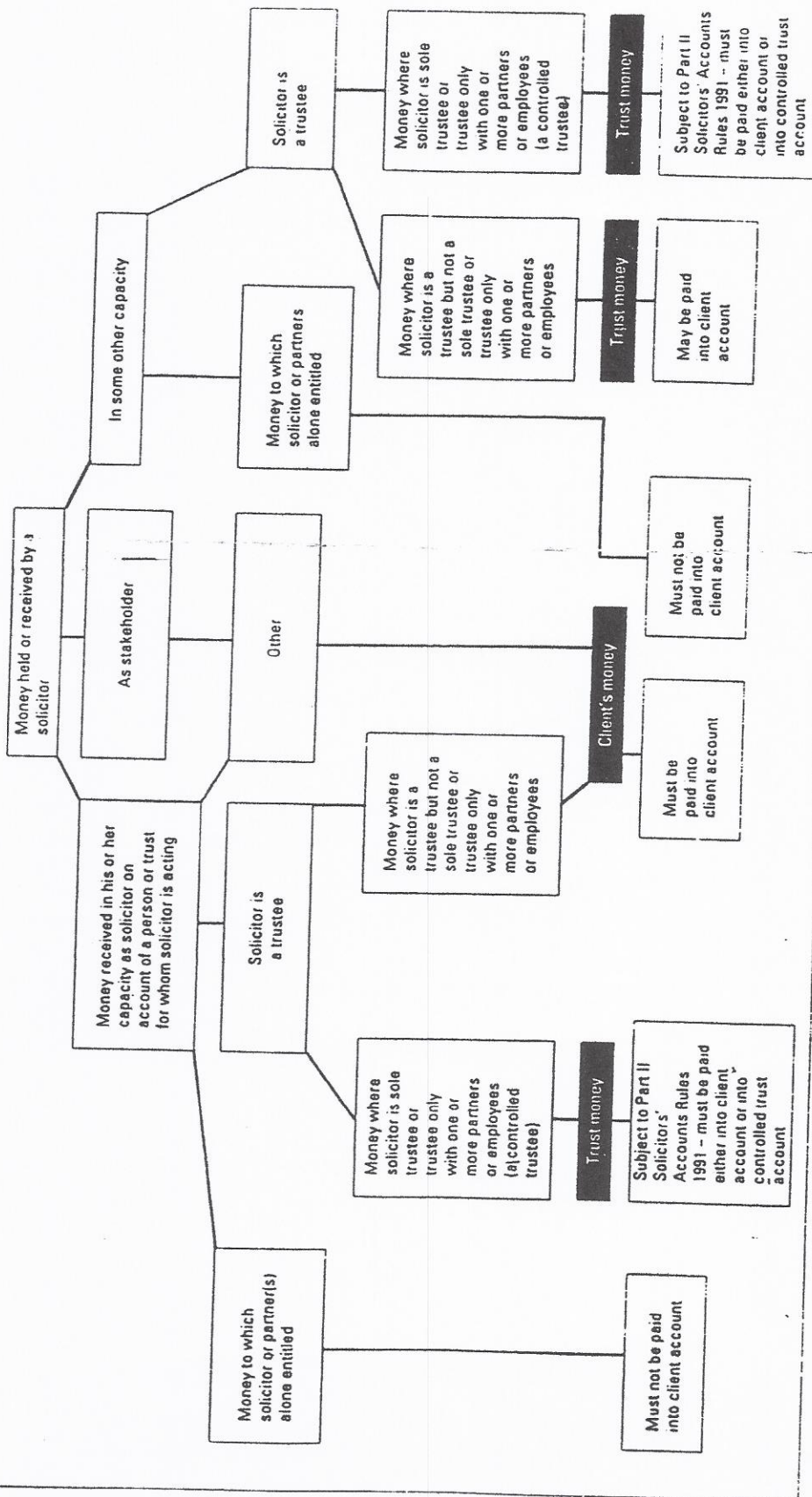
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**Object of the rules**

**27.02** The object of the rules is to ensure the fair treatment of client's money and to maintain adequate book-keeping and recording systems. A further object is to avoid any confusion of client's money with the solicitor's own money.

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# Parts I and II Solicitors' Accounts Rules 1991 — Summary of their effects





**27.54** Rule 20 provides that where a solicitor holds money for or on account of a client, the solicitor must either:

- (a) hold the money on deposit in a separate designated account and account to the client for the interest earned on it, or
- (b) pay the client, in the circumstances set out in Rule 21, a sum equivalent to the interest which would have accrued if the money received had been so kept on deposit, or its gross equivalent if the interest would have been net of tax.

The rule provides that where money is held other than in accordance with (a) above, the solicitor must account to the client for interest if the money is held for a period not less than the number of weeks set out in the left hand column of the table below and the minimum balance held during that period equals or exceeds the corresponding figure in the right hand column of the table.

Table

Number of weeks	Minimum balance
8	£ 1,000
4	£ 2,000
2	£10,000
1	£20,000

As stated in paragraph 27.21, unpaid professional disbursements (subject to the *de minimis* provisions) earn deposit interest for the client.

### Clearance times

**27.55** For the purpose of calculating interest, the relevant period is that for which cleared funds are held. However, in most cases it should be unnecessary to check on actual clearance dates. Where money is received by cheque and paid out by cheque, the normal clearance periods will usually cancel each other out; it follows that it should usually be satisfactory to treat the relevant period as being that between the dates when the incoming cheque is banked and when the outgoing cheque is drawn.

Different considerations apply where payments in and out are not both made by cheque. So, for example, the relevant periods would normally be:

- (a) from the date when the solicitor receives the incoming money in cash or by telegraphic transfer until the date when the outgoing cheque is or would normally be cleared;
- (b) from the date when an incoming cheque or banker's draft is or would normally be cleared until the date when the outgoing telegraphic transfer is made or banker's draft is obtained.

### Sums held for less than one week

**27.56** The obligation to pay interest under Rule 20(1)(ii) applies only to sums above £20,000. Provided that the solicitor accounts for such sums with due despatch, it will not normally be necessary for interest to be paid. However, there may be cases where a delay in accounting would justify the payment of interest.

you asked me to look at how dependent the right to practice is on a firm

1. supplying an Accountant's Report and/or
2. inspection by the Law Society.

### Accountant's Report

The 'right' of a firm to practice is in fact comprised of the individual rights of each individual solicitor in the partnership. The right of each solicitor to practice as a solicitor is dependant on The Law Society issuing to him a practising certificate. The Solicitors Act 1974 as amended by the Courts and Legal Services Act 1990 (the "Act") s.10 entitles a solicitor who applies for a practising certificate to receive one as of right, if The Law Society is satisfied within 21 days of receipt of the application that he has complied with the requirements set out the section.

However s.12 of the Act gives The Law Society a discretion in respect of the issue of practising certificates in certain special cases. Such discretion is available when:

"(ee) ... having been required by section 34(1) to deliver an accountant's report to the society, he has not delivered that report within the period allowed by section 34(2)".

Section 34 states:

"Every solicitor shall once in each period of twelve months ending with 31st October, unless the Council are satisfied that it is unnecessary for him to do so, deliver to the society ..... a report signed by an accountant ...."

The section goes on to stipulate what the report should cover. In essence the report must state that the solicitor has complied with Parts I and II of the Solicitors' Accounts Rules. If the report is not delivered to The Law Society the discretion under s.12 will operate to give The Law Society the right to refuse to issue a practising certificate or to issue a certificate subject to certain conditions. The Guide to Professional Conduct of Solicitors 1993 states that:

"Where a partner fails to hold a practising certificate, not only will he or she commit serious breaches of the Solicitors Act 1994 and the Solicitors' Practice Rules, but also the partnership will be rendered illegal."

This will have the effect of dissolving partnership under s.34 of the Partnership Act 1890.

### Inspection by the Law Society

The Law Society has a general duty to ensure that no solicitor is guilty of conduct which renders him unfit to remain on the roll. A solicitor's failure to maintain the required standard of conduct will result in disciplinary action being taken against him by the Solicitor's Disciplinary Tribunal. In this context the word 'conduct' covers three main areas:

- (i) criminal conduct;
- (ii) professional misconduct;
- (iii) improper conduct.

Professional misconduct would cover breach of the practice rules, accounts rules and other rules made by The Law Society. Clearly if a breach of these type of rules was discovered by The Law Society the individuals involved could be removed from the roll and practising certificates withdrawn with the consequences outlined above.



(A) relating to accounts other than controlled trust accounts -

- (a) so examine the book-keeping system in every office of the solicitor as to enable the accountant to verify that such system complies with rule 11 of the Solicitors' Accounts Rules 1991, and in respect of those solicitors authorised in the conduct of investment business by the Law Society, rule 13 of the Solicitors' Investment Business Rules 1990, and is so designed that -
- (i) an appropriate ledger account is kept for each client;
  - (ii) such ledger accounts show separately from other information particulars of all clients' money received, held or paid on account of each client;
  - (iii) transactions relating to clients' money and any other money dealt with through a client account are recorded in the solicitor's books so as to distinguish such transactions from transactions relating to any other money received, held or paid by the solicitor;
- (b) make test checks of postings to clients' ledger accounts from records of receipts and payments of clients' money and make test checks of the casts of such accounts and records;
- (c) compare a sample of lodgments into and payments from the client account as shown in bank and building society statements with the solicitor's records of receipts and payments of clients' money;
- (d) enquire into and test check the system of recording costs and of making transfers in respect of costs from the client account;
- (e) make a test examination of such documents as he or she shall request the solicitor to produce to him or her with the object of ascertaining and confirming -
- (i) that the financial transactions, (including those giving rise to transfers from one ledger account to another) evidenced by such documents, are in accordance with Part I of the Solicitors' Accounts Rules 1991 and
  - (ii) that the entries in the books of account reflect those transactions in a manner complying with Part I of the Solicitors' Accounts Rules 1991;
- (f) subject to paragraph (3) of this rule extract (or check extractions of) balances on the clients' ledger accounts during the accounting period under review at not fewer than two dates selected by the accountant (one of which may be the last day of the accounting period), and at each such date -
- (i) compare the total as shown by such ledger accounts of the liabilities to the clients, including those for whom trust money is held in the client account, with the cash account balance; and
  - (ii) reconcile that cash account balance with the balances held in client account and elsewhere as confirmed direct to the accountant by the relevant banks and building societies or other institutions;

## ANNEX 27D: ACCOUNTANT'S REPORT RULES 1991

27D

- (g) satisfy himself or herself that reconciliation statements have been kept in accordance with rule 11(5) of the Solicitors' Accounts Rules 1991;
- (h) make a test examination of the clients' ledger accounts in order to ascertain whether payments from the client account have been made on any individual account in excess of money held on behalf of that client;
- (i) check such office ledger and cash accounts and bank and building society statements as the solicitor maintains with a view to ascertaining whether any client's money has not been paid into a client account;
- (j) check the books of account which contain details of client's money which, with the client's consent, is not held in a client account, to ascertain what transactions have been effected in respect of such account;
- (k) make a test examination of the clients' ledger accounts in order to ascertain whether rule 11(3) of the Solicitors' Accounts Rules 1991 has been complied with;
- (l) ask for such information and explanations as he or she may require arising out of sub-paragraphs (a) to (k) of this paragraph;



# ACCOUNTANT'S REPORT

Section 34, Solicitors Act 1974  
Section 9 Administration of Justice Act 1985 and  
Schedule 15, paragraph 6 of the Financial Services Act 1986  
The Accountant's Report Rules 1991

NOTE — This form may be used for a report in respect of —

1. a solicitor.
- 1(a) a registered foreign lawyer ("RFL").
2. a firm of solicitors provided the names of all the partners in the firm appear in section A1 below.
- 2(a) a multi-national partnership, provided the names of all the partners appear in section A1 below.
3. a recognised body

## SECTION A — DO NOT COMPLETE IF REPORT IS SUBMITTED ON BEHALF OF A RECOGNISED BODY

PLEASE INDICATE WHETHER THIS REPORT COVERS ALL THE PARTNERS WITHIN THE FIRM WHO HAVE HELD CLIENTS' MONIES (OR MONEY SUBJECT TO A CONTROLLED TRUST) DURING THE PERIOD UNDER REVIEW OR WHETHER INDIVIDUAL REPORTS ARE BEING SUBMITTED

Tick box as appropriate.

\* covers all partners/sole principal

\* individual reports submitted

(a) Please complete in BLOCK CAPITALS: the letters "(RFL)" must be entered against the surname of any RFL.

1. Full name of solicitor(s) and/or RFL(s) (a)  
FORENAME(S)

SURNAME

figure to be shown  
in 3(i)(a) and 3(ii)(a)  
is the total of credit  
balances, without  
adjustment for  
debit balances  
(unless capable of  
proper set off i.e.  
being in respect of  
the same client) or  
receipts and  
payments not  
capable of  
allocation to  
individual ledger  
accounts

1991. at the dates as selected by me/us were as follows (k) —

(i) at May 31, 1994

(a) Liabilities to clients as shown by clients' ledger accounts	J\$50,365,198
(b) Cash held in client account and client's money held elsewhere than in a client account after allowances for outstanding cheques and lodgments cleared after date	<u>J\$50,365,198</u>
(c) Difference between 3(i)(a) and 3(i)(b) (if any)	<u>J\$ Nil</u>

(ii) at December 31, 1994

(a) Liabilities to clients as shown by clients' ledger accounts	J\$72,345,678
(b) Cash held in client account and client's money held elsewhere than in a client account after allowances for outstanding cheques and lodgments cleared after date	<u>J\$72,345,678</u>
(c) Difference between 3(ii)(a) and 3(ii)(b) (if any)	<u>J\$ Nil</u>

**SECTION D—DO NOT COMPLETE IF REPORT IS SUBMITTED ON BEHALF OF A RECOGNISED BODY**

1. The following solicitor(s)/[RFL(s)] having retired from active practice as solicitor(s) [practice in partnership with solicitor(s) or as director(s) of a recognised body] ceased to hold clients' money (or money subject to a controlled trust) on the date indicated and in respect of this solicitor/these solicitors [this RFL/these RFL(s)] the report covers the period up to the date of cessation:

FULL NAME	DATE CEASED TO HOLD CLIENTS' MONEY (OR MONEY SUBJECT TO A CONTROLLED TRUST)
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ceased to hold clients' money under this style (or money subject to a controlled trust in connection with this practice) on the date indicated and in respect of this solicitor/these solicitors (this RFL/inose RFL(s)); the report covers the period up to the date of cessation.

FULL NAME

DATE CEASED TO HOLD CLIENTS'  
MONEY UNDER THIS STYLE  
(OR MONEY SUBJECT TO A  
CONTROLLED TRUST IN  
CONNECTION WITH THIS  
PRACTICE)

3. The following solicitor(s)/[RFL(s)] has/have joined the firm during the period under review on the date indicated and in respect of this solicitor/these solicitors (this RFL/these RFLs) the report covers the period from the date on which clients' money was held under this style (or money subject to a controlled trust was held in connection with this practice):

FULL NAME

DATE FROM WHICH CLIENTS'  
MONEY HELD UNDER THIS STYLE  
(OR MONEY SUBJECT TO A  
CONTROLLED TRUST HELD IN  
CONNECTION WITH THIS PRACTICE)



SECTION F

Matters (other than trivial breaches) in respect of which it appears to the accountant that the solicitor(s)/[RFL(s)]/recognised body has/have not complied with the provisions of Parts I and II of the Solicitors' Accounts Rules 1991 and, where he/she/it is/they are authorised in the conduct of investment business, Rule 13 of the Solicitors' Investment Business Rules 1990: —



SECTION G

(l) NOTE. — Please complete in block capitals.

(m) NOTE. — This Report may be signed in the name of the firm of accountants of which the accountant is a partner or employee provided that the particulars of the accountant signing the Report are also specified.

Particulars of the accountant (l): —

Full Name .....  
Qualifications .....  
Firm Name .....  
Address .....  
Date ..... Signature (m).....

To  
The Law Society,  
Accountants' Reports,  
Ipsley Court,  
Redditch,  
Worcs. B98 0TL,  
(DX 19114 Redditch)