




Index Reference:
Regulations: Legal Practitioners Ordinance, Practice Directions and Rules

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SOLICITORS' ACCOUNTS RULES Frequently Asked Questions ("FAQ")

1. The revised Solicitors' Accounts Rules ("SA Rules") came into effect on 1 July 2016. In addition to the regular seminars to familiarise law firms with the updated SA Rules, the Solicitors' Accounts Rules Committee has formulated a set of FAQ for Members' reference.
2. Please click [here](#)  for the FAQ.

Frequently Asked Questions (“FAQ”)

The following List of FAQ is intended to clarify how the Solicitors’ Accounts Rules are applicable to different accounting scenarios encountered by the law firms.

	Questions	Answers	Relevant rule(s)
1	What does a solicitor have to do upon receipt of a cheque from a client partly to settle a bill of costs that has been issued and delivered for work done and partly to pay for costs on account for future work?	<p>(a) One of the major principles underpinning the Solicitors’ Accounts Rules (“the Rules”) is that a solicitor must “keep other people’s money separate from money belonging to the solicitor or the practice of the solicitor”.</p> <p>(b) Money paid to a solicitor expressly to settle his bill, which has been delivered, for work done is office money belonging to the solicitor or his practice and must be paid into the office account. It should not be paid into client account.</p> <p>(c) Money paid as costs on account for future work is client’s money and should be paid into the client account.</p> <p>(d) A solicitor may split the cheque. If he does, then the relevant amounts can be paid, as appropriate, into the office account and the client account respectively.</p> <p>(e) If a solicitor does not split the cheque, he can pay the entire amount into the client account, but to</p>	<p>r. 1A(b)</p> <p>r. 9(2)(c)</p> <p>r. 3(1)</p> <p>r. 5(a)</p> <p>r. 4(d)</p>

	Questions	Answers	Relevant rule(s)
		<p>adhere to the principle that the client money and the office money should be clearly separated, he must transfer the office money (as explained in (b) above) out of the client account and into the office account within a specified period, namely, within 14 days of receipt.</p>	<p>r. 5(b)</p>

	Questions	Answers	Relevant rule(s)
2.	Can a non-solicitor be the sole authorised signatory of a client account?	<p>(a) No, money can only be withdrawn from a client account with the specific authorisation of the solicitor in whose name the client account is kept or where the client account is kept in the name of a firm, of any solicitor, partner, consultant or foreign lawyer in the firm.</p> <p>(b) Any authorisation given to a certified public accountant (practising) or a person approved by the Council must still be countersigned by a person falling within (a) above.</p>	<p>r. 7A(1)(a)</p> <p>r. 7A(1)(b) and (c)</p>

	Questions	Answers	Relevant rule(s)
3.	Account for interest on client account	<p>R. 6A requires a solicitor to account to a client for any interest earned on the money held by him in the client account for the client in relation to a particular matter.</p> <p>However, in view of the prevailing low interest rate and the costs associated with the administration of this rule, pursuant to the power granted to it under the Rules, the Council has resolved to waive the operation of r. 6A with effect from 1 July 2016.</p> <p>Circular 16-511</p>	r. 6A

	Questions	Answers	Relevant rule(s)
4.	Can a client account be located outside Hong Kong?	“Client account” is defined in r. 2 as a current or deposit account at a bank located and licensed in Hong Kong. An account outside Hong Kong would therefore not be, by definition, a client account. Placing money in such an account would be in breach of r. 3(1) as it is not a client account.	r. 2, r. 3(1)

	Questions	Answers	Relevant rule(s)
5.	Can client's money for a client of the firm's overseas offices be held in the Hong Kong firm's client account?	Only if the money relates to a file which the Hong Kong firm has opened. See definition of 'client's money' in r. 2.	r. 2

	Questions	Answers	Relevant rule(s)
6.	Can a receipt be issued for an amount that exceeds the amount on the bill of costs?	No, it would be fraudulent to do so.	

	Questions	Answers	Relevant rule(s)
7.	What is the meaning of “delivered” in r. 9(2)(c)?	<p>“Delivered” is not defined. It is a question of fact determined in the normal rules on delivery, say under the common law.</p> <p>The term of “delivered” is used in section 66(1) and (2)(b) of the Legal Practitioners Ordinance. But in r. 7 of the Rules, “delivered” refers to a bill of costs or a written intimation of costs.</p>	

	Questions	Answers	Relevant rule(s)
8.	Is it necessary to open a client account?	<p>R. 3(2) says for the purpose of this rule, a solicitor shall keep not less than one client account. If one reads r. 3(1), it is only when a solicitor holds or receives client's money then he is required to have a client account. R. 9 prohibits the payment of client's money into client account if a solicitor is instructed by the client not to deposit client's money into client account (r. 9(2)(a)).</p> <p>If a firm does not intend to hold or receive client's money, a client account need not be opened but an accountant's certificate would still be required.</p> <p>If a firm does not open a client account and is likely to receive client's money, it may be in breach of r. 3(2) because the Rules require client's money to be deposited without delay and r. 10(2) requires all dealings with client's money to be recorded within 3 working days.</p> <p>Under the present anti-money laundering regulations, it is difficult for banks to open bank account within a short period of time and thus may put a solicitor into difficulties and in breach of the Rules.</p>	<p>r. 3(1) and (2), r. 9(2)(a)</p> <p>r. 3(2), r. 10(2)</p>

	Questions	Answers	Relevant rule(s)
9.	Where client's money is held on account of costs and a bill of costs is subsequently delivered to the client, does the money have to be transferred within 14 days in accordance with r. 5(b)?	No, the requirement of 14 days under r. 5(b) only applies where a cheque or draft is received which includes mixed money.	r. 5(b)

	Questions	Answers	Relevant rule(s)
10.	Do the amended Rules have retrospective effect?	<p>The amended Rules came into effect on 1 July 2016 and they are applicable to client's money received on or after 1 July 2016.</p> <p>A solicitor should review all existing client account(s) to ensure that office money and client's money are separated and any office money kept in client account(s) as of 1 July 2016 (although money might have been received prior to 1 July 2016) must be transferred out of the client account(s) within 14 days from 1 July 2016. As 1 July 2016 was a public holiday, section 71(1)(c) of Cap. 1 applies.</p>	

	Questions	Answers	Relevant rule(s)
11.	What is the meaning of “without delay” as referred to in r. 3 and r. 9(2A)?	<p>There is no statutory definition of “without delay” in the Rules. A solicitor should pay client’s money into the client account on daily basis. Client’s money should be paid into client account on the date of receipt or the next working day.</p> <p>R. 10(2) requires all dealings with client’s money to be recorded within 3 working days.</p>	r. 10(2)

	Questions	Answers	Relevant rule(s)
12.	Is there any time limit for the drawing of client's money in the client account?	No. Any drawing from a client account should comply with r. 7 and r. 8.	r. 7 and r. 8

	Questions	Answers	Relevant rule(s)
13.	What should a solicitor do if he forgot to transfer money within the prescribed time limit under the Rules?	A solicitor has the duty to rectify breaches of the Rules under r. 9A.	r. 9A

	Questions	Answers	Relevant rule(s)
14.	<p>What is the difference between the requirements of 14 days and 4th working day under the Rules? When do they apply?</p> <p>What is the reason for specifying the time limit of “14 days” and “4th working day” under r. 5(b) and r. 9(2A)(c)(ii)?</p>	<p>The "14 days" limit is provided under r. 5(b) of the Rules. Where a cheque or draft which includes (i) client's money or trust money and (ii) office money is deposited into a client account, the office money must be transferred to the office account within 14 days of receipt.</p> <p>The "4th working day" limit is provided under r. 9(2A)(c)(ii) of the Rules. It applies when a solicitor receives a sum of money which includes disbursements “incurred but not yet paid” and pays the client’s money into the office account. He must settle the disbursements within 4 working days following the receipt from the client, failing which the payment must be transferred to the client account not later than the 5th working day following the receipt.</p> <p>“Working day” is defined in r. 2 of the Rules.</p> <p>For r. 5(b), this is to ensure that office money is not left in client account and is in compliance with principles 1A(b), (f) & (g) of the Rules.</p>	<p>r. 5(b)</p> <p>r. 9(2A)(c)(ii)</p> <p>r. 2</p> <p>r. 5(b) and r. 9(2A)(c)(ii)</p>

	Questions	Answers	Relevant rule(s)
		For r. 9(2A)(c)(ii), this is to ensure that the law firm settles the disbursements within 4 working days following the receipt from the client.	

	Questions	Answers	Relevant rule(s)
15.	<p>What is the definition of “disbursements”? How should clients’ payments for settlement of disbursements be handled?</p>	<p>(a) “Disbursements” is defined in r. 2 as “any sum spent or to be spent by a solicitor on behalf of the client or trust”. All disbursements incurred by a solicitor should be expressly or impliedly authorised by his client and all disbursements should be shown separately from a solicitor’s profit costs (Commentaries of Principle 4.03 and Principle 4.10 of the Hong Kong Solicitors’ Guide to Professional Conduct, Volume 1).</p> <p>(b) Whether the amount has yet been spent or not, the nature of the payment must represent the actual amount paid or to be paid by the solicitor on behalf of the client or trust to qualify as “disbursements” under the Rules.</p> <p>(c) When a solicitor receives a sum of money in respect of disbursements he has to determine whether they are:</p> <p>(c.1) disbursements already paid from office account</p> <p>(c.2) disbursements anticipated but not yet incurred, or</p> <p>(c.3) disbursements incurred but not yet paid.</p>	<p>r. 2, Principles 4.03 and 4.10 of The Hong Kong Solicitors’ Guide to Professional Conduct, Volume 1 (“the Guide”)</p>

	Questions	Answers	Relevant rule(s)
		<p><u>Paid Disbursements</u></p> <p>(c.1) As to a sum in respect of disbursements that have already been paid by the solicitor (which is office money) (r. 7(a)(ii)), the solicitor must deposit that amount into his office account. However, if that sum is mixed with client's money, it may be paid into client account but must be transferred to the office account within 14 days of receipt;</p> <p>(c.2) Where a solicitor receives a sum in respect of disbursements which have not been paid as well as client's money as in r. 9(2), the Rules require a solicitor to determine its composition without delay, that is whether the disbursements are: (i) anticipated or (ii) incurred but not paid. A solicitor is then required to choose where to deposit that sum in respect of disbursements in accordance with the options available under r. 9(2A).</p> <p><u>Anticipated Disbursements</u></p> <p>(c.2.1) With respect to an amount for</p>	<p>r. 5(b), r. 7(a)(ii)</p> <p>r. 9(2)</p> <p>r. 9(2A)</p> <p>r. 9(2A)(b)</p>

	Questions	Answers	Relevant rule(s)
		<p>disbursements anticipated but not yet incurred (which is client money – r. 9(2A)(b)), the solicitor must pay such sum into the client account;</p> <p><u>Incurring Disbursements</u></p> <p>(c.2.2) With respect to an amount for disbursements incurred (meaning a bill has been received) but not yet paid by the solicitor (which is client’s money – r. 9(2A)(c)(i)), the solicitor has two options available to him, namely:</p> <p>(c.2.2.1) keep this amount in the client account until its settlement from the client account directly (r. 7(a)(i)).</p> <p style="text-align: center;">or</p> <p>(c.2.2.2) pay that amount into the office account for settlement from the office account within four (4) working days (r. 9(2A)(c)(ii)) and if not done, then transfer that sum back to the client account not later than the 5th working day following the receipt.</p>	<p>r. 9(2A)(c)(i)</p> <p>r. 7(a)(i)</p> <p>r. 9(2A)(c)(ii)</p>

	Questions	Answers	Relevant rule(s)
16.	<p>If a solicitor incurs disbursements on behalf of his client (e.g. upon receipt of a Counsel's fee note) and he requests the client to settle such disbursements "incurred but not yet paid", can he deposit the money into the office account?</p>	<p>This is client's money and shall be paid into the client account without delay in accordance with r. 3. He can deposit the money into the office account provided that the disbursements are settled within 4 working days. A solicitor must ensure that drawings from a client account are in accordance with r. 7 and r. 8.</p> <p>A solicitor must obtain client's written instructions for any drawing of client's money from the client account in payment of disbursements as principal (e.g. Counsel's fee).</p> <p>A solicitor who transfers money from client account to office account in payment of costs must notify his client of the transfer.</p>	r. 3, r. 7 and r. 8

	Questions	Answers	Relevant rule(s)
17.	Whether a solicitor is allowed to deposit money received for (i) disbursements “anticipated but not yet incurred” and (ii) disbursements “incurred but not yet paid” into the client account?	Yes. This is client’s money.	r. 9(2A)(c)(i) and (ii)

	Questions	Answers	Relevant rule(s)
18.	What is the accounting treatment for recording travelling charges and expenses?	Sections 3.2.1 and 3.2.2 of the Manual on Solicitors' Accounting.	

	Questions	Answers	Relevant rule(s)
19.	<p>(a) If a solicitor receives a cheque or draft which is mixed money consisting of costs on account and reimbursement of disbursements “paid” (i.e. the money is partly paid to the solicitor expressly to settle the disbursements incurred and partly paid as costs on account for future work) and he deposited the cheque or draft into a client account on 4 August 2016, was the solicitor required to withdraw that part of money received for disbursements “paid” from the client account within 14 days even without issuing the bill?</p> <p>(b) Will the above answer in (a) change if a bill has been issued and delivered to the client on 5 August 2016 after receipt of mixed money?</p>	<p>The answer to (a) is Yes. The solicitor must transfer that part of money received for disbursements “paid” out of the client account within 14 days of receipt (i.e. on or before 18 August 2016).</p> <p>Regarding (b), the answer is the same as (a) above. The date of issuing of a bill is irrelevant.</p> <p>It is advisable that a solicitor should perform periodic review at regular interim basis to ascertain whether any office money has been left in the client account. Any office money left in the client account should be withdrawn from the client account immediately.</p>	r. 5(b)

	Questions	Answers	Relevant rule(s)
20.	<p>If a solicitor has paid disbursements on client's behalf through the office account and subsequently receives costs on account (which are paid for the estimated costs and disbursements but not expressly in settlement of his bill for work done and disbursements paid), should the solicitor transfer the amount of disbursements from the client account to the office account immediately or within any specified time (e.g. 14 days)?</p>	<p>Where a cheque or draft includes client's money (costs on account) and reimbursement of disbursements paid by the solicitor, the solicitor should transfer the amount of disbursements to the office account as soon as possible and not later than 14 days.</p> <p>In making any drawing from a client account, a solicitor should ensure compliance with r. 7 and r. 8 of the Rules.</p>	<p>r. 3, r. 7 and r. 8</p>

	Questions	Answers	Relevant rule(s)
21.	Can travelling expenses ("TE expenses"), (e.g. bus fare, MTR and taxi fare) reimbursed by a solicitor to his staff be classified as "disbursements"?	<p>If (i) the client's reimbursement to the solicitors is the actual amount spent by the solicitor and (ii) supported by relevant documentation, the TE expenses may fall within the meaning of "disbursements".</p> <p>Such TE expenses should be shown as "disbursements" in the bill to client. There must be no mark up on the actual disbursements.</p>	r. 2

	Questions	Answers	Relevant rule(s)
22.	Is it necessary for a solicitor to show disbursements separately from the professional service fees in his bill of costs to clients?	A solicitor should show disbursements separately from profit costs except where the agreement or written intimation of costs or bill of costs specified that the profit costs included disbursements.	Commentary 2 to Principle 4.10 of the Guide

	Questions	Answers	Relevant rule(s)
23.	Is there any provision in the Rules which requires a solicitor to record charges that do not fall within the definition of “disbursements” in r. 2 (e.g. photocopying and travelling charges)?	No. Those charges (e.g. photocopying and travelling charges) should be recorded in the firm’s books of account pursuant to r. 10(3) of the Rules. These are office expenses.	r. 10(3)

	Questions	Answers	Relevant rule(s)
24.	<p>If client's money had been directly paid into the office account by a client by mistake even if he has been advised by the solicitor to pay it into the client account, the solicitor transfers such amount of money from the office account to the client account upon discovery. Will such act of transfer constitute a breach of rule 3 of the Rules? Will there be any difference if the "discovery" was made in 1 day, 3 days or over 1 month?</p>	<p>Under rule 9A, any breach of the Rules must be remedied promptly upon discovery. There is no statutory definition of "promptly". But rule 10 (2) requires all dealings with client's money to be recorded within 3 working days. By checking the documents relating to the dealing and handling of client's money, the error should normally be identified within 3 working days. But it could be overlooked for many reasons. Rule 10 (3) requires all dealings of the solicitor relating to his practice as a solicitor other than those dealings with client's money and any other money in a client account, to be recorded before the end of the month following the month of dealings. The error would not be identified within 2 months. It is a question of fact as to when the error was discovered and when should it have been discovered.</p>	<p>r. 9A r. 10(2) r. 10(3)</p>