

Solicitors' Accounts Rules Amendments

The Solicitors Regulation Authority ("SRA") have announced a number of rule changes as part of a general updating of the rules to introduce firm-based regulation and legal disciplinary practices as provided for in the Legal Services Act 2007. These changes came into force from 31 March 2009 and cover the following areas:

Rule 4(1e and note i) - Persons governed by the rules

The rules now explicitly state, rather than infer, that they apply to all employees of a practice.

Rule 15(note viii) - Use of a client account

Some schemes proposed by banks aggregate the sums held in a number of client accounts, including one or more separate designated client accounts, with the general client account for the purpose of maximising interest; previously this was not permitted. This is now allowed subject to a number of conditions based around which account the interest is applied to.

In practice this may result in a higher rate of interest being received across all client accounts maintained by a firm (when interest rates return to a more historical norm of course).

Rule 23(1e) - Method of and authority for withdrawals from client account

Specific authority in respect of withdrawals from a client account can now be signed by an individual who is manager of the practice. Previously this could only be authorised by a solicitor or member of the legal staff.

Rule 24(note xa) - When interest must be paid

In the event of a dispute over interest on client monies, clients may no longer apply to the Law Society for a Certificate of Interest. They can instead complain to the Legal Complaints Service (LCS) however the action thereafter to be taken by the LCS is not stipulated and we assume will depend on the merit of each individual case.

Rule 35(2) - Delivery of accountants' reports

A formal rule has now been introduced whereby the SRA can now demand delivery of an accountant's report in addition to the annual accountant's report if they have reason to believe it is in the public interest to do so. Examples provided of such a situation include the conduct of the solicitor and the accuracy of the original report.

Rule 38(1) - Reporting accountant's rights and duties - letter of engagement

The letter of engagement between the practice and the reporting accountant should now clearly state that the accountant must immediately report to the SRA should the accountant discover evidence of fraud or theft in relation to money held on behalf of a client or held in an account of a client *or* obtain information suggesting that a solicitor is not a fit and proper person to hold client money or operate a client account.

In practical terms this will mean that the reporting accountant should issue you with a new letter of engagement prior to the commencement of any SRA work.

General - Controlled trusts

Rules 8 and 18 regarding controlled trustees have now been repealed and all references in the rules to controlled trust/controlled trustees have been removed; the rules now simply refer to trusts alone. Money held or received as a trustee is now subject to the same rules as money held or received for a client.

Contact

If you would like to discuss any of the changes, contact John Staniforth on 020 7566 3644 or email jstaniforth@kingstonsmith.co.uk

