

PART II ACCOUNTS RULES

This section deals with the book-keeping systems and accounting procedures contained in the 1997 Accounts Rules. Non-accounting Rules linked to the work of the monitoring team are dealt with later in Parts V - I to V - IV.

(Rule 4(1))

When do the Accounts Rules require me to pay money into a client account?

When a solicitor receives more than £50 from a client, and the money does not belong to the solicitor, it must be lodged in a client bank account without delay. This normally means on the same day.

(Rules 4 and 12)

Do I have to keep all my client funds in the client bank account and can I off-set sums due by clients to me?

Yes – you must keep client money in a client bank account at all times. Off-setting sums due to you is only allowed where you have a legal right to off-set for sums due to/by the same client.

(Rules 4(3) and 20)

Can I arrange bridging or other loan accounts on behalf of clients?

Yes – provided you have written authority from the client and made disclosure of the client details to the lender.

(Rule 5)

Can I pay my own money into the client bank account?

Yes – many solicitors hold a float or surplus money in the client bank account. These funds are usually held to take care of minor mistakes on the solicitors' part, i.e. paying outlays for clients who have not yet put them in funds. Using a small surplus funds as a routine source of funding for clients' outlays has led to unintended shortages and should not be done routinely.

(Rule 6(1))

What monies can be paid from the client bank account without the clients' specific written authority?

Any sums due to be paid on behalf of the client where an account has been submitted to the solicitor for work instructed on behalf of a client or for a debt due to the solicitor or to transfer money into a named client bank account to be held for the client or money paid in by the solicitor including sums paid into the account in error.

(Rule 6(1)(d))

Does this include payment for fees?

Yes – provided the solicitor has carried out the work and raised a note of fees due and sent it to the client. The amount of the fee should be charged to the client ledger and then an equivalent sum of money can be transferred to the firm's account.

(Rule 6(1)(c))

I see the Rule refers to money drawn on a client's authority. Does this have to be in writing?

Although the authority can be oral, written confirmation should be obtained to vouch that authority has been obtained. If questions are raised by the client at a later date, you will need this written authority to rely on.

(Rule 6(1))

Do I have any other important matters to keep in mind about payments made from the client bank account?

Always remember the prohibition on using one client's money for the benefit of another client. This is only allowed if it is authorised in writing. The fact that the Accounts Rules allow such payments if authorised in writing should not result in you overlooking the potential conflict of interest in such a transaction.

(Rule 6(3))

How should a cheque to a bank or building society be designated?

Rule 6(3) covers this. You should ensure that the account details are shown as part of the payee information on the face of the cheque.

(Rule 7)

What should I do if I find that I have received funds which are not to be lodged in the general client account but are to be paid onwards to the client or a third party on the same day?

It is important to record the receipt and payment of the funds as a cross-entry on the client's ledger account. This discloses the whole sequence of the financial dealings on behalf of the client on the ledger card. It is no longer necessary to disclose the whole price on the face of the ledger where the solicitor will not be in receipt of the balance of the sale/purchase price.

(Rule 7(b))

Are there any other changes to this Rule?

No – but Rule 7(b) now clarifies the position of monies paid on account of a professional fee incurred by a client to a solicitor or as an agreed fee for business done by the solicitor, which do not need to be treated as client monies and do not therefore need to be paid into a client account.

(Rule 8)

Do the Rules tell me what type of accounting records should be made and how much detail is needed?

Rule 8 is helpful on this point – it explains the importance of separate records for firm and client business, separate records for each client and the need to keep cash books and ledger accounts fully up to date.

(Rule 8(4))

How often do I have to write up my accounting records?

The books should be kept up to date at all times, so work should be done every day. It is not helpful to write books up in arrears and if for reasons of illness or holidays the records are not written up each day, cover must be arranged.

(Rule 8(4))

When do I have to balance my books?

The books must be balanced every month. This requires a trial balance to be prepared from both firm's and client's daybooks and ledgers.

(Rule 8(7))

How long must I keep the accounting records?

All accounting records, bank passbooks and statements must be retained for at least ten years.

(Rule 9(2))

Once I have set up a daily routine for dealing with my accounting entries, are there any other regular tasks which need to be organised?

You must reconcile your general client bank ledger with the bank statements every month. If the practice is very busy, getting this check done daily or weekly is a big help in reducing the month end work to manageable levels. You should keep all reconciliations and associated documents for at least three years.

(Rule 9(1))

Is there any other monthly check which I must do?

Prepare a list of monies due to clients and compare it to the reconciled bank figures. A written statement of surplus/deficit must also be prepared. If a deficit is disclosed take action to correct it and refer to it in your next Accounts Certificate.

(Rule 10)

What about monies held in specific accounts for named clients – are they included in the check?

They are also to be reconciled but the Rules only need this to be done quarterly. Tackling this work more regularly – say monthly – can cut down on the amount of checking and adjusting which is needed at the end of the quarter.

(Rule 11)

When should I invest monies in an individual bank account for a specific client?

The Rules refer to sums of £500 or more, likely to be held for more than two months as an example. You should be aware of larger sums held for shorter periods which would earn the equivalent amount of interest. Keep a sliding scale in mind when thinking about this aspect of the Rules.

(Rule 11)

Are there any other changes to this Rule?

Rule 11(5)(a) now clarifies that monies held on behalf of a client for the purpose of paying all outlays, including stamp duty and recording and registration dues, do not require to be invested to earn interest.

(Rule 12)

Can you explain the role of the Designated Cashroom Partner and how it interacts with other partners and their responsibilities?

All partners are responsible for ensuring compliance with the Accounts Rules. The Designated Cashroom Partner is required to sign the Accounts Certificate and normally accepts a supervisory role on behalf of the partnership or incorporated practice. More than one Cashroom Partner can be appointed at any one time but there should be clear definition of their individual roles. Sharing or rotating of the checking tasks can be arranged if suitable to the firm and the partners.

Do all the Rules and Regulations apply to Incorporated Practices?

Yes.