The Law Society of Scotland Practice Rules (Amendment NO 1 rules) 2022

Rules dated [ ] 2022 made on behalf of the Council of the Law Society of Scotland by the Regulatory Committee formed in accordance with section 3B(1) of the Solicitors (Scotland) Act 1980 under sections 34 (1), 35 and 37(6) of that Act and approved by the Lord President under section 34(3) of that Act.

**Citation and Commencement**

1.- (1) These rules may be cited as The Law Society of Scotland Practice Rules (Amendment Rules) 2022.

(2) These rules shall come into operation on [ ].

**Definition and Interpretation**

2.- (1) In these rules, the "Principal Rules" shall mean The Law Society of Scotland Practice Rules 2011.

(2) The Interpretation Act 1978 applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

**Amendments to the Principal Rules**

3.- Rule B1 of the Principal Rules shall be amended by adding the following after rule B1.16 as a new rule B1.17:

“**B1.17** **Duty to Co-operate with the Scottish Legal Complaints Commission (the ‘Commission’)**

You must deal with the Commission in an open, timely and co-operative manner, so as to enable the Commission properly to exercise and fulfil its statutory functions.”

4.- Rule B6 of the Principal Rules shall be amended as follows:

(1) In rule 6.1.1:

(a) the current definition of “accounting records” shall be deleted and the following definition substituted therefor:

“all documents or permanent records held in any form of durable medium to provide a chronological, contemporaneous, complete and accurate audit trail of all dealings (including all receipts, payments, transfers, accounting adjustments and corrections) as set out in Rule 6.7.1(a) including client ledgers which identify the client’s name and provide an appropriate description of the matter to which they relate.

all documents or permanent records necessary to provide a chronological, complete and accurate audit trail for all dealings with any funds received into a practice unit bank account on behalf of a client.”

(b) in the definition of “client’s money,” the word “him” shall be replaced with “them” as it appears in the first line and the word “his” shall be replaced with “their” as it appears in the third line

(c) a new term of “true financial position” shall be inserted into the first column with the corresponding definition to be inserted into the second column as follows:

“the accurate net financial position of the practice unit at each month end reflecting complete and accurate figures for all material assets and liabilities of the practice unit.”

(2) In rule 6.2.1:

(a) the word “him” shall be replaced with “them” as it appears in the third line

(3) In rule 6.2.2:

(a) the word “him” shall be replaced with “them” as it appears in the second line

(4) In rule 6.3.1:

(a) insert a new subsection (a) with the following:

“ensure that all client accounts are named in accordance with the definition of a client account at Rule B6.1.1”

(b) re-name existing sub-section (a) as subsection (b)

(c) delete existing sub-section (b) and replace with the following:

“pay into a client account without delay any sum held or received for or on behalf of a client, unless that money will be immediately paid out on behalf of that client or unless that money is required to settle a debt due by that client to the practice unit”

(d) re-name existing sub-section (b) as subsection (c)

(e) re-name existing sub-section (c) as subsection (d)

(5) In rule 6.3.2:

(a) reference to Rule 6.3.1(a) shall be replaced by reference to Rule 6.3.1(b)

(6) In rule 6.3.3:

(a) reference to Rule 6.3.1(a) shall be replaced by reference to Rule 6.3.1(b)

(7) In rule 6.5.1:

(a) replace the word “his” with “their” as it appears in the first line

(b) insert a new sub-section (g) as follows:

“any money which is not client’s money”.

(c) insert a new section 6.5.2 as follows:

“Drawings from a client account on behalf of a client or on a client’s authority must be in respect of, or for the purposes of, the legal services provided by you to the client”

(d) insert a new section 6.5.3 as follows:

“A practice unit must not allow any manager or employee of that practice unit, or any person closely connected to any such manager or employee, to utilise, as a personal banking facility, a client account held by the practice unit”

(e) re-number existing section 6.5.2 as 6.5.4.

(8) In rule 6.6.1:

(a) at sub-section (d) replace the word “his” with “their” where it appears in the first line

(9) In rule 6.7.1:

(a) at sub-section (a) insert a new sub-section (v) as follows:

“any funds received into a practice unit bank account on behalf of a client”

(10) Rule 6.7.2 shall be deleted.

(11) In existing Rule 6.7.3:

(a) in sub-section (a) the words “at all times” shall be deleted.

(12) Existing Rule 6.7.3 shall be re-numbered as 6.7.2

(13) Existing Rule 6.7.4 shall be re-numbered as 6.7.3

(14) Existing Rule 6.7.5 shall be re-numbered as 6.7.4

(15) In rule 6.10.4 (a):

(a) the words “land and buildings transaction tax/” shall be inserted before the words “stamp duty”

(b) the words “(or equivalent)” shall be inserted after the words “stamp duty”

(c) the words “or registration” shall be inserted after the word “recording”

(16) In rule 6.11.6:

(a) the word “who” shall be replaced with the word “which”

(17) In rule 6.12.1:

(a) at sub-section (a) the word “his” shall be replaced with “their”

(b) at sub-section (b) the word “his” shall be replaced with “their”

(c) at sub-section (c), in both instances where the words “his” appear they shall be replaced with “their”

(18) In Rule 6.13.1:

(a) the words “manager as Cashroom Manager” as they appear in line two will be replaced by “managers as Cashroom Manager”.

(19) Rule 6.13.2 shall be deleted and replaced with the following:

“A Cashroom Manager shall:

(a) use reasonable endeavours to acquire and maintain the skills necessary to discharge their responsibilities throughout the period during which they are so designated;

(b) as required by the Council, complete an assessment approved by the Council of their knowledge of Rule B6. The results of such assessments will be utilised by the Council to assess risk of non-compliance and to prioritise inspection and other regulatory activity;

(c) within 12 months of appointment as Cashroom Manager of a new or existing practice unit, complete the assessment of their knowledge of the accounts rules as required by the Council in terms of rule B6.13.2 (b)”

(20) In Rule 6.14.1:

(a) the word “him” shall be replaced with “them” where it appears in the first line

(21) In Rule 6.17.1:

(a) the heading of the rule as it appears as “where a practice unit practices in two or more places” shall be replaced with “Multi-national practices [registered in England & Wales]”

(b) Rule 6.17.1 shall be deleted and replaced with the following:

“The Cashroom Manager of a multi-national practice which is registered in England & Wales will be responsible for ensuring that any matters raised in a Qualified Accountant’s Report submitted to the Solicitors Regulation Authority (SRA) (or any such equivalent report as may be required by any alternative approved regulator which regulates that multi-national practice) are reported to the Council where matters raised in that report concern:  
(a) systemic or significant breaches of the SRA Accounts Rules (or, where applicable, the rules of any alternative approved regulator which regulates that multi-national practice) within the multi-national practice;   
(b) the conduct of Solicitors regarding failures to comply with the SRA Accounts Rules (or, where applicable, the rules of any alternative approved regulator which regulates that multi-national practice));   
(c) failures to comply with the SRA Accounts Rules (or, where applicable, the rules of any alternative approved regulator which regulates that multi-national practice) which are specific to the Scottish offices of the multi-national practice.

(22) In Rule 6.18.1:

(a) the word “any” shall be inserted between the words “and” and “information” where they appear in the second line;

(b) the words “concerning the conduct of the regulated person’s practice” where they appear in the second line onwards shall be deleted and replaced with “required by Council to enable the assessment of compliance with these rules, risk to clients’ money, the completion of an investigation and information demonstrating the true financial position of the practice unit”

(23) In Rule 6.18.4:

(a) in sub-section (a) insert the word “or” between the words “with” and “is”

(b) in sub-section (a) delete the words “or may not comply with”

(c) in sub-section (a) delete the word “or” where it appears after “rule 6”

(d) in sub-section (b) replace the word “his” with “their” where it appears in the third line

(24) In Rule 6.18.8:

(a) replace the word “his” with “their” where it appears in both the first and third lines

(b) replace the word “he” with “they” where it appears in the second line

(c) replace the word “consider” with “considers” where it appears in the second line

(25) In Rule 6.18.10:

(a) delete the words “or may agree with the regulated person that he will pay” where they appear in the third line

(b) delete the words “or such agreement is reached with the regulated person, not more than twelve months after the date of the immediately preceding inspection or investigation” where they appear in line four onwards.

(26) In Rule 6.18.11:

(a) delete the words “which shall be prescribed by the Council from time to time” as they appear in line two onwards

(b) insert after the word “rate” and before the second sentence which commences “The amount of”, the following:

“(to be applied to every day of staff time and part thereof utilised on all aspects of an inspection or investigation to the point of completion) and a weekly administrative charge to be applied for every complete week beyond the date set by Council for provision of practice information or beyond an authorised extension deadline. The daily rate and the weekly administrative charge will be prescribed by Council from time to time.”

(27) In rule 6.18.12:

(a) the words “or with whom an agreement in terms of rule 6.18.10 has been reached” shall be deleted.