

SOLICITORS' ACCOUNTS REGULATIONS 1998

The Council of the Law Society of Northern Ireland in pursuance of the power conferred on them by Articles 74(1) and 75 of the Solicitors (Northern Ireland) Order 1976 (as amended) and paragraph 6 of Schedule 15 to the Financial Services Act 1986 and all other powers enabling them in that behalf and with the concurrence of the Lord Chief Justice of Northern Ireland, hereby make under Articles 33, 34 and 35 of the said Order the following Regulations:

PART I - PRELIMINARY

These regulations may be cited as the Solicitors' Accounts Regulations 1998 and shall apply to those solicitors whose accounting periods commence on or after the 1st day of September 1998, whereupon the Solicitors' Accounts Regulations 1991 and the Solicitors' Accounts (Amendment) Regulations 1996, shall cease to have effect.

2. (1) In these regulations unless the context otherwise requires

- (i) "accountant's report" shall mean an accountant's report as referred to in and required by the provisions of Article 35(1) of the Order;
- (ii) "associated practices" shall mean two or more solicitors' practices, in which one, some or all of the partners is or are common to each practice, irrespective of the name or title under which that practice is held out and the number and identity of any other partners;
- (iii)
 - (a) "bank" shall mean a branch situated in Northern Ireland of any financial institution recognised by the Bank of England as a bank under the Banking Act 1987;
 - (b) "building society" shall mean a branch situated in Northern Ireland of any building society within the meaning of the Building Societies Act 1986;
- (iv) "client" shall mean any person as defined under the Order on whose account a solicitor holds or receives client's money;
- v) "client account" shall mean a current or deposit account in the name of the solicitor at a bank or building society in the title of which account the word "client" appears, or where investment business monies are held the words "clients investment" appear, and shall include a deposit receipt other than a joint deposit receipt;
- (vi) "client's money" shall mean money held or received by a solicitor on account of a person for whom he is acting in relation to the holding or receipt of such money either as a solicitor, or in connection with his practice as a solicitor, as agent, bailee, stakeholder or in any other capacity, including monies received by the solicitor for the disbursement of professional fees and outlays including without prejudice to the generality of the foregoing, Counsel's fees, professional fees and

witnesses expenses; provided that the expression "client's money" shall not include

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- a) money held or received on account of the trustees of a trust of which the solicitor is a solicitor-trustee; or (
- b) money to which the only person entitled is the solicitor himself or, in the case of a firm of solicitors, one or more of the partners in the firm;

(vii) "the Order" shall mean the Solicitors (Northern Ireland) Order 1976 (as amended);

viii) "solicitor" shall mean a solicitor of the Supreme Court and shall include a firm of solicitors;

(ix) "solicitor-trustee" shall mean a solicitor who is a sole trustee or who is co-trustee only with a partner, clerk or servant of his or with more than one of such persons;

(x) "trust account" shall mean a current or deposit account, in the title of which the word "trustee" or "executor" appears, or which is otherwise clearly designated as a trust account, kept at a bank or building society and kept solely for money subject to a particular trust of which the solicitor is a solicitor-trustee;

(xi) "trust money" shall mean money held or received by a solicitor which is not client's money and which is subject to a trust of which the solicitor is a trustee whether or not he is a solicitor- trustee of such trust;

xii) "investment business" shall have the meaning given to it under the Financial Services Act 1986 and the Solicitors' Investment Business Rules 1992.

(2) Other expressions in these regulations shall, except where otherwise stated, have the meanings assigned to them by the Order.

(3) The Interpretation Act (Northern Ireland) 1954 shall apply to these regulations as it does to a Measure of the Northern Ireland Assembly.

PART II - CLIENT AND OFFICE ACCOUNTS

3.

A. Subject to the provisions of regulation 6, every solicitor who holds or receives client's money, or money which under regulation 4 he is permitted and elects to pay into a client account, shall without delay pay such money into a client account. Any solicitor may keep one client account or as many such accounts as he thinks fit.

B. (1) Every solicitor who holds or receives client's money for the purpose of, or which the solicitor has been instructed in writing is intended for, the transacting of investment, business (investment business money) shall immediately pay the same into an interest-bearing client account which shall where necessary be opened for the purpose which shall be maintained as a separate client account from any other client account operated by the solicitor for the purpose of holding or dealing with client's money which is not investment business money.

(2) The solicitor on an accounting date to be selected by the solicitor (not being more than six months after the first date on which the solicitor receives or holds any investment business money) and at six monthly intervals thereafter shall subject to paragraph (6) below pay to each client interest on any such money held or received for that client calculated and payable in accordance with paragraphs (3) (4) and (5) below.

(3) The sum payable pursuant to sub-paragraph (2) above shall be the sum that would have been earned by way of total interest if all investment business money held by the solicitor for that client, had, during the time that it was held, been kept in a separate account with the relevant bank or building society earning interest at a rate not less than that from time to time posted publicly by that bank or building society for small deposits subject to the minimum period of notice of withdrawals, and on the assumption that all such investment business money was at the time it was lodged at the bank or building society represented by cleared funds.

(4) Subject to paragraphs (5) and (6) below the solicitor shall on the date previously selected by him for the payment of interest or within 7 days thereafter account to each client for the sum accrued due to that client in respect of interest and shall pay that sum to the client or as the client shall direct.

(5) If at any time prior to the date previously selected by the solicitor for the payment of interest the solicitor ceases to hold any investment business money for that client he shall, subject to paragraph (6) below, forthwith account for, and pay to or to the order of the client, the sum accrued due by way of interest during the period that it was so held.

(6) A solicitor shall not be required to pay interest on investment business money to a client unless and until the sum calculated in accordance with paragraph (3) above is £20 or more at the date when it becomes payable.

4. There may be paid into a client account
 - (a) trust money;
 - (b) such money belonging to the solicitor as may be necessary for the purposes of opening or maintaining the account;
 - (c) money to replace any sum which for any reason may have been drawn from the account in contravention of paragraph (3) of regulation 9; and
 - (d) a cheque or draft received by the solicitor which under paragraph (b) of regulation 5 he is entitled to split but which he does not split.

5. Where a solicitor holds or receives a cheque or draft which includes client's money or trust money of one or more trusts
 - (a) he may where practicable split such cheque or draft and, if he does so, he shall deal with each part thereof as if he had received a separate cheque or draft in respect of that part; or
 - (b) if he does not split the cheque or draft, he shall, if any part thereof consists of client's money, and may, in any other case, pay the cheque or draft into a client account.

6. (1) Notwithstanding the provisions of these regulations, a solicitor shall not be under obligation to pay into a client account client's money held or received by him
 - (a) which is received by him in the form of cash and is without delay paid in cash in the ordinary course of business to the client or on his behalf to a third party; or
 - (b) which is received by him in the form of a cheque or draft which is endorsed over in the ordinary course of business to the client or on his behalf to a third party and is not passed by the solicitor through a bank or building society account; or
 - (c) which he pays into a separate bank or building society account in the name of the client or of some person designated by the client in writing or acknowledged by the solicitor to the client in writing.

Provided, however, that all such cash, cheques or drafts as are mentioned in sub-paragraphs (a) and (b) are immediately and consistently recorded by the solicitor in a book kept for such purpose.

- (2) Notwithstanding the provisions of these regulations but subject to paragraph 3 below a solicitor shall not pay into a client account money held or received by him which the client for his own convenience requests the solicitor to withhold from such account, such request being either in writing from the client or acknowledged by the solicitor to the client in writing.

- (3) Where a cheque or draft includes client's money other than money of the nature described in paragraph (2) such cheque or draft shall be dealt with in accordance with regulation 5.

- (4) Where money is held on joint deposit, whether with another firm of solicitors or not, this shall be recorded in a book kept for such purpose, by each solicitor involved in the transaction, and the purchase or subsequent encashment of a joint deposit receipt shall be transacted through a solicitor's client's account.

(5) Notwithstanding the provisions of these regulations the Council may upon application made to them by a solicitor specifically authorise him in writing to withhold any client's money from a client account.

7. No money other than money which under the foregoing regulations a solicitor is required or permitted to pay into a client account shall be paid into a client account, and it shall be the duty of a solicitor into whose client account any money has been paid in contravention of this regulation to withdraw the same without delay on discovery.

8. (1) There may be drawn from a client account

(a) in the case of client's money

(i) money properly required for a payment to that client or to any other person on behalf of that client as permitted by these regulations or to the solicitor as permitted by these regulations;

(ii) money properly required for or towards payment of a debt due to the solicitor from the client or in reimbursement of money expended by the solicitor on behalf of the client;

(iii) money properly required for or towards payment of the solicitor's costs where there has been delivered to the client a bill of costs; and

(iv) money which is thereby transferred into another client account.

(b) in the case of trust money

(i) money properly required for a payment in the execution of the particular trust; and

(ii) money to be transferred into a separate bank or building society account kept solely for the money of the particular trust;

(c) such money, not being money to which either paragraph (a) or paragraph (b) applies, as may have been paid into the account under paragraph (b) of regulation 4 or paragraph (b) of regulation 5; and

(d) money which for any reason may have been paid into the account by mistake or otherwise in contravention of regulation 7;

(e) that sum in any case under paragraph (a) or paragraph (b) above which shall not exceed the total of the money held for the time being in such account on account of such client or trust.

(2) There shall be drawn from a client account monies payable for outlays which shall be paid directly to those persons to whom outlays are due, where the monies received to enable such payments to be made have been lodged to the client account.

9.

(1) Money drawn from a client account under sub-paragraph (ii) or sub-paragraph (iii) of paragraph (a) or under paragraph (c) or paragraph (d) of regulation 8 (1) shall be drawn by a cheque or transfer made payable to a bank or building society account, not being a client account, in the name of the solicitor and where such an account is one normally used for the receipt of costs and disbursements.

(2) Where money drawn from a client account is payable to a person's account with a financial institution, public body or other organisation, there shall be included

in the payee details the name or account number of the person whose account is to be credited with the payment.

(3) No money other than money permitted by regulation 8 to be drawn from a client account shall be so drawn unless the Council upon an application made to them by the solicitor expressly authorise in writing its withdrawal.

(4) Where monies drawn on the office account for payment to a client, or to any other person on behalf of that client, have not been encashed within six months of being drawn, an equivalent sum shall be transferred to the client account as soon as is practicable, provided the solicitor has been put in funds to meet such a payment in the first instance.

10. No sum shall be transferred from the ledger account of one client to that of another except in circumstances in which it would have been permissible under these regulations to have withdrawn from client account the sum transferred from the first client and to have paid into client account the sum so transferred to the second client.

11. (1) Every solicitor shall at all times keep properly written up such accounts as may be necessary

(a) to show all his dealings with

- (i) client's money received, held or paid by him; and
- (ii) any other money dealt with by him through a client account; and

(b)

- (i) to show separately in respect of each client all money of the categories specified in sub-paragraph (a) of this paragraph which is received, held or paid by him on account of that client; and
- (ii) to distinguish all money of the said categories received, held or paid by him, from any other money received, held or paid by him.

(2) (a) All dealings referred to in paragraph (1) (a) shall be recorded as may be appropriate

(i)

(a) either in a clients' cash book, or in a clients' column of a cash book; or

(b) in a record of sums transferred from the ledger account of one client to that of another; and in addition

(ii)

(a) in a clients' ledger or a clients' column of a ledger; and

(b) in a clients' ledger control account recording therein the totals of all items that have been posted individually to the debit and credit columns of the clients' ledger; and

(b) all dealings of the solicitor relating to his practice as a solicitor other than those referred to in paragraph (1) (a) shall (subject to compliance with the regulations contained in Part III) be recorded in such records as the solicitor shall maintain as are necessary to show the true financial position of his practice at all times. Without prejudice to the foregoing, such records shall include:

- (i) an office cash book, or office column of a cash book;
- (ii) an office ledger or an office column of a ledger;
- (iii) an office ledger control account recording therein the totals of all items that have been posted individually to the debit and credit columns of the office ledger; and
- (iv) nominal ledger accounts recording the totals of all items that have been posted individually other than to the debit and credit columns of the clients' ledgers and office ledgers.

(3) In addition to the books, ledgers and records referred to in paragraph (2), every solicitor shall keep a record of all bills of costs (distinguishing between profit costs and disbursements) delivered by the solicitor to his clients, which record shall be contained in a bills delivered book or a file of copies of such bills.

(4)

- (i) Every solicitor shall within three months of the coming into force of these regulations, or of his commencing practice on his own account (either alone or in partnership) whichever shall be later, and thereafter as at dates ("reconciliation dates") separated by intervals not exceeding three months, cause to be prepared statements ("reconciliation statements") comparing and reconciling:
 - (a) the total of the balances due by him to clients, as extracted from his clients' ledger accounts, including balances in respect of trust money held in the client account or accounts;
 - (b) the balance on the clients' ledger control account; and
 - (c) the client account balance or balances as stated by the bank or building society and adjusted for outstanding withdrawals and lodgements.
- (ii) Each reconciliation statement must be completed within one month of the reconciliation date to which it relates and said reconciliation statement for each office of a practice or each associated practice shall be prepared on the same date.
- (iii) The solicitor shall retain each such reconciliation statement showing such reconciliation for a period of two years from the reconciliation date to which it relates
- (iv) A copy of the reconciliation statements for each of the four quarters ending with the financial year end of the solicitor shall be sent to the Society as the Third Schedule to the Solicitors' Accountants Report and shall be in such form as the Society may from time to time decide.

(5)

- (i) Every solicitor shall within three months of the coming into force of these Regulations, or of his commencing practice on his own account (either alone or in partnership) whichever shall be later, and thereafter as at dates ("office reconciliation dates") separated by intervals not exceeding three months, cause to be prepared statements ("office reconciliation statements") comparing and reconciling:
 - (a) the total of the balances due to him by clients, as extracted from his office ledger accounts, including balances in respect of clients on whose behalf trust monies may be held;
 - (b) the balance on the office ledger control account;
 - (c) the office account balance or balances as stated by the bank or building society and adjusted for outstanding withdrawals and lodgements; and

- (d) a Trial Balance being a list of balances extracted from the books of account including such nominal ledger accounts, control accounts and bank accounts as shall be kept by a solicitor in order to record all transactions relating to his practice.
- (ii) Each office reconciliation statement must be completed within one month of the office reconciliation date to which it relates.
- (iii) The solicitor shall retain each such office reconciliation statement showing such reconciliation for a period of two years from the reconciliation date to which it relates.
- (iv) Specific information included in the reconciliation statement for each of the four quarters ending with the financial year end of the solicitor shall be sent to the Society as the Sixth Schedule to the Solicitors' Accountant's Report and shall be in such form as the Society may from time to time decide.

(6)

- (i) The expressions "books", "accounts", "ledger" and "records" shall be deemed to include loose-leaf books and such cards or other permanent records as are necessary for the operation of any system of book-keeping, mechanical or computerised or otherwise, and
- (ii) Where a solicitor maintains the accounts required by these regulations on a computerised system which does not rely on a visible ledger card for its operation such system must be such that
 - (a) an immediate printout can be obtained of any account notwithstanding that immediate visual access is available; and
 - (b) all accounts which for any reason may require to be removed from the working store of the system must before removal be copied on to a storage medium which will enable a visual record of the detailed entries therein to be produced and be filed in alphabetical or other suitable order, indexed and retained for the period set out in regulation 11(7).

(7) Every solicitor shall preserve for at least six years from the date of the last entry therein all accounts, books, ledgers and records kept by him under this regulation.

(8) No money may be withdrawn from a bank or building society account, being or forming part of a client account, otherwise than under the signature of one at least of the following (either alone or in conjunction with other persons) namely:

- (a) a solicitor who holds a current practising certificate, or
- (b) an employee of such a solicitor, having his employer's authority to sign cheques drawn on client account.

PART III - TRUST ACCOUNTS

12. Subject to the provisions of regulation 13 every solicitor-trustee who holds or receives money subject to a trust of which he is solicitor-trustee, other than money which is paid into a client account as permitted or, in the case of investment business money, required by the regulations contained in Part II, shall without delay pay such money into the trust account of the particular trust.

13. The provisions of regulations 3 to 11 inclusive shall apply to all trust accounts to the extent of what monies shall or may be paid into or drawn from a trust account and to

the books, records and accounts necessary to show all dealings with such monies including quarterly reconciliations, and the separation in respect of each trust of all a solicitor-trustee's dealings with money received, held or paid by him on account of that trust whether through the trust account or not.

14. Where a solicitor is a trustee of a trust but is not a solicitor-trustee, he shall keep such records as are necessary to show all his dealings with trust money not dealt with through the client account.

PART IV - DEPOSIT INTEREST

15.

(1) Subject to regulation 18, when a solicitor holds or receives, for or on account of a client, money, on which, having regard to all the circumstances (including the amount and the length of time for which the money is likely to be held), interest ought in fairness to the client to be earned for him, the solicitor shall either -
(a) deposit such money in a separate designated account and account to the client for any interest earned thereon; or (b) pay to the client out of his own money a sum equivalent to the interest which would have accrued for the benefit of the client if the money had been deposited in a separate designated account under this regulation.

(2) In this regulation the expression "a separate designated account" shall mean a deposit account at a bank or building society in the name of the solicitor or his firm in the title of which the word "client" appears and which is designated by reference to the identity of the client or matter concerned.

16. Without prejudice to the generality of regulation 15, it shall be deemed that interest ought in fairness to a client to be earned for him where a sum of money is received for or on account of the client which exceeds a certain limit and at the time of its receipt is unlikely within a certain period thereafter to be either wholly disbursed or reduced by payments to a sum of less than the limit noted above. For the purposes of this regulation the monetary limits and their related time periods are - (a) £500 for 3 months. (b) £1000 for 2 months. (c) £2000 for 1 month.

17. Without prejudice to any other remedy which may be available to him, any client who feels aggrieved that interest or a sum equivalent thereto has not been paid to him under these regulations shall be entitled to require the solicitor to obtain a certificate from the Society as to whether or not interest ought to have been earned for him and, if so, the amount of such interest and upon the issue of such a certificate the sum certified to be due shall be payable by the solicitor to the client.

18. Nothing in this Part shall -

(a) affect any arrangement in writing, whenever made, between a solicitor and his clients as to the application of the client's money or interest thereon; or

(b) apply to money received by a solicitor being money subject to a trust of which the solicitor is a trustee.

(c) apply to any investment business money on which interest is paid under regulation 3B.

PART V – ACCOUNTANT’S REPORTS

19. An accountant's report to be delivered to the Society pursuant to Article 35(1) of the Order shall be delivered not more than six months after the end of the accounting period specified in that report and shall be in the form set out in the Schedule hereto or such other form as the Society may approve.

20. (1) An accountant's report shall be given on behalf of a solicitor by an Accountant

- (a) who is a member of one or more of the following bodies:
 - (i) The Institute of Chartered Accountants in Ireland; or
 - (ii) The Institute of Chartered Accountants in England and Wales; or
 - (iii) The Institute of Chartered Accountants of Scotland; or
 - (iv) The Association of Certified Accountants; or
 - (ii) The Institute of Certified Public Accountants in Ireland,

and who is in public practice in Northern Ireland on his own account, whether in partnership or otherwise, and who is qualified under Article 397 of the Companies (Northern Ireland) Order 1986 for appointment as auditor of a company;

- (b) who has neither been at any time during the accounting period to which the report relates, nor subsequently, before giving the report, become a partner, clerk or servant of such solicitor or of any partner of his; and
- (c) who is not subject to notice of disqualification under paragraph (4).

(2) An accountant's report shall only be given on behalf of a solicitor by an accountant who or whose firm has professional indemnity insurance cover

- (a) extending to professional services deemed to include the provision of the said accountant's report in compliance with these regulations; and
- (b) providing a limit of indemnity of not less than £150,000 in the aggregate or £100,000 for each and every claim and, if providing for a part of any claim to be borne by the insured, the amount deductible by the insurer in respect of any such claim shall not be more than 10% of the total limit of indemnity under the terms of cover.

(3) An accountant purporting to give an accountant's report shall furnish to the Society on request such evidence of the matters referred to in paragraphs (1) and (2) as the Society may require.

(4) Where an accountant, in giving an accountant's report has failed to draw attention to the solicitor's omission to comply with the provisions of Part II or Part III of these regulations and in any case where client's money has been deposited in a separate designated account, the provisions of Part IV the Council may at their discretion refuse to accept further accountant's reports given by such accountant and may give notice of such fact to every solicitor in Northern Ireland. In coming to their decision the Council shall take into consideration any observations or explanations made or given by such accountant and by the professional body of which he is a member.

21. (1) For the purpose of giving an accountant's report, an accountant shall ascertain from the solicitor particulars of all client accounts (including trust accounts) and office accounts kept, maintained or operated by the solicitor in connection with his practice

at any time during the accounting period to which his report relates and subject to paragraph (2) make the following examination of books, accounts and other relevant documents of the solicitor

- (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 regulation 11, and is so designed that
 - (i) an appropriate ledger account is kept for each client;
 - (ii) such ledger accounts show separately from other financial transactions, particulars of all client's money received, held or paid on account of each client; and
 - (iii) a transaction relating to client's money or any other money dealt with through a client account is recorded in the solicitor's books so as to distinguish such transaction from transactions relating to any other monies received, held or paid by the solicitor; and
 - (iv) that appropriate ledger accounts and cash books are kept to show all transactions other than those relating to clients money, relating to the practice;
- (b) make test checks of posting to client's ledger accounts and the control account from records of receipts and payments of client's money and make test checks of the casts of such accounts and records;
- (c) compare a sample of lodgements into and payments from the client account as shown in bank or building society statements with the solicitor's records of receipts and payments of client's money;
- (d) enquire into and test check the system of recording costs and of making withdrawals in respect of costs from the client account;
- (e) make a test examination of such documents as he shall request the solicitor to produce to him 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 II and Part III; and
 - (v) that the entries in the clients' ledger accounts reflect those transactions in a manner complying with Part II and Part III;
- (f) extract (or check extractions of) all balances on the clients' ledger accounts as at the last day of the accounting period under review and as at that day
 - (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 book balance on client account; and
 - (ii) reconcile that cash book balance with the client account balance as confirmed direct to the accountant by the bank or building society;
 - (iii) reconcile the balance on the clients' ledger control account with the total of the individual balances extracted from the clients' ledger,

except where a solicitor uses a computerised or mechanised system

of accounting which automatically produces an extraction of all client ledger balances, insofar as such work merely amounts to a check on the accuracy of the computer or machine, the Council waive the requirement of the regulation that all client ledger balances extracted on the list produced by the computer or machine must be checked against the individual records or ledger account, provided that the accountant is satisfied that a satisfactory system of control is in operation and carries out a test check of the extraction against the individual records and specifies in his report that he has relied on this waiver.

(g) 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;

(h) enquire into and test check such office ledger and cash accounts and bank or 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;

(i) satisfy himself that the reconciliations and lists of balances referred to in regulations 11 (4) and (5) have been prepared in respect of the accounting period covered by the accountant's report and that explanations have been provided by the solicitor of any differences disclosed by such quarterly reconciliations;

(j) ask for such information and explanations as he may require arising out of sub-paragraphs (a) to (i);

(k) obtain written confirmation from the solicitor that he has complied with paragraph (7) of regulation 11 by preserving for at least six years the relevant accounts, books, ledgers and records;

(l) for the purposes of carrying out the examination shown in paragraphs (a) to (k) above an accountant shall complete the reporting accountant's checklist which shall be agreed from time to time between the Society and his/her professional body and which must be used for the purposes of giving an accountant's report. This checklist shall be kept for at least six years from the date of the last entry therein and shall be made available to the Society upon request to that accountant's professional body.

(2) Nothing in paragraph (1) shall require the accountant:

(a) to extend his enquiries beyond the information contained in the relevant documents relating to any client's matter produced to him supplemented by such information and explanations as he may obtain from the solicitor;

(b) to enquire into the stocks, shares, other securities or documents of title held by the solicitor on behalf of his client except to the extent required by regulation 21 (A) (b); or

(c) to consider whether the books of account of the solicitor have been properly written up in accordance with regulation I I, at any time other than the time at which his examination of those books and accounts takes place.

(3) If, after making an examination in accordance with paragraphs (1) and (2), it appears to the accountant that there is evidence that these regulations have not been complied with, he shall make such further examination as he considers necessary in order to complete his report with or without qualifications.

(4) The provisions of the Part shall apply to any matter arising under Part II and Part III but shall not apply to any matter arising under Article 34 of the Order as it affects Part IV, except where a client's money has been deposited in a separate designated account, notwithstanding any payment into a client account of a sum in lieu of interest.

(5) In this regulation the expression "separate designated account" shall have the same meaning as in regulation 15.

21. A

For the purpose of completing the investment business section of an accountant's report and giving the information required, an accountant shall make enquiries and tests and conduct examinations similar to those referred to in regulation 21 hereof so as to satisfy himself

(a)

(i) that a separate record of all fees, commission or other payments derived by the solicitor from distinct investment business (as defined by the Solicitors' Investment Business Rules 1992) has been properly maintained and;

(ii) that the total amount of the fees, commission or other income derived from distinct investment business during the accounting period does not exceed 20% of the total gross fee income of the solicitor during that period;

(b)

(i) that the various records required to be kept by a solicitor pursuant to the Solicitors' Investment Business Rules 1992 or any Practice Direction made by the Council thereunder, has during the accounting period been properly and adequately maintained and;

(ii) that insofar as the said requirements relate to the custody of documents or certificates evidencing title to the client's investments are concerned, the documents and certificates so recorded as being in the custody of the solicitor are in fact in the custody of the solicitor and;

(c)

(i) that the separate interest-bearing client account if required to be maintained in respect of investment business monies under regulation 3B hereof is in fact being so maintained and;

(ii) that payments of interest required by the said regulation 3B to be paid to any particular client have in fact been so paid.

22. Nothing in these regulations shall deprive a solicitor of the right on the grounds of privilege as between solicitor and client to decline to produce to the accountant any

document which the accountant may consider it necessary for him to inspect for the purposes of his examination in accordance with regulation

23. An accountant's report need not be delivered to the Society in respect of any accounting period in the case of a solicitor who:

(1)

- (a) does not require a practising certificate; or
- (b) having held one has delivered an accountant's report covering the accounting period ended on the date upon which he ceased to practise and to hold or receive client's money; or

(2) holds a current practising certificate

- (a) for the first time, or
- (b) for the first time, after having for 12 months or more, ceased so to do; or

(3) has satisfied the Council that either

- (i) he is exempt from complying with these regulations by virtue of holding one of the offices to which Article 33(3) of the Solicitors (Northern Ireland) Order 1976 (as amended) applies or of being a solicitor to a Government department (including a department of the Government of the United Kingdom) and has not, during the period to which such application relates, practised alone or in partnership or held or received clients' money; or
- (ii) these regulations are not applicable to him because he is employed only as an assistant solicitor by another solicitor or firm of solicitors and has not, during the period to which the said application relates, practised alone or in partnership or been held out to the public as a partner or held or received clients' money; or
- (iii) these regulations are not applicable to him because during the period to which the said application relates he has either
 - (a) not practised as a solicitor alone or as a partner or been held out to the public as a partner or
 - (b) not held or received client's money.

24. (1) In the case of a solicitor who

- (a) comes under an obligation to deliver his first accountant's report; or
- (b) having been exempt under regulation 23 from delivering an accountant's report in the preceding practice year, becomes under an obligation to deliver an accountant's report, the accounting period shall begin on the date upon which he first held or received client's money or, after such exemption, began again to hold or receive client's money, and may cover less than twelve months, and shall in all other respects comply with the requirements of Article 35(3) of the Order.

(2) A solicitor to whom paragraph (1) applies shall not later than three months after he first holds or receives client's money, notify the Society of the date of the end of the accounting period in respect of which his first or next accountant's report, as the case may be, will be delivered.

(2) In the case of a solicitor retiring from practice who, having ceased to hold or receive client's money, is under an obligation to deliver his final accountant's report, the accounting period shall end on the date upon which he ceased to hold or receive client's money, and may cover less than twelve months, and shall in all other respects comply with the requirements of Article 35(3) of the Order.

(3)

25. (1) In the case of a solicitor who

(a) is not exempt under regulation 23 from delivering an accountant's report in the preceding practice year; and

(b) since the expiry of the accounting period covered by such accountant's report has become, or ceased to be, a member of a firm of solicitors; or

(c) as a result or in anticipation of a change in the normal date to which his or his firm's accounts are made up, has sought and obtained permission from the Council,

the accounting period may cover less than twelve months and shall in all other respects comply with the requirements of Article 35(3) of the Order.

(2) In the case of a solicitor who has two or more places of business

(a) each office of an individual practice shall have the same accounting period; and

the accountant's report or the accountant's reports delivered by him to the Society in each practice year shall cover all client's money held or received by him to ensure that associated practices reconcile their accounts on the same quarterly dates.

26. Every notice to be given by the Council under these regulations to an accountant shall be in writing under the hand of the Secretary of the Society and sent by registered post or the recorded delivery service to the address of the accountant as shown on an accountant's report or appearing in the records of the professional body of which the accountant is a member and, when so given and sent, shall be deemed to have been received by the accountant within forty-eight hours (excluding Saturdays, Sundays and Bank Holidays) of the time of posting.

27. The Council shall have power to waive in writing in any particular case any of the regulations in this Part, other than those of regulations 20(1) and (2).

PART VI – GENERAL

28.

(1) In order to ascertain whether these regulations have been complied with the Council, acting either

(a) on their own motion; or

(b) on a written statement and request transmitted to them by or on behalf of a Local Association of solicitors or a Committee thereof; or

(c) on a written complaint lodged with them by a third party,

may require any solicitor to produce at a time and place to be fixed by the Council, his books of account, bank or building society statements, statements of account, vouchers and any other necessary documents for the inspection of any person appointed by the Council and to supply to such person any necessary information

and explanations and such person shall be directed to prepare for the information of the Council a report on the result of such inspection. Such report may be used as a basis for proceedings under the Order.

(2) Upon being required so to do a solicitor shall produce such books of account, bank or building society pass books, loose-leaf bank or building society statements, statements of account, vouchers and documents at the time and place fixed.

(3) In any case in which a Local Association of solicitors or a Committee thereof are of opinion that an inspection should be made under this regulation of the books of account, bank or building society pass books, loose-leaf bank or building society statements, statements of account, vouchers and any other necessary documents of a solicitor, it shall be the duty of such Local Association of solicitors or a Committee thereof to transmit to the Council a statement containing all relevant information in their possession and a request that such an inspection be made.

(4) Before instituting an inspection on a written complaint lodged with them by a third party, the Council shall require prima facie evidence that a ground of complaint exists, and may require the payment by such party to the Council of a reasonable sum to be fixed by them to cover the costs of the inspection and the costs of the solicitor against whom the complaint is made. The Council may deal with any sum so paid in such manner as they think fit.

29. Every requirement to be made by the Council of a solicitor under these regulations shall be made in writing under the hand of the Secretary of the Society and sent by registered post or the recorded delivery service to the last address of the solicitor appearing on the Roll or in the Register kept by the Society under Article 8 of the Order, and, when so made and sent, shall be deemed to have been received by the solicitor within forty-eight hours (excluding Saturdays, Sundays and Bank Holidays) of the time of posting, except the Council shall have power to waive in writing in any particular case any of the regulations in this Part.

30. Nothing in these regulations shall deprive a solicitor of any recourse or right, whether by way of lien, set off, counter-claim, charge or otherwise, against monies standing to the credit of a client account.

31.

(1) For the purpose of these regulations

(a) A sum of money shall be deemed to have been paid to, and received and held by a solicitor if a cheque or draft payable to him for that sum has been received in good faith by him and he has no reason for suspecting that the cheque or draft will not be paid; and

(b) A solicitor shall not be deemed to have contravened these regulations where he has drawn from a client account or trust account a sum of money deemed by virtue of paragraph (1) of this regulation to have been paid to, and received and held by him and the cheque or draft for which has been lodged with his bank or building society to the credit of such client account or trust account, as the case may be:

Provided that, if such cheque or draft is not met on presentation to the drawer's bank or building society, the solicitor shall forthwith pay into the client account or trust account, as

the case may be, from which such sum of money has been drawn, money of his own sufficient to remove any deficiency which has thereby arisen in such account.

(2) Without prejudice to the provisions of paragraph (1) any money drawn from a client account or trust account by mistake or otherwise in contravention of paragraph (3) of regulation 9 shall be forthwith repaid to such account out of the solicitor's own monies.

32. The Society may from time to time issue practice notes as an indication as to how it considers a regulation should operate or be interpreted. They do not form part of the regulations themselves.

Made by the Council on the 24th day of June 1998.

SCHEDULE

LAW SOCIETY OF NORTHERN IRELAND

The Solicitors (Northern Ireland) Order 1976 (as amended)
The Solicitors' Accounts Regulations 1998

ACCOUNTANT'S REPORT

Note: Reports must be made on this standard form. Typed copies will not be accepted.

PART I

Note:

1. Firm's Name and Address(es)

All addresses at which each solicitor practises must be covered by an Accountant's Report or Reports. If an address is not so covered the reason must be stated.

.....
.....

.....

.....

2. Principals' full name(s)

.....

.....

.....

3. Accounting Period

Beginning.....

Ending.....

Note: Where the report is for a period not commencing directly after the last Report filed for the Solicitor or covers a period of more or less than 12 months, an explanation should be given on a separate sheet attached to the Report.

Where it is necessary for a reporting Accountant to add information to the Report and to complete any of the six Schedules referred to in it the Accountant should attach a separate sheet or sheets indicating the appropriate Schedule and adding the information required.

PART II

I the undersigned, acting as principal in the firm of Accountants, and in compliance with Article 35 of the Solicitors (Northern Ireland) Order 1976 (as amended) and the Solicitors' Accounts Regulations 1998, report to the Law Society of Northern Ireland in respect of the above-named solicitor(s) that I have examined, to the extent and in the manner required by regulation 21 of the said Regulations, the books, accounts and documents and records produced to me in respect of the above-named solicitor(s), and insofar as an opinion can be based on this examination I am satisfied that

(1) during the above-mentioned accounting period:

(a) the provisions of Part II and Part III of the said Regulations; and
(b) in any cases where a client's money has been deposited in a separate designated account the provisions of Part IV of the said Regulations, have been complied with by the above-named solicitor(s) except so far as concerns: [* delete as appropriate]

- (i) * certain trivial breaches due to clerical errors or mistakes in bookkeeping, all of which were rectified by the solicitor(s) on discovery and none of which, I am satisfied, resulted in any loss to any client;
- (ii) * the matters set out in the First Schedule hereto in respect of which I have not been able to satisfy myself for the reasons stated therein
- (iii) * the matters set out in the Second Schedule hereto in respect of which it appears to me that the provisions of the Solicitors' Accounts Regulations 1998 have not been complied with by the solicitor(s);

(2) the quarterly reconciliations prescribed by regulation 11(4) of the said Regulations have been carried out by the above-named solicitor(s) in respect of the above-mentioned accounting period and I have set out in the Third Schedule hereto particulars of such quarterly reconciliations; and

(3) the results of the comparisons required under regulation 21(I)(f) of the Solicitors' Accounts Regulations 1998 at..... 00.... were as follows:

(i) Gross Liabilities to clients as shown by clients' ledger accounts	£
(ii) Gross Liabilities to clients as per clients' ledger control account	£
(iii) Cash held in client account(s) and other accounts containing clients monies opened pursuant to regulation 6(2) of the said regulations as verified by banks, building societies etc after adjustment for outstanding withdrawals and lodgements	£

Where the figures set out in paragraph (3)(i), (ii) or (iii) above do not agree I have set out in the Fourth Schedule hereto an explanation of the differences arising, insofar as could be established from the examination carried out by me under regulation 21 of the said Regulations, and I confirm that an amount of £..... has been paid into/withdrawn from the client account(s) by the above-named solicitor(s) following discovery of the said differences. [* delete as appropriate]

(4)

* that in relation to above-named solicitors I have carried out and made the enquiries, tests and examinations referred to in regulation 21A of the Solicitors' Accounts Regulations 1998 and that the results are satisfactory.

or

* I have carried out and made the enquiries, tests and examinations referred to in regulation 21A of the Solicitors' Accounts Regulations 1998 and find that the requirements of the Solicitors' Investment Business Rules 1992 and of practice directions made thereunder have not been met in respects set out in the Fifth Schedule hereto.

(5) the quarterly reconciliations prescribed by regulation 11 (5) of the said Regulations have been carried out by the above-named solicitor(s) in respect of the above-mentioned accounting period and I have set out in the Sixth Schedule hereto specific particulars of such quarterly reconciliations in regard to credit balances on office ledgers and outstanding withdrawals from of ice accounts.

PART III

I confirm

(a) that I am qualified in accordance with regulation 20(1) of the said Regulations to give the foregoing report, and that I hold professional indemnity insurance as required by regulation 20(2) of the said Regulations; and

(b) that I have delivered a copy of this report to each of the principals named at Part I, paragraph 2, either personally or by post.

Name
Qualification
Firm Name
Address
	Postcode
Signature
Date

To: The Chief Executive
The Law Society of Northern Ireland
Law Society House
98 Victoria Street
Belfast BT1 3JZ

SOLICITORS' ACCOUNTS REGULATIONS 1998
THIRD SCHEDULE

Name of firm	Accounting period			
	1	2	3	4
Reconciliation date				
	£	£	£	£
a) Net liability to clients as shown by clients' ledger accounts (including trust account balances)				
(b) Debit balances included in (a) above not matched by credit balances set off				
(c) Gross liabilities to clients as shown by clients' ledger accounts - (a & b)				
(d) Gross liabilities to clients not reflected in clients' ledger accounts				
(e) Total gross liabilities to clients (c&d)	=====	=====	=====	=====
f) Gross liabilities to clients as per clients' ledger control account	=====	=====	=====	=====
(g) Clients' money held: including trust account)				
(i) in client account(s) at a bank				
(ii) in client account(s) at a building society				
(iii) elsewhere outside (i) and (ii)				
(h) Outstanding lodgements:				
(i) lodged within one banking day				
(ii) lodged more than one banking day later				
(i) Outstanding withdrawals				
(i) outstanding less than 3 months				
(ii) outstanding more than 3 months				

j) Adjusted clients money held (g&h-i)				
k) surplus/deficit – j - e				



SOLICITORS' ACCOUNTS REGULATIONS 1998
SIXTH SCHEDULE

Name of firm	Accounting period			
	1	2	3	4
Reconciliation date				
	£	£	£	£
(a) Credit balances included in the list of office ledger balances, not matched by debit balances set off.				
b) Outstanding withdrawals relating solely to office ledger transactions:-				
(i) Outstanding less than 3 months				
(ii) Outstanding more than 3 months but less than 6 months				
(iii) Outstanding more than 6 months				

