



**THE SOLICITORS AUDIT REGULATIONS 1938,
AMENDMENT NO. 2**

C. L. N. NEWALL, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 17th day of
February, 1943.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Law Practitioners Act, 1931, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

1. These regulations may be cited as the Solicitors Audit Regulations 1938, Amendment No. 2.

2. These regulations shall be read with and deemed to form part of the Solicitors Audit Regulations 1938* (hereinafter called the principal regulations).

3. These regulations shall come into force on the 1st day of April, 1943.

4. Clause (1) of Regulation 2 of the principal regulations is amended by revoking all the words after the words " District Law Society ", and substituting the following words : " as the auditor of the trust accounts of any particular solicitor shall be competent to make audits of the trust accounts of that solicitor so far as the solicitor practises within the district of that society."

5. Clause (6) of Regulation 2 of the principal regulations is amended by adding thereto the following words : " otherwise than in the completion of the closing entries at the end of a financial year or other period, or the preparation of the profit and loss account, balance-sheet, or returns for taxation."

6. Regulation 5 of the principal regulations is amended—

(a) By revoking paragraph (b) of clause (4) thereof, and substituting the following paragraph :—

" (b) The second examination shall be made between the 1st day of December and the last day of February (both days included)."

(b) By revoking clause (6) thereof, and substituting the following clause :—

" (6) Upon every examination made under clauses (4) and (5) of this regulation the auditor shall satisfy himself that all trust account moneys have been duly carried into

* Statutory Regulations 1938, Serial number 1938/37, page 199.

Amendment No. 1 : Statutory Regulations 1941, Serial number 1941/195, page 599.

the solicitor's trust accounts and that all moneys received into such trust accounts are properly accounted for, and shall require the production of—

“(a) All securities and documents of title held by the solicitor in his own name for or in trust for any other person :

“(b) All negotiable securities as described in clause (8) of Regulation 6 hereof held by the solicitor for or in trust for any other person :

“(c) The Register of Negotiable Securities referred to in clause (8) of Regulation 6 hereof.”

(c) By revoking clause (12) thereof, and substituting the following clause :—

“(12) Upon making any examination of a trust account under clauses (4) and (5) of this regulation the auditor shall—

“(a) Certify under his hand and return to the solicitor the statement delivered to him by the solicitor pursuant to clause (3) of Regulation 6 hereof :

“(b) Certify under his hand in the Register of Negotiable Securities referred to in clause (8) of Regulation 6 hereof that he has examined such of the securities listed in that Register as have not prior to the time of his examination passed out of the solicitor's possession and control.”

7. Regulation 6 of the principal regulations is amended—

(a) By revoking clause (3) thereof, and substituting the following clauses :—

“(3) Every solicitor shall, on notification to him by the auditor of the last day of any period to which any examination proposed or entered upon by the auditor relates, prepare, certify, and sign a statement setting forth in detail the following particulars, namely :—

“(a) All moneys held on that day by the solicitor in his own name for or in trust for any other person :

“(b) The names of the banking accounts in which such moneys have been lodged, with the balances on that day of such banking accounts, and, in cases where the bank balances are not in agreement with the cash-book balances of the solicitor, a statement reconciling such balances :

“(c) All securities and documents of title held on that day by the solicitor in his own name for or in trust for any other person.

“(3A) Every solicitor shall on demand produce to the auditor making any examination of his trust accounts—

“(a) The signed copy of the report of the last preceding audit relating to such trust accounts :

“(b) The statement prepared pursuant to clause (3) of this regulation and relating to the last day of the period of such examination :

“(c) The last preceding statement prepared pursuant to clause (3) of this regulation :

“(d) The Register of Negotiable Securities referred to in clause (8) of this regulation.”

(b) By adding to clause (5) thereof the following additional words:—

“ Provided that in this clause the term ‘ banking accounts ’ shall include any account in the Post Office Savings-bank or any savings-bank established under the Savings-banks Act, 1908.”

(c) By revoking clause (6) thereof, and substituting the following clauses:—

“(6) Within the first fourteen days of each month except January and within the first twenty-one days in January every solicitor shall forward to the auditor a list certified by the solicitor, or, in the case of a firm, by one of the members of such firm, of the balances appearing in the trust accounts of every client and of the amount of moneys (if any) of himself or his firm in each trust banking account of himself or his firm respectively as at the end of the last preceding month, and shall also supply a copy of the reconciliation statement referred to in clause (7) of this regulation.

“(6A) The balance appearing in the trust account of any client shall not for the purposes of the list referred to in clause (6) of this regulation or for any purpose of audit be deemed to be reduced by any sum applied for or towards payment of the costs of the solicitor or credited to the solicitor as undrawn costs (except sums representing commission properly chargeable on the collection of moneys) unless—

“(a) A bill of costs has been rendered in respect thereof dated as on the date rendered, and a copy of such bill is produced if requested for the inspection of the auditor; or

“(b) An authority in writing in that behalf signed by the client specifying the sum to be so applied and the particular purpose to which it is to be applied and dated not later than the date of application or credit in the solicitor’s books of account of the money to which it relates is produced for the inspection of the auditor.”

(d) By adding thereto the following additional clauses:—

“(9) Every solicitor shall keep a register, to be known as the Register of Negotiable Securities, in which shall be entered in respect of all bearer debentures deposit receipts and other negotiable securities (hereinafter collectively referred to as ‘ negotiable securities ’ or ‘ securities ’) held by the solicitor for or in trust for any other person (exclusive of such negotiable instruments as are received for immediate collection and conversion into money and are the subject of a trust account receipt and are entered on receipt thereof in a trust account cash-book) the following particulars, namely:—

“(a) Date of receipt of security by the solicitor:

“(b) Description of security, including principal sum purporting to be secured:

“(c) Name of person on whose behalf the security is held:

“(d) Name of person, if any, in whose favour the security is expressed to be made:

“(e) Date when security is delivered out of the solicitor’s possession and control :

“(f) Short narration of disposal of security on leaving the solicitor’s possession and control.

“(10) The entries referred to in items (a) to (d) of the last preceding clause shall be made forthwith upon the receipt by the solicitor of any negotiable security, and the entries referred to in items (e) and (f) of the last preceding clause shall be made forthwith upon the delivery of any negotiable security out of the solicitor’s possession and control.

“(11) Every solicitor shall retain every volume of his Register of Negotiable Securities for at least two years after the date of the last entry made therein.”

8. Regulation 8 of the principal regulations is amended—

(a) By inserting in clause (2) thereof, after the words “partners of the same firm”, the following additional words: “or a solicitor and any one or more persons in his employ, or one or more solicitors partners of the same firm, and any one or more persons in the employ of the firm or of a member thereof”:

(b) By inserting in clause (3) thereof, after the words “any person who is not his partner”, the words “or in his employ”:

(c) By inserting in clause (3) thereof, after the words “any of whom is not his partner”, the words “or in the employ of the partnership or of any member thereof”:

9. Regulation 10 of the principal regulations is amended by adding thereto the following additional clause:—

“(5) Every auditor shall at all times during the existence of his engagement to audit a trust account of any solicitor be the agent of that solicitor to obtain from the bank at which the banking account of the moneys belonging to that trust account is kept all cheques drawn upon such banking account and to give to the bank sufficient receipts and acknowledgments for cheques so obtained, and a certificate under the hand of the secretary of the District Law Society shall be sufficient evidence to a bank and the manager thereof of the existence and continuance of any such engagement as aforesaid.”

10. The Schedule to the principal regulations is amended by revoking the clause numbered 4 thereof, and substituting the following clause:—

“4. That I was not at any time during which I was conducting the audit referred to in the said annexed report nor at any time within one year of my engagement by the said solicitor(s) to conduct the said audit a clerk servant or partner of the said solicitor(s) and that I was not at any time during which I was conducting the said audit a clerk or servant of any other practising solicitor or myself a practising solicitor and that neither I nor any member of my firm or staff was at any time during which I was conducting the said audit engaged or concerned in keeping the books of the said solicitor(s) [otherwise than in the completion of the closing entries at the end of a financial year or the preparation of the profit and loss account balance sheet or returns for taxation].”

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

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