

SRA Amendments to Regulatory Arrangements (Accountants' Reports) Rules [2014]

Preamble

Rules dated [date of approval by LSB] made by the Solicitors Regulation Authority Board under sections 28, 31, 32, 79 and 80 of the Solicitors Act 1974, section 9 of the Administration of Justice Act 1985 and section 83 of, and Schedule 11 to, the Legal Services Act 2007, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.

Rule 1

The SRA Accounts Rules 2011 shall be amended as follows:

(a) replace rule 32 (Delivery of accountants' reports) with:

"32.1 Subject to rule 32.1A, if *you* have, at any time during an *accounting period*, held or received *client money*, or operated a *client's* own account as signatory, *you* must:-

(a) obtain an accountant's report for that *accounting period* within six months of the end of the *accounting period*; and

(b) if the report has been qualified, deliver it to the SRA within six months of the end of the *accounting period*.

This duty extends to the *directors* of a *company*, or the members of an *LLP*, which is subject to this rule.

32.1A Subject to rule 32.2, *you* are not required to obtain or deliver an accountant's report if all of the *client money* held or received during an *accounting period* is money held or received from the Legal Aid Agency or in the circumstances set out in rule 19.3

32.2 The *SRA* may require the delivery of an accountant's report in circumstances other than those set out in rules 32.1 and in the circumstances set out in rule 32.1A if the *SRA* has reason to believe that it is in the public interest to do so.";

(b) the guidance notes to rule 32 shall be amended as follows:

- (i) insert a new guidance note (i) to rule 32 as follows and renumber guidance notes (i) to (iii) accordingly:
 - “(i) A qualified accountant's report is a report prepared in accordance with rule 32.1(a) which the reporting accountant has found necessary to qualify. The form of the report is dealt with in rule 44. The circumstances in which the accountant will be required to qualify his or her report are set out in the form at Appendix 5 to these rules.”;
 - (ii) delete guidance note (iv);
 - (iii) in guidance note (vi) replace “deliver an accountant’s report” with “obtain the accountant’s report and to deliver any such report to the *SRA* if it is qualified”; and
 - (iv) in guidance note (xi) to rule 32, replace “deliver” with “obtain” and replace “Information Directorate” with “*SRA*”;
- (c) in guidance note (i) to rule 33.5, delete “In the case of persons joining or leaving a continuing partnership, any accountant's report for the firm as a whole will show the names and dates of the principals joining or leaving.”;
 - (d) in guidance note (i) to rule 34.5, replace “disclose” with “confirm that” and replace “in the report” with “do not affect his or her independence in preparing the report”;
 - (e) in rule 44.1, replace “section 4” with “section 2”;
 - (f) replace guidance notes (i) to (vii) to rule 44 as follows:
 - “Guidance notes
 - (i) The current form of accountant's report appears at Appendix 5. The report confirms if the accountant has found it necessary to qualify the report. If so, the report must be delivered to the *SRA* - see rule 32.1(b) and guidance note (i) to that rule.
 - (ii) Separate reports can be obtained for each principal in a partnership but most firms choose to obtain one report in the name of all the principals. In either case, the report must be delivered to the *SRA* if it is qualified - see rule 32.1(b) and guidance note (i).

For assistant solicitors, consultants and other employees, see rule 32, guidance notes (vii) and (viii).

- (iii) An incorporated practice will obtain only one report, on behalf of the company and its directors, or on behalf of the LLP and its members - see rule 32.1. The report must be delivered to the SRA if it is qualified - see rule 32.1(b) and guidance note (i) to that rule.
- (iv) Although it may be agreed that the accountant send any qualified reports direct to the SRA, the responsibility for delivery is that of the firm. The form of report requires the accountant to confirm that a copy of the report (whether qualified or unqualified) has been sent to the COFA on behalf of the firm to which it relates. The COFA should ensure that the report is seen by each of the managers of the firm.
- (v) A reporting accountant is not required to report on trivial breaches due to clerical errors or mistakes in book-keeping, provided that they have been rectified on discovery and the accountant is satisfied that no client suffered any loss as a result.
- (vi) In many practices, clerical and book-keeping errors will arise. In the majority of cases these may be classified by the reporting accountant as trivial breaches. However, a "trivial breach" cannot be precisely defined. The amount involved, the nature of the breach, whether the breach is deliberate or accidental, how often the same breach has occurred, and the time outstanding before correction (especially the replacement of any shortage) are all factors which should be considered by the accountant before deciding whether a breach is trivial.
- (vii) For direct reporting by the accountant to the SRA in cases of concern, see rule 35 and guidance note (i) to that rule.

(g) in guidance note (i) to rule 46, replace "Information Directorate" with "SRA" and replace "deliver" with "obtain"; and

(h) replace appendix 5 (Accountant's report form) with the Accountant's report form annexed to these rules.

Rule 2

The SRA Practising Regulations 2011 shall be amended as

follows: (a) in regulation 3(c), after “to” insert “obtain or”; and

(b) in guidance note (iii)(f) to regulation 4.7, replace “submission” with “obtaining or delivery” and after “report” insert “(in accordance with rule 32 of the SRA Accounts Rules 2011).”

Rule 3

The SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies 2011 shall be amended as follows:

In guidance note (iii)(f) to Rule 8, replace “submission” with “obtaining or delivery” and after “report” insert “(in accordance with rule 32 of the SRA Accounts Rules 2011)”.

Rule 4

These rules shall come into force on 31 October 2014 or the date of approval by the Legal Services Board, whichever is the later.