



STATUTORY INSTRUMENTS.

S.I. No. 199 of 2012



PROPERTY SERVICES (REGULATION) ACT 2011 (CLIENT MONEYS)
REGULATIONS 2012

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The Property Services Regulatory Authority in exercise of the powers conferred on it by section 46 of the Property Services (Regulation) Act 2011 (No. 40 of 2011), hereby makes the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Property Services (Regulation) Act 2011 (Client Moneys) Regulations 2012.

(2) These Regulations shall come into operation on the 11th June 2012.

Definitions

2. In these Regulations—

“accountant” means a person who—

- (a) has been admitted as, and is, a member of a prescribed accountancy body,
- (b) is currently practising in the profession of accountancy,
- (c) is not and never has been a principal officer or employee, or an owner or part owner, of the licensee in respect of whom he or she is preparing an accountant’s report, and
- (d) is maintaining such minimum level of professional indemnity insurance as is required by the prescribed accountancy body concerned;

“accountant’s report” has the meaning given to it in Regulation 12(1);

“accounting date” means the last date of the licensee’s accounting period in each year;

“accounting period” means the period of one year ending on the accounting date;

“accounting records” means the books of account and all other documents required to be maintained and kept by a licensee arising from the provision of property services, including loose-leaf books, cards and such other forms of permanent documents of record as are appropriate for the operation of, and the vouching of, an efficient accounting system, whether in written, mechanical, optical, electronic or other format;

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“Iris Oifigiúil” of 15th June, 2012.*

“Act” means the Property Services (Regulation) Act 2011 (No. 40 of 2011);

“annual service charge” means the charge referred to in section 18 of the Multi-Unit Developments Act 2011 (No. 2 of 2011);

“associated firms” means 2 or more licensees having one or more principal officers in common;

“auditor” has the meaning given to it in section 2(1) of the Companies Act 1963 (No. 33 of 1963);

“balancing date” means—

(a) the date expiring 6 months after the commencement of the accounting period in each year, and

(b) the accounting date at the end of the accounting period in each year;

“balancing statement” has the meaning given to it in Regulation 10(5)(a);

“books of account” means that part of a licensee’s accounting records which comprise the books of account required to be maintained by a licensee pursuant to these Regulations;

“client matter” means each separate matter the subject of a property services agreement;

“clients’ ledger account” means that part of the books of account of a licensee which, in respect of each client matter, records the financial transactions between the licensee and his or her client, both on client account and on office account;

“documents” includes books of account, papers, records, vouchers, correspondence and files and shall be construed to include any documents stored, whether in written, mechanical, optical, electronic or other format;

“draft” means a bank draft and includes a transaction conducted electronically that is equivalent to a transaction by means of a draft;

“fees” means fees (including commission but not outlays) charged by a licensee to a client in a statement of fees and outlays furnished to that client and payable to the licensee in respect of property services which have been provided to that client and includes fees represented by moneys actually held by the licensee in the client account to the credit of the client concerned;

“in a timely manner” means within a period not exceeding 3 months after the date on which the licensee concerned has furnished to the client concerned a statement of fees and outlays (or an interim statement of fees and outlays, as the case may be) specifying the amount of the fees payable by the client and in respect of which fees the licensee may properly apply client moneys of the client concerned in satisfaction, in whole or in part, thereof;

“moneys” includes moneys in a currency other than that of the State, cheques, bank notes, postal orders, money orders or any form of negotiable or non-negotiable instrument, including payments by way of electronic payments, moneys deposited or otherwise credited to a bank account or moneys deposited or otherwise credited to a bank or other financial institution outside the State;

“moneys to which a licensee is beneficially entitled” means—

- (a) moneys which fall within Regulation 6(6)(a)(ii),
- (b) moneys which fall within Regulation 6(6)(a)(iii), or
- (c) moneys which are held in client account to the credit of a client matter which the licensee is himself or herself beneficially entitled to share together with one or more clients, to the extent of the amount of the beneficial share of the licensee;

“office account” means a bank account (whether a current or a deposit account) opened and kept by a licensee at a bank in his or her name through which moneys belonging to the licensee are transacted in the course of and arising from the provision of property services, and a reference in these Regulations to office account refers to the totality of office accounts opened and kept by the licensee;

“office balancing statement” has the meaning given to it in Regulation 10(6)(b);

“office side of the clients’ ledger account” means the record of financial transactions between a licensee and his or her client in respect of each client matter arising, other than on client account, in relation to that client;

“outlays” means disbursements made or to be made or expenses incurred or to be incurred by a licensee for and on behalf of a client in respect of the provision to that client of property services;

“prescribed accountancy body” has the meaning given to it in section 4 of the Companies (Auditing and Accounting) Act 2003 (No. 44 of 2003);

“relevant account” has the meaning given to it in section 47(2) of the Act;

“sinking fund” means the fund referred to in section 19 of the Multi-Unit Developments Act 2011;

“statement of fees and outlays” means a formal intimation in writing furnished by a licensee to a client of the amount of fees and, where applicable, outlays payable by the client concerned to the licensee in respect of the provision of property services, and “interim statement of fees and outlays” shall be construed in accordance with Regulation 8(2).

Licensees to whom these Regulations apply

3. (1) Subject to paragraphs (2) and (3), these Regulations shall apply to a licensee who is—

(a) a property services employer, or

(b) an independent contractor.

(2) Regulation 16 shall not apply to a licensee, referred to in paragraph (1), who does not provide a property management service.

(3) If a licensee referred to in paragraph (1) does not provide property services other than property management services, then only Regulations 1 to 4, 12, 13 and 16 shall apply to the licensee.

Keeping of client moneys

4. (1) A licensee, referred to in Regulation 3(1) and who does not fall within Regulation 3(3), shall keep client moneys in a client bank account which is kept in a bank in the State.

(2) A licensee, referred to in Regulation 3(3), shall deposit client moneys in a relevant account nominated by the client.

Opening and keeping of client accounts

5. (1) A licensee shall open and keep a client account and may, if he or she thinks fit, open and keep more than one client account.

(2) A licensee who keeps more than one client account shall keep all such accounts at the same bank unless the Authority otherwise authorises in writing.

(3) A licensee shall at all times keep proper accounting records to show all his or her dealings with, particulars of and information regarding, moneys received or held for, or paid to or on behalf of, each client.

(4) A licensee shall preserve accounting records kept by him or her under these Regulations for not less than 7 years from either the date of the last entry therein or the date of the last dealing with client moneys, whichever is the later.

General duty of licensees regarding client moneys

6. (1) A licensee shall pay moneys, without unnecessary delay, received by him or her for, or on behalf of, a client into client account unless the moneys—

(a) is received in the form of cash and is paid without unnecessary delay in cash to that client, or

(b) is received in the form of a cheque or other negotiable instrument, whether by way of electronic payment or not, which is endorsed over and delivered without unnecessary delay to that client.

(2) Without prejudice to the generality of paragraph (1), a licensee shall not be required to pay into client account such client moneys received by him or her which he or she pays into a separate bank account in the name of the client concerned or, where so instructed by the client in writing, of some other person.

(3) A licensee who receives, holds or controls moneys in respect of outlays not yet disbursed shall, without unnecessary delay, pay such moneys into client account and shall treat such moneys in all respects as client moneys.

(4) Where a licensee receives, holds or controls a cheque or draft which includes both moneys for a client and other moneys, he or she shall pay the cheque or draft in full into client account and withdraw therefrom the money that is not money for a client.

(5) A licensee shall ensure that no payment, other than money for a client, is made into client account except payment as is authorised to be made under paragraph (4) or is necessary in order to open or maintain the account or authorised under Regulation 7(1).

(6) A licensee shall not withdraw money from a client account except—

(a) subject to the amount of moneys withdrawn not exceeding the total of the moneys held for the time being in client account on behalf of the client concerned, in the case of client moneys—

(i) moneys properly required for the payment to the client or (in accordance with the instructions in writing of the client) to another person or persons on behalf of the client,

(ii) moneys properly required for or towards payment of an amount due to the licensee by the client in respect of outlays actually disbursed by the licensee on behalf of that client in the course of the provision of property services to the client,

(iii) moneys properly available to be applied by the licensee in satisfaction (in whole or in part) of fees payable by the client where it has been made clear to such client that the moneys held by the licensee for the client are being or will be applied by the licensee in satisfaction (in whole or in part) of such fees, provided that such moneys shall be transferred in a timely manner from client account to office account, or

(iv) moneys which are transferred into another client account in accordance with the instructions in writing of the client concerned,

(b) moneys which for any reason have been paid into the client account in error or otherwise in contravention of these Regulations, or

(c) as provided for in paragraph (4).

- (7) A licensee shall not withdraw money from a client account unless—
- (a) authorised to do so by virtue of paragraph (6), or
 - (b) authorised in writing to do so by the Authority upon application by the licensee to the Authority.
- (8) A licensee shall ensure that withdrawal from a client account is—
- (a) in the case of a withdrawal under paragraph (6)(a)(i), by—
 - (i) a transfer to a bank account in the name of the client concerned,
 - (ii) a cheque drawn in favour of the client concerned or that client's legal representative, or
 - (iii) a cheque drawn in favour of another person on the instructions in writing of the client concerned,
 - and
 - (b) in the case of a withdrawal under subparagraph (ii) or (iii) of paragraph (6)(a) or under paragraph (6)(b), by—
 - (i) a cheque drawn on client account in favour of the licensee, the proceeds of which are then paid into office account, or
 - (ii) a transfer from client account to office account.
- (9) A licensee shall ensure that money withdrawn from a client account for or towards reimbursement of money paid to the client concerned by the licensee out of his or her own funds does not exceed the amount paid to the licensee in respect of the corresponding transaction on behalf of that client and properly available in the client account for the purposes of such reimbursement.
- (10) Where a licensee withdraws moneys from a client account by means of—
- (a) a cheque drawn on that client account payable to any person (including the client concerned), or
 - (b) a cheque which is made payable to a bank in order to purchase a draft or other negotiable or non-negotiable instrument,

the payee details, to be recorded on the client account cheque and the cheque stub and requisition docket or other document of record in respect thereof maintained and kept by the licensee, includes—

- (i) in the case of subparagraph (a), the name of the payee or other person who is to be credited with such payment, and
- (ii) in the case of subparagraph (b), the name of the person shown as payee on such draft or other negotiable or non-negotiable instrument.

(11) A licensee shall not transfer an amount from the clients' ledger account of one client to the clients' ledger account of another client, other than in circumstances in which it would have been permissible for the licensee, under these Regulations, to have withdrawn, by means of a cheque drawn on the client account in favour of the second client, such amount debited against the first client and then to have paid the proceeds of that cheque into a client account credited to the second client, provided that—

- (a) the licensee shall maintain and keep, in respect of each such transfer, such accounting records and other documents as will enable such transaction to be appropriately vouched, and
- (b) the licensee shall record each such transaction in his or her books of account in the manner provided for in Regulation 10.

(12) Without prejudice to the provisions of paragraphs (1) to (4), it shall be a contravention of these Regulations for a licensee, having received client moneys, to fail without reasonable cause—

- (a) to pay such client moneys into the appropriate client account (or client accounts), and
- (b) to record such receipt in his or her accounting records.

(13) It shall be a contravention of these Regulations for a licensee to—

- (a) allow a debit balance to arise on any clients' ledger account in respect of any of his or her clients, other than a debit balance which is fully offset by a credit balance arising on another clients' ledger account in respect of the same client, and
- (b) discharge personal or office expenditure from client account.

Payment of moneys into client account by licensee

7. (1) Subject to paragraph (2), a licensee may pay into a client account such moneys as are—

- (a) moneys to replace moneys which have been withdrawn from the client account in contravention of Regulation 6(7),
- (b) moneys received by the licensee which include an amount being paid to the licensee by or on behalf of a client on account of outlays actually disbursed by the licensee in the course of the provision of property services to that client,
- (c) a cheque or draft, to which Regulation 6(4) applies, received by a licensee which cannot be apportioned, or
- (d) moneys which represent interest on client moneys, as provided for in Regulation 14.

(2) A licensee shall not hold moneys, to which the licensee is beneficially entitled, in a client account for longer than one month.

(3) It shall be a contravention of these Regulations for a licensee to pay into or hold in a client account moneys other than client moneys and any moneys referred to in paragraphs (1) and (2).

Duty to furnish statement of fees and outlays

8. (1) A licensee, on behalf of a client to whom a property service has been provided, shall as soon as may be furnish to such client a statement of fees and outlays, as provided for in the property services agreement, which specifies the amount of the fees and outlays payable by the client in respect of such property service.

(2) Nothing in paragraph (1) shall prevent a licensee from furnishing to a client an interim statement of fees and outlays for interim fees and outlays for property services already provided, where—

(a) the property service has not been fully completed, and

(b) client moneys held in client account on behalf of the client concerned are client moneys which that client has designated in writing as being in respect of such interim fees and outlays for property services already provided by the licensee.

Office account

9. (1) A licensee shall open and keep an office account and may, if he or she thinks fit, open and keep more than one office account and the licensee may pay into office account any moneys to which the licensee is beneficially entitled.

(2) A licensee shall, without unnecessary delay, pay all moneys received by him or her in respect of fees into client account or office account.

(3) Where a licensee pays moneys received by him or her in respect of fees into client account pursuant to paragraph (2), he or she shall then transfer such moneys in a timely manner after the receipt of the payment, from client account to office account, as provided for in Regulation 6(6)(a)(iii).

(4) A licensee shall, without unnecessary delay, record as a debit on the office side of the relevant clients' ledger account the amount of fees in any statement of fees and outlays furnished to a client.

(5) Subject to paragraph (6), it shall not be permissible under these Regulations for a credit balance to arise on the office side of a clients' ledger account and, where such a credit balance does arise, it shall be a contravention of these Regulations for the licensee concerned to fail, without delay, to correct the position as appropriate in the particular circumstances consequent on an investigation by him or her as to how such credit balance has arisen, including whether such credit balance has arisen as a result of—

- (a) a failure to comply with Regulation 6(3) by lodging moneys in respect of outlays not yet disbursed to office account instead of to client account,
- (b) a failure to comply with paragraph (4) by not recording as a debit on the office side of the relevant clients' ledger account the amount of fees in a statement of fees and outlays furnished to a client and where the subsequent receipt (in whole or in part) of such amount from the client has been recorded as a credit on the office side of that clients' ledger account,
- (c) the payment into office account of moneys received from a client in excess of an amount payable by that client for fees the subject of a statement of fees and outlays, the furnishing of which has been recorded as provided for in paragraph (4), or
- (d) another accounting or posting error.

(6) It shall not be a contravention of these Regulations for a credit balance to arise on the office side of a clients' ledger account where that credit balance is totally offset by a debit balance or balances arising on the office side of one or more other clients' ledger accounts in respect of the same client.

Accounting records to be maintained by licensees

10. (1) A licensee shall in the course of and arising from the provision of property services, maintain as part of his or her accounting records proper books of account and such relevant supporting documents as will enable client moneys handled and dealt with by the licensee to be duly recorded and the entries relevant thereto in the books of account to be appropriately and properly vouched.

(2) Without prejudice to the generality of paragraph (1), a licensee shall maintain books of account—

- (a) which will show the true financial position in relation to the licensee's transactions with client moneys and with other moneys transacted by him or her through client account, as referred to in Regulation 7(1), and
- (b) which shall, in respect of each client, distinguish separately between—
 - (i) client moneys and moneys as specified in subparagraph (a), and
 - (ii) any other moneys received, held, controlled or paid by him or her.

(3) A licensee shall—

- (a) at all times maintain a separate clients' ledger account for each client matter dealt with where client moneys are received, held, controlled or paid by the licensee,

- (b) where applicable, maintain and keep on the relevant client matter file appropriate evidence of outlays disbursed out of moneys withdrawn from client account or disbursed out of moneys withdrawn from office account and recouped out of client moneys withdrawn from client account, and
 - (c) record each of his or her transactions with client moneys and with any other moneys transacted through client account as referred to in paragraph (2)(a), as appropriate, in a clients' ledger, and—
 - (i) in a clients' cash book, or
 - (ii) in a journal, where the particular transaction involves the transfer from one clients' ledger account to another clients' ledger account, which shall include a narrative explaining each such transaction.
- (4) A licensee shall record in books of account each of his or her transactions on office account with moneys, other than client moneys or moneys referred to in paragraph (2)(a), as appropriate, in the following books of account—
- (a) an office cash book (or the office side of a clients' cash book),
 - (b) an office ledger (or the office side of a clients' ledger account),
 - (c) an office ledger control account (to record the totals of all items that have been posted individually to the debit and credit columns of the office ledger), and
 - (d) nominal ledger accounts (to record the totals of all items that have been posted individually other than to the debit and credit columns of the clients' ledger account or the debit and credit columns of the office ledger).
- (5) (a) A licensee shall, as of each balancing date, prepare a statement (in these Regulations referred to as a “balancing statement”) in the specified form comparing and balancing—
- (i) the total of the credit balances due to his or her clients as extracted from the clients' ledger accounts provided that, without prejudice to the generality of Regulation 6(13)(a), the licensee shall not offset debit balances against credit balances other than a debit balance or balances arising on one or more clients' ledger accounts in respect of a client of the licensee which is or are totally offset by a credit balance or balances on one or more other clients' ledger accounts in respect of the same client,
 - (ii) the balance on the clients' ledger control account, and
 - (iii) the balance or balances of each client account opened and kept by the licensee, as appearing from current statements from the

bank or banks in which such client account or accounts is or are so opened and kept, as adjusted for outstanding withdrawals and lodgements.

- (b) Each balancing statement shall be completed not later than 2 months after the balancing date to which it relates.
 - (c) A licensee shall retain a copy of each such balancing statement.
 - (d) The balancing statements in respect of the accounting period in question shall be furnished by the licensee to his or her auditor or accountant and the information therein shall in turn be used by the auditor or accountant to form an opinion to be expressed in their report for the accounting period in question.
- (6) (a) A licensee shall, not later than 2 months after each balancing date, extract a list of all debit and credit balances as of such balancing date arising on the office side of all relevant clients' ledger accounts.
- (b) A licensee shall, not later than 2 months after the accounting date at the end of each accounting period, prepare a statement (in these Regulations referred to as an "office balancing statement") comparing and balancing as of that accounting date—
- (i) the balance on the office ledger control account, and
 - (ii) the total of the debit and credit balances, as extracted from the office side of all relevant clients' ledger accounts.
- (c) The lists of all debit and credit balances prepared pursuant to subparagraph (a) together with the office balancing statement in respect of the accounting period in question shall be furnished by the licensee to his or her auditor or accountant and the information therein shall in turn be provided to the Authority in the specified form.

Minimum accounting records

11. (1) A licensee shall maintain and keep, in connection with the provision of property services, the following minimum accounting records:

- (a) a cash book (or books) that shows (or show) separate cash transactions pertaining to office account and separate cash transactions pertaining to client account;
- (b) an office ledger (or ledgers) and a clients' ledger (or ledgers) so as to distinguish clearly between transactions on office account and transactions on client account, with a separate account in the office ledger and a separate account in the clients' ledger for each client matter dealt with where client moneys are handled;

- (c) a record of bank lodgements of moneys received by the licensee in connection with and arising out of the provision of property services, distinguishing between lodgements made to office account and lodgements made to client account;
- (d) a journal of amounts transferred from one clients' ledger account to another clients' ledger account or to an office ledger account or from an office ledger account to a clients' ledger account, each entry therein to include a narrative explaining the transaction;
- (e) a bank account register, detailing in respect of each office account and each client account, the bank, the branch thereof, the title or name designation of the account, the account number, the opening date, the names of those mandated to withdraw from the account and, where applicable, the date of closure;
- (f) each client matter file, each containing all documents generated in the course of each such matter;
- (g) a copy of each statement of fees and outlays (distinguishing between fees and outlays) furnished by the licensee to his or her clients, which shall be retained by the licensee in a statement of fees and outlays delivered book or on a file dedicated for that purpose;
- (h) a copy of each balancing statement and each office balancing statement;
- (i) a copy of each accountant's report.

(2) A licensee shall retain for at least 7 years each of the accounting records maintained and kept pursuant to paragraph (1).

Verifying compliance with Regulations

12. (1) A licensee shall furnish to the Authority annually a report, in the specified form (in these Regulations referred to as the "accountant's report"), signed by the licensee's auditor or accountant stating that he or she has examined the accounting records of the licensee for the accounting period specified in the report and that the licensee has complied with the provisions of the Property Services (Regulation) Act 2011 and these Regulations—

- (a) in the case of a licensee referred to in Regulation 3(1) and who does not fall within Regulation 3(3), relating to the keeping of accounts and to the opening and keeping of client accounts, and
- (b) in the case of a licensee referred to in Regulation 3(3), relating to the keeping of accounts and the payment of client moneys into relevant accounts.

(2) Where a licensee proposes to change his or her accounting date, such that it would extend the accounting period to a period longer than one year from

the immediately preceding accounting date, the prior consent in writing of the Authority shall be required for such change.

(3) A licensee shall satisfy himself or herself that the person completing the accountant's report is an auditor or accountant within the meaning of these Regulations.

Examination by auditor or accountant

13. (1) For the purpose of preparing an accountant's report, a licensee shall furnish to the auditor or accountant, for the purposes of enabling the auditor or accountant to carry out an examination of the licensee's accounting records—

- (a) particulars of each bank account (whether office account or client account) opened and kept by the licensee in connection with the provision of property services at any time during the accounting period to which the accountant's report will relate, and
- (b) any document or documents requested by the auditor or accountant which the auditor or accountant considers necessary to inspect.

(2) Nothing in this Regulation shall require the auditor or accountant, in the course of his or her preparation of a licensee's accountant's report in respect of an accounting period under review, to extend his or her examination wider than what should be ascertainable from the licensee's accounting records, duly maintained by the licensee in accordance with these Regulations, relating to any client matter produced to the auditor or accountant, supplemented by such information and explanations as the auditor or accountant may obtain from the licensee or from the licensee's bank or banks.

(3) Where, after carrying out an examination, as appropriate, it appears to the auditor or accountant that there is evidence that these Regulations have not been complied with by the licensee concerned, the licensee shall provide the auditor or accountant with all the information and documentation necessary to enable the auditor or accountant to carry out such further examination as he or she considers necessary in order to complete the accountant's report with or without qualification.

(4) Where a licensee has 2 or more places of business—

- (a) the licensee shall ensure that each place of business has the same accounting date, and
- (b) the accountant's report for each accounting period under review that is furnished by the licensee to the Authority shall be prepared by the same auditor or accountant as if each place of business together comprised one place of business.

Payment of interest on client moneys

14. (1) Interest received by a licensee on client moneys, held by the licensee on account for his or her clients generally in an interest-bearing client account,

shall, save as provided in paragraphs (2) and (3), not be considered to be client moneys for the purposes of these Regulations.

(2) A licensee who opens and maintains an interest-bearing client account for client moneys held by the licensee solely for the benefit of a specified client shall treat the amount of interest credited by the bank concerned to such client account as additional client moneys held by the licensee for such client and the amount of such interest so credited shall be held in the client account to the credit of the specific client concerned until such time as it is paid out by the licensee to that client or with the instructions in writing of the client concerned.

(3) Subject to paragraph (4), a licensee who opens and maintains an interest-bearing client account for client moneys held by the licensee for the benefit of more than one client shall, within a period of 3 months or by the next accounting date, whichever is the later, after the date on which an amount of interest has been credited by the bank or banks concerned to such client account, calculate the amount of such interest due to the individual clients concerned and—

- (a) credit to the appropriate clients' ledger account of each individual client concerned the specific amount of such interest due to that client and, thereafter, such specific amount so credited to that client shall be treated by the licensee as additional client moneys held by the licensee for that client, or
- (b) transfer from client account to office account the amount of such interest so credited to the extent that it has not already been paid out of client account by the licensee to an individual client or clients entitled to be paid interest, and the licensee shall designate such amount so transferred as being interest earned on client account.

(4) A licensee shall not be required to account for, or pay, interest on client moneys received by him or her for or on account of the client, to the client where the amount of interest would be less than €50 in respect of any one client matter.

(5) A licensee who has a liability to a client, other than a client referred to in paragraph (2), for interest pursuant to this Regulation shall pay the amount due to the client (whether by one or more separate payments)—

- (a) out of client account up to but not exceeding the amount of interest at that time standing to the credit of the client account, whether or not the amount being paid to the client also includes all or part of other moneys at that time standing to the credit of the client in client account, or
- (b) out of office account.

Obligations of licensee to make good moneys to client account

15. Where any amount of moneys which has for any reason been withdrawn from client account in contravention of Regulation 6(7), the licensee shall pay that amount into client account in accordance with Regulation 7 and the licensee

shall also pay into client account all interest accruing on such amount for the period during which such amount was withdrawn from client account.

Accounting for moneys lodged to relevant account

16. (1) A licensee who receives money in respect of annual service charge (or charges) or sinking fund contribution payable to the management body concerned shall—

- (a) without unnecessary delay, pay it into the relevant account, and
- (b) where the money was received in the form of cash, furnish each such member of the management body with a receipt in writing.

(2) A licensee shall at all times keep such properly written up and maintained accounting records as may be necessary to show all his or her dealings with, particulars of and information regarding, moneys received by him or her for or on behalf of each client.

(3) A licensee may, in the course of and arising from the provision of property management services, open and keep in a bank or banks more than one office account as he or she thinks fit and a licensee may pay into office account any moneys to which a licensee is beneficially entitled.

(4) A licensee shall, without unnecessary delay, pay all moneys received by him or her in respect of fees directly into office account.

(5) A licensee shall, at all times in the course of and arising from the provision of property management services, maintain (as part of his or her accounting records) proper books of account and such relevant supporting documents as will enable client moneys handled and dealt with by the licensee to be duly recorded and the entries relevant thereto in the books of account to be appropriately vouched.

(6) Without prejudice to the generality of paragraph (5), a licensee shall—

- (a) maintain books of account which—
 - (i) will show the true financial position in relation to the licensee's transactions with client moneys, and
 - (ii) shall, in respect of each client, distinguish separately between client moneys and any other moneys received, held or controlled by him or her,
- (b) at all times, in respect of each client, maintain—
 - (i) a separate clients' ledger account,
 - (ii) a separate annual service charge account, and
 - (iii) a sinking fund contributions account,

and

- (c) record each of his or her transactions with client moneys in a journal, where all moneys received from management body members in respect of annual service charges and sinking fund contributions are recorded, such journal record to include a narrative explaining each such entry where necessary.
- (7) (a) A licensee shall furnish a client with a statement of fees and outlays, as provided for in the property services agreement, which specifies the amount of the fees and outlays payable by the client in respect of the property management service provided.
- (b) Nothing in subparagraph (a) shall prevent a licensee from furnishing to a client an interim statement of fees and outlays for interim fees and outlays for property management services already provided, where the property service has not been fully completed.
- (8) A licensee shall maintain and keep, in connection with the provision of property management services, the following minimum accounting records:
- (a) a cash book (or books) that shows (or show) separate cash transactions pertaining to office account and separate cash transactions pertaining to relevant account;
 - (b) an office ledger (or ledgers) and a clients' ledger (or ledgers) so as to distinguish clearly between transactions on office account and transactions on relevant account;
 - (c) a record of bank lodgements of moneys received by the licensee in connection with and arising out of the provision of property management services, distinguishing between lodgements made to office account and lodgements made to relevant account;
 - (d) a bank account register detailing in respect of each office account—
 - (i) the bank and the branch thereof,
 - (ii) the title or name designation of the account,
 - (iii) the account number,
 - (iv) the opening date,
 - (v) the names of those mandated to withdraw from the account, and
 - (vi) where applicable, the date of closure;

- (e) a bank account register detailing in respect of each relevant account—
 - (i) the bank and the branch thereof,
 - (ii) the title or name designation of the account, and
 - (iii) the account number;
 - (f) a copy of each statement of fees and outlays (distinguishing between fees and outlays) furnished by the licensee to his or her clients, which shall be retained by the licensee in a statement of fees and outlays delivered in a book or on a file dedicated for that purpose;
 - (g) a copy of each accountant's report.
- (9) Moneys payable to the relevant account which have been paid in error into an account other than the relevant account shall, as soon as may be after the licensee becomes aware of the error, be made good by the licensee and all interest accruing on such moneys from the date on which the moneys were paid into the account concerned shall also be made good by the licensee.
- (10) (a) A licensee shall preserve accounting records kept by him or her under this Regulation for not less than 7 years from either the date of the last entry therein or the date of the last dealing with client moneys, whichever is the later, except where such records have been transferred to the management body concerned.
- (b) Where accounting records referred to in subparagraph (a) have been transferred to a management body, the licensee shall obtain from the management body a receipt outlining the records so transferred and preserve the receipt for not less than 7 years from the date of the transfer of the records.
- (11) It shall be a contravention of this Regulation for a licensee having received client moneys to fail, without reasonable cause, to—
- (a) pay such client moneys into the relevant account, and
 - (b) record such receipt in his or her accounting records.



GIVEN under the seal of the Property Services Regulatory Authority,
11th June 2012.

THOMAS LYNCH,
Chief Executive , Property Services Regulatory Authority.



11th June 2012.

GERALDINE CLARKE,
Chairperson, Property Services Regulatory Authority.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations contain detailed provisions concerning the protection of client moneys.

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