

ACCOUNTANTS ACT 2010

(No. 7 of 2010)

In exercise of the powers conferred by sections 8 and 14 of the Accountants Act, the Council hereby makes the following Rules -

1. Citation

These Rules may be cited as the Accountants (**Keeping of Trust Money**) Rules 2023.

2. Interpretation

In these rules, unless the context otherwise requires -

“accounting service” means work done or business transacted, in the ordinary course of providing accounting services by a registered practising accountant and includes accounting services provided by a registered person in any category of registration referred to in section 23 of the Act;

“Act” means the Accountants Act 2010;

“trust account” means an account maintained with a licensed financial institute by a person providing accounting services to hold trust money;

“trust record” means a record relating to trust money required to be kept under these rules.

3. Maintenance of trust money

- (1) When trust money is received by an accounting service, such money must be maintained in a trust account.
- (2) Such trust account must be established and money received deposited within 7 days of receipt.

4. Holding, disbursing and accounting for trust money

Accounting services receiving trust money must -

- (a) hold trust money exclusively for the person on whose behalf it is received;
- (b) disburse the trust money only in accordance with a direction given by the person; and
- (c) the trust money must be accounted for in keeping with accountancy standards for auditing adopted under the Code of Ethics and Standards rules.

5. Keeping Trust Records

Accounting Services must keep trust records -

- (a) in accordance with the rules adopted and referred to in rule 4(c);

- (b) in a way that at all times disclose the true position in relation to trust money received for and on behalf of any person;
- (c) in a manner that enable the trust records to be easily and properly investigated or externally investigated ; and
- (d) for seven (7) years from the date of completion of the matter to which they relate.

6. **Intermixing Money**

The trust money must not be mixed with the practitioner's business monies.

7. **Deficiency in trust money**

- (1) The Accounting service commits an offence, if any member of its staff causes a deficiency in any trust account or any ledger in the trust account.
- (2) It is an defence against sub-rule (1), if the practising accountant or registered person has a reasonable excuse, including that the deficiency was caused by an unintended overdraw.
- (3) Where a practising accountant or registered person in the accounting services is found to be responsible for any deficiency in trust money, such person may be dealt with by the Council in accordance with section 35 of the Act, and may be liable to cancellation of his or her registration.

8. **Protection of Trust Money**

Money standing to the credit of a trust account is not -

- (a) available for the payment of debts of the accounting services; and
- (b) liable to be attached or taken in execution for satisfying a judgment against the accounting services.

9. **Independent Special Review**

Trust monies may be subjected to an independent special review, upon the direction of the Disciplinary Board, when a formal complaint is raised by a client of a practitioner.

10. **Special Review Report**

As soon as practicable after the independent special review is done a written report of the review must be submitted to the Disciplinary Board by the person doing the review.

11. **Penalties**

Any accounting services that breach any provision of these rules may be subject in addition to any disciplinary action that may be imposed under section 44(6) of the Act, to an administrative penalty prescribed by the Minister under regulations made under section 54 of the Act.

