

# Trust Accounts General and Controlled Money

## Maintain General Trust Account in WA – Part 9 LPA

If a law practice receives trust money it must deposit it to a trust account unless the trust money falls into one of the specific exclusions as detailed in section 215. The law practice must establish and maintain in accordance with the regulations trust account/s at an Authorised Deposit Taking Institution (“ADI”) in Western Australia.

### General Trust Account - Reg 40

If a law practice opens a new general trust account, the law practice must ensure the account:

- a) Is established in WA with an ADI.
- b) Is maintained in WA.
- c) Includes:
  - i) the name or the trading name of the law practice;
  - ii) the expression “law practice trust account” or “law practice trust a/c”.

### Controlled Money Account – Reg 54

If the account is a Controlled Money Account the account name is to include the following particulars:

- (a) the name of the law practice concerned;
- (b) the expression “controlled money account” or the abbreviation “CMA” or “CMA/c”;
- (c) such particulars as are sufficient to identify the purpose of the account and to distinguish the account from any other account maintained by the law practice.

**The law practice must give the LPB notice within 14 days of the establishment or closure of any trust account.**

### ESTABLISHMENT & CLOSURE - Reg 53, 74 & 76

The written notice should include:

- a) Date trust account closed.
- b) A statutory declaration confirming that the trust account is closed. (Form1)
- c) Bank Statements confirming a nil balance.
- d) A final external examiner’s report/audit certificate.

### Computerised Accounting Systems Reg 35-39

If a law practice maintains trust records by means of a computerised accounting system, it is recommended that users contact their supplier/distributor to ascertain whether their software complies with the Regulations.

The Regulations details requirements in respect of:

- a) compulsory paper copies to be printed;
- b) file maintenance audit trails;
- c) exception reports/audit trails for debit balances;

- d) controls over deletion of ledger accounts;
- e) page numbering and processing requirements;
- f) compulsory input requirements;
- g) backup facility requirements.

### Unpresented & Stale Cheques

Although a cheque does not become stale until it is 15 months old practitioners should be active in clearing unpresented cheques after a much shorter period, potentially after 3 months. If a cheque remains unpresented there may be a problem.

### Stagnant Balances & Unclaimed Money

Unclaimed and unidentified monies may need to be paid to the State Treasury.

### External Examiner’s Report Part 9 Division 4 LPA

Trust records must be externally examined at least once in each financial year. The appointment of the external examiner must be notified to the LPB and the external examiner must provide the LPB a written report of the examination. The report must include an examination of all general trust accounts and accounts where trust money was held (e.g. controlled money accounts, account subject of a power) that have been opened or closed by the law practice during the reporting period.

Where a trust account is closed during the financial year a written report for the part year is required, unless the trust account funds are transferred to a new ADI and there is no change in the ownership or structure of the legal practice. In such instances the report is prepared for the financial year in respect of both the old and the new trust account.

### Final Examination – Section 239

If the law practice ceases to be authorised to receive trust money (including controlled money and trust money subject to a power) or ceases to engage in legal practice, the practice must:

- a) Retain an external examiner to prepare an External Examiner’s Report. The report is required to be lodged with the LPB within 60 days after the end of the period to which the examination relates; and
- b) Lodge a statutory declaration in the prescribed form, being Form 1 of the regulations.

### Contact

If you have any queries, please contact:

Legal Practice Board

Trust Account Inspectors Team

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