

Authorising the receipt of trust money

Provisions required for Legal Profession Uniform Law (WA)

The introduction of the Legal Profession Uniform Law (**Uniform Law**) into Western Australia will require some changes for the local legal profession. One change will be the statutory requirement that each practising certificate issued by the Legal Practice Board (**Board**) must be subject to a condition that states if a practitioner is authorised or is not authorised to receive trust money¹.

The transitional arrangements under the Uniform Law provide that a practising certificate in effect on or before commencement date will carry forward with the same conditions until they are renewed or modified.

The Board is taking the approach that before the Uniform Law comes into force a principal of a law practice operating a trust account will be invited to agree to the imposition of a condition on their practising certificate that the holder 'is authorised to receive trust money' (**Authorising Condition**). The Authorising Condition will then be a condition under the Uniform Law and carry through on renewal of the practising certificate on and from 1 July 2022.

If the Uniform Law does not come into force before 1 July 2022 there will be no 'ill effect' from the imposition of the Authorising Condition as it will serve as express authorisation to receive trust money under section 245 of the *Legal Profession Act 2008*.

Any practitioner who is not a principal of a law practice operating a trust account will not have a condition imposed on their practising certificate until renewal in 2022. Practising certificates granted or renewed on and from 1 July 2022 to practitioners who are not principals of a law practice operating a trust account will be imposed with the condition that the holder 'is not authorised to receive trust money'.

In order to be authorised to receive trust money all practitioners, with the exception of those holding practising certificates imposed with the Authorising Condition, will be required to successfully complete an approved trust account course or demonstrate the requisite skills or experience otherwise obtained from completing an approved trust account course.

The Board has approved the trust account module of the approved practice management course delivered by the College of Law (WA). This course can be completed by either completing the approved practice management course entirely, or by completing the trust account module separately. The College of Law (WA) can be contacted directly in relation to scheduling.

Position

1. A principal of a law practice operating a solicitor's trust account be authorised to receive trust money under the LPA. Subject to that status not changing, a practising certificate issued effective 1 July 2022 will be imposed with the condition that the holder is authorised to receive trust money.
2. A practitioner who becomes a principal of a law practice between 1 July 2021 and 30 June 2022 having completed an approved practice management course, and opens or whose practice operates a trust account, is authorised to receive trust money.

¹ Section 47(2) of the Legal Profession Uniform Law (WA)

3. All other practitioners will be issued with a PC effective 1 July 2022 imposed with the condition that the holder is not authorised to receive trust money, unless they can demonstrate either completion of an approved trust account course or requisite skills and experience.
4. A practitioner becoming a principal of a law practice on and from 1 July 2022 holding a practising certificate imposed with the condition that the holder is not authorised to receive trust money will not be eligible to vary that condition to say 'is authorised' unless the practitioner has completed an approved trust account course or demonstrated the requisite skills or experience otherwise obtained from completing an approved trust account course. The requirement that the practitioner completes an approved trust account course will not necessarily impede the practitioner becoming a principal with a varied PMC condition, limiting only that the law practice will not be able to open a trust account, or if a trust account is already operating the practitioner will not be authorised and that may affect whether the PMC condition is varied.
5. After 30 June 2022, and subject to other policy decisions yet to be finalized by the Board, any practitioner who has not successfully completed the approved practice management course or the approved trust account course within the preceding 2 years will not be authorised to receive trust money.

There may be some practitioners who will not be invited to agree to the Authorising Condition and are currently receiving trust money. These practitioners will be contacted individually in relation to transition to the statutory requirements under the Uniform Law.

A list of [Frequently Asked Questions is available](#), but if you require further information please contact the Board's Legal Officer, Catherine McKinnon, on (08) 6211 3600 or by email at general@lpbwa.com.