



Australian Capital Territory

# Legal Profession Regulation 2007

SL2007-27

made under the

**Legal Profession Act 2006**

**Republication No 13**

**Effective: 14 November 2019**

Republication date: 14 November 2019

Last amendment made by [A2019-42](#)



## Part 6 Trust money and trust accounts

### Division 6.1 Preliminary

#### 29 Application—pt 6

This part has effect for the [Act](#), part 3.1 (Trust money and trust accounts) and applies to a law practice in relation to—

- (a) trust money received by the practice in the ACT, unless the practice has an office in 1 or more other jurisdictions but not in the ACT; and
- (b) trust money received by the practice in another jurisdiction, if the practice has an office in the ACT but in no other jurisdiction; and
- (c) trust money received by the practice in another jurisdiction, if the practice has an office in—
  - (i) the ACT; and
  - (ii) 1 or more other jurisdictions but not in the jurisdiction in which the money was received;

unless the money is dealt with in accordance with the corresponding law of a jurisdiction in which the practice has an office.

#### 30 Definitions—pt 6

In this part:

***BSB number*** (Bank State Branch number) means the number assigned to identify a particular branch of a particular ADI.

***matter description*** means a brief phrase or expression assigned by a law practice to describe a matter.

*matter reference* means a number or other reference assigned by a law practice to identify a matter.

*Note 1* *Deposit record* is defined in the [Act](#), s 210 (1).

*Note 2* *Trust money* is defined in the [Act](#), dict.

### **31**      **Conditions on approval of ADIs—Act, s 250 (2)**

The kinds of conditions that may be imposed on an approval of an ADI under the [Act](#), section 250 (Approval of ADIs for pt 3.1) are conditions that provide for, or conditions that require arrangements to be negotiated and entered into between the ADI and the law society council that provide for, 1 or more of the following:

- (a) the payment of interest to the law society council on the whole or part of deposits in trust accounts;
- (b) the way in which the law society council is told about amounts held in trust accounts;
- (c) the auditing of balances in trust accounts;
- (d) the keeping of any trust accounts or only trust accounts of a particular class (for example, controlled money accounts);
- (e) any matters relevant to paragraphs (a) to (d).

## **Division 6.2      Computerised accounting systems**

### **32**      **Application—div 6.2**

This division applies if a law practice keeps trust records (including records relating to controlled money) by means of a computerised accounting system.

**33 Copies of trust records to be printed**

- (1) The law practice must print a paper copy of trust records as follows:
  - (a) trust account receipts and payments cash books are to be printed monthly as at the end of each named month, unless a copy of the books as at the end of the named month is kept in electronic form that is readable or reportable on demand;
  - (b) reconciliation statements prepared under section 48 (Reconciliation of trust records) are to be printed as at the end of each named month;
  - (c) lists of trust account ledgers and their balances are to be printed monthly as at the end of each named month;
  - (d) lists of controlled money accounts and their balances are to be printed monthly as at the end of each named month;
  - (e) trust ledger accounts, the register of controlled money and the trust account transfer journal are to be printed before they are archived or deleted from the system;
  - (f) trust ledger account and controlled money account details are to be printed on request by and provided to an investigator.
- (2) The trust records printed monthly as at the end of a named month under subsection (1) (a) to (d) must be printed not later than 15 working days after the named month.
- (3) The paper copies printed under subsection (1) are to be kept by the law practice, except if they are printed on request under that subsection.
- (4) The electronic copy of the trust account receipts and payments cash books under subsection (1) (a) must be kept by the law practice.

**34 Chronological record of information to be made**

- (1) The law practice must keep a record, compiled in chronological sequence, of the creation, amendment or deletion of information in its computerised accounting system in relation to the following:
  - (a) client name;
  - (b) client address;
  - (c) matter reference;
  - (d) matter description;
  - (e) ledger account number or other descriptor.
- (2) The record must be kept by the law practice.

**35 Requirements about computer accounting systems**

- (1) The law practice must ensure that its computerised accounting system is not capable of accepting, in relation to a trust ledger account, the entry of a transaction resulting in a debit balance to the account, unless a contemporaneous record of the transaction is made in a way that enables the production in a permanent form, on demand, of a separate chronological report of all occurrences of that kind.
- (2) The law practice must ensure that the system is not capable of deleting a trust ledger account unless—
  - (a) the balance of the account is zero and all outstanding cheques have been presented; and
  - (b) when the account is deleted, a copy of the account is kept in a permanent form.
- (3) The law practice must ensure that any entry in a record produced in a permanent form appears in chronological sequence.
- (4) The law practice must ensure that each page of each printed record is numbered sequentially or is printed in a way that no page can be extracted.

- (5) The law practice must ensure that its computerised accounting system is not capable of amending the particulars of a transaction already recorded otherwise than by a transaction separately recorded that makes the amendment.
- (6) The law practice must ensure that its computerised accounting system requires input in every field of a data entry screen intended to receive information required by this part to be included in trust records.

**36 Backups**

The law practice must ensure that—

- (a) a backup copy of all records required by this part is made at least once each month; and
- (b) each backup copy is kept by the law practice; and
- (c) a complete set of backup copies is kept in a separate location so that any incident that may adversely affect the records would not also affect the backup copy.

**Division 6.3 General trust accounts**

**37 Establishment of general trust account—Act, s 221 (2)**

- (1) A law practice may at any time establish a general trust account that satisfies the requirements of this section.
- (2) However, a law practice must, as soon as practicable after receiving trust money that is required to be paid into a general trust account, establish a general trust account that satisfies the requirements if the practice does not already have a general trust account that satisfies the requirements.
- (3) A general trust account satisfies the requirements of this section if—
  - (a) the account is established in the ACT, before or after the commencement of this section, with an approved ADI; and

- (b) the account is and must be kept in the ACT; and
  - (c) the name of the account includes—
    - (i) the name of the law practice or the business name under which the law practice engages in legal practice; and
    - (ii) the expression “law practice trust account” or “law practice trust a/c”; and
  - (d) the account is of a kind that is for the time being approved by the law society council.
- (4) Subsection (3) (c) does not apply to an account established in the ACT before the commencement of this section.
- (5) Subsection (3) (c) (ii) does not require the repetition of the words “law practice” if those words form part of the name or business name of the law practice.

### **38      Receipting of trust money**

- (1) This section applies if a law practice receives trust money that is required to be paid into a general trust account.
- (2) After receiving the trust money, the law practice must make out a receipt.
- (3) The receipt must be made out as soon as practicable—
  - (a) after the trust money is received, except as provided by paragraph (b); or
  - (b) in the case of trust money received by direct deposit—after the law practice receives or accesses notice or confirmation (in written or electronic form) of the deposit from the ADI concerned.



- (4) The receipt, containing the required particulars, must be made out in duplicate, whether by way of making a carbon copy or otherwise, unless at the time the receipt is made out those particulars are recorded by computer program in the trust account receipts cash book.
- (5) For subsection (4), the *required particulars* are as follows:
- (a) the date the receipt is made out and, if different, the date of receipt of the money;
  - (b) the amount of money received;
  - (c) the form in which the money was received;
  - (d) the name of the person from whom the money was received;
  - (e) details clearly identifying the name of the client in relation to whom the money was received and the matter description and matter reference;
  - (f) particulars sufficient to identify the purpose for which the money was received;
  - (g) the name of the law practice, or the business name under which the law practice engages in legal practice, and the expression “trust account” or “trust a/c”;
  - (h) the name of the person who made out the receipt;
  - (i) the number of the receipt.
- (6) The original receipt must be delivered, on request, to the person from whom the trust money was received.
- (7) Receipts must be consecutively numbered and issued in consecutive sequence.
- (8) If a receipt is cancelled or not delivered, the original receipt must be kept.

### **39 Deposit records for trust money**

- (1) This section applies if a law practice receives trust money that is required to be paid into a general trust account and the money is not paid into a general trust account by direct deposit.
- (2) A deposit record must be produced to the approved ADI at the time the deposit is made.
- (3) The following particulars must be recorded on the deposit record:
  - (a) the date of the deposit;
  - (b) the amount of the deposit;
  - (c) whether the deposit consists of cheques, notes or coins (and the amount of each);
  - (d) for each cheque:
    - (i) the name of the drawer of the cheque;
    - (ii) the name and branch (or BSB number) of the ADI on which the cheque is drawn;
    - (iii) the amount of the cheque.
- (4) The deposit record must be made out in duplicate, whether by way of making a carbon copy or otherwise.
- (5) The duplicate deposit record must be kept for each deposit to the general trust account and must be kept in a deposit book or be otherwise securely filed in the order in which the deposits were made.

### **40 Direction for non-deposit of trust money in general trust account—Act, s 222 (4)**

The period for which a written direction mentioned in the [Act](#), section 222 (2) (a) must be kept is 7 years after finalisation of the matter to which the direction relates.

## 41 Payment by cheque

- (1) This section applies to the withdrawal of trust money from a general trust account of a law practice by cheque.
- (2) **A cheque—**
  - (a) must be made payable to or to the order of a stated person or people and not to bearer or cash; and
  - (b) must be crossed “not negotiable”; and
  - (c) **must include—**
    - (i) the name of the law practice or the business name under which the law practice engages in legal practice; and
    - (ii) the expression “law practice trust account” or “law practice trust a/c”.
- (3) **A cheque must be signed—**
  - (a) by an authorised principal of the law practice; **or**
  - (b) if a principal mentioned in paragraph (a) is not available—
    - (i) by an authorised legal practitioner associate; **or**
    - (ii) by an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money; **or**
    - (iii) by 2 or more authorised associates jointly.
- (4) A written record of the required particulars (which may be in the form of a cheque butt) must be kept of each payment made by cheque, whether by way of making a carbon copy or otherwise, unless at the time the cheque is issued those particulars are recorded by computer program in the trust account payments cash book.

- (5) If at the time the cheque is issued the required particulars are recorded by computer program in the trust account payments cash book, a written record must be kept that is sufficient to enable the accuracy of the particulars recorded by the computer program to be verified.
- (6) For subsections (4) and (5), the *required particulars* are as follows:
- (a) the date and number of the cheque;
  - (b) the amount ordered to be paid by the cheque;
  - (c) the name of the person to whom the payment is to be made or, in the case of a cheque made payable to an ADI, the name of the ADI and the name of the person receiving the benefit of the payment;
  - (d) details clearly identifying the name of the person on whose behalf the payment was made and the matter reference;
  - (e) details clearly identifying the ledger account to be debited;
  - (f) particulars sufficient to identify the purpose for which the payment was made.
- (7) Written records relating to payments by cheque (including cheque requisitions) must be kept in the order in which the cheques were issued.
- (8) Subsection (2) (c) does not apply to an account established in the ACT before the commencement of this section.
- (9) Subsection (2) (c) (ii) does not require the repetition of the words “law practice” if those words form part of the name or business name of the law practice.
- (10) In this section:
- associate* means an associate of the law practice.
- authorised* means authorised by the law practice to sign cheques drawn on the general trust account.

**42 Payment by electronic funds transfer**

- (1) This section applies to the withdrawal of trust money from a general trust account of a law practice by electronic funds transfer.
- (2) An electronic funds transfer must be effected by, under the direction of or with the authority of—
  - (a) an authorised principal of the law practice; or
  - (b) if a principal mentioned in paragraph (a) is not available—
    - (i) an authorised legal practitioner associate; or
    - (ii) an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money; or
    - (iii) 2 or more authorised associates jointly.
- (3) A written record of the required particulars must be kept of each payment unless at the time the electronic funds transfer is effected those particulars are recorded by computer program in the trust account payments cash book.
- (4) If at the time the electronic funds transfer is effected the required particulars are recorded by computer program in the trust account payments cash book, a written record must be kept that is sufficient to enable the accuracy of the particulars recorded by the computer program to be verified.
- (5) For subsections (3) and (4), the **required particulars** are as follows:
  - (a) the date and number of the transaction;
  - (b) the amount transferred;
  - (c) the name and number of the account to which the amount was transferred and relevant BSB number;

- (d) the name of the person to whom the payment was made or, in the case of a payment to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment;
  - (e) details clearly identifying the name of the person on whose behalf the payment was made and the matter reference;
  - (f) details clearly identifying the ledger account to be debited;
  - (g) particulars sufficient to identify the purpose for which the payment was made.
- (6) Written records relating to payments by electronic funds transfer (including transfer requisitions) must be kept in the order in which the transfers were effected.
- (7) In this section:

*associate* means an associate of the law practice.

*authorised* means authorised by the law practice to effect, direct or give authority for an electronic funds transfer from the general trust account.

### **43 Recording transactions in trust account cash**

A law practice that keeps a general trust account must keep the following trust account cash books:

- (a) a trust account receipts cash book in accordance with section 44;
- (b) a trust account payments cash book in accordance with section 45.

#### 44 **Trust account receipts cash book**

- (1) The following particulars must be recorded in a law practice's trust account receipts cash book in relation to each receipt of trust money:
  - (a) the date a receipt was made out for the money and, if different, the date of receipt of the money;
  - (b) the receipt number;
  - (c) the amount of money received;
  - (d) the form in which the money was received;
  - (e) the name of the person from whom the money was received;
  - (f) details clearly identifying the name of the client in relation to whom the money was received and the matter description and matter reference;
  - (g) particulars sufficient to identify the purpose for which the money was received;
  - (h) details clearly identifying the ledger account to be credited.
- (2) The date and amount of each deposit in the general trust account must be recorded in the trust account receipts cash book.
- (3) The particulars in relation to receipts must be recorded in the order in which the receipts are made out.
- (4) The particulars in relation to a receipt must be recorded not later than 4 working days after the day the receipt was made out.

##### **Example**

If the receipt is made out on Monday, that day is not counted in working out the day by when the particulars in relation to the receipt must be recorded. To comply with s (4), the particulars in relation to the receipt must be recorded not later than Friday.

*Note* See the [Legislation Act](#), s 151 (Working out periods of time generally).

**45**      **Trust account payments cash book**

- (1) The following particulars must be recorded in a law practice's trust account payments cash book in relation to each payment of trust money by cheque:
  - (a) the date and number of the cheque;
  - (b) the amount ordered to be paid by the cheque;
  - (c) the name of the person to whom the payment is to be made or, in the case of a cheque made payable to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment;
  - (d) details clearly identifying the name of the person on whose behalf the payment was made and the matter reference;
  - (e) details clearly identifying the ledger account to be debited;
  - (f) particulars sufficient to identify the purpose for which the payment was made.
  
- (2) The following particulars must be recorded in a law practice's trust accounts payments cash book in relation to each payment of trust money by electronic funds transfer:
  - (a) the date and number of the transaction;
  - (b) the amount transferred;
  - (c) the name and number of the account to which the amount was transferred and the relevant BSB number;
  - (d) the name of the person to whom the payment was made or, in the case of a payment to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment;
  - (e) details clearly identifying the name of the person on whose behalf the payment was made and the matter reference;



- (f) details clearly identifying the ledger account to be debited;
  - (g) particulars sufficient to identify the purpose for which the payment was made.
- (3) The particulars in relation to payments must be recorded in the order in which the payments are made.
- (4) The particulars in relation to a payment must be recorded not later than 4 working days after the day the payment was made.

**Example**

If the payment is made on Monday, that day is not counted in working out the day by when the particulars in relation to the receipt must be recorded. To comply with s (4), the particulars in relation to the receipt must be recorded not later than Friday.

*Note* See the [Legislation Act](#), s 151 (Working out periods of time generally).

**46 Recording transactions in trust ledger accounts**

- (1) A law practice that keeps a general trust account must keep a trust account ledger containing separate trust ledger accounts in relation to each client of the practice in each matter for which trust money has been received by the practice.
- (2) The following particulars must be recorded in the title of a trust ledger account:
- (a) the name of the person for or on behalf of whom the trust money was paid;
  - (b) the person's address;
  - (c) particulars sufficient to identify the matter in relation to which the trust money was received.
- (3) Details of any changes in the title of a trust ledger account must be recorded.

- (4) The following particulars must be recorded in the trust ledger account in relation to each receipt of trust money for the matter:
- (a) the date a receipt was made out for the money and, if different, the date of receipt of the money;
  - (b) the receipt number;
  - (c) the amount of money received;
  - (d) the name of the person from whom the money was received;
  - (e) particulars sufficient to identify the purpose for which the money was received.
- (5) The following particulars must be recorded in the trust ledger account in relation to each payment of trust money by cheque:
- (a) the date and number of the cheque;
  - (b) the amount ordered to be paid by the cheque;
  - (c) the name of the person to whom the payment is to be made or, in the case of a cheque made payable to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment;
  - (d) particulars sufficient to identify the purpose for which the payment was made.
- (6) The following particulars must be recorded in the trust ledger account in relation to each payment of trust money by electronic funds transfer:
- (a) the date and number of the transaction;
  - (b) the amount transferred;
  - (c) the name and number of the account to which the amount was transferred and the relevant BSB number;

- (d) the name of the person to whom the payment was made or, in the case of a payment to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment;
  - (e) particulars sufficient to identify the purpose for which the payment was made.
- (7) The following particulars must be recorded in the trust ledger account in relation to each transfer of trust money effected by a journal entry:
- (a) the date of the transfer;
  - (b) the amount transferred;
  - (c) the journal reference number;
  - (d) the name of the other trust ledger account from which or to which the money was transferred;
  - (e) particulars sufficient to identify the purpose for which the payment was made.
- (8) Transactions relating to trust money must be recorded in the trust ledger account in the order in which the transactions occur.
- (9) The particulars in relation to a receipt, payment or transfer of trust money must be recorded not later than 4 working days after the day the receipt was made out, the payment was made or the transfer was effected, as the case requires.

**Example**

If the receipt is made out on Monday, that day is not counted in working out the day by when the particulars in relation to the receipt must be recorded. To comply with s (4), the particulars in relation to the receipt must be recorded not later than Friday.

*Note* See the [Legislation Act](#), s 151 (Working out periods of time generally).

- (10) The trust ledger account balance must be recorded in the trust ledger account after each receipt, payment or transfer of trust money.

**47**      **Journal transfers**

- (1) Trust money may be transferred by journal entry from 1 trust ledger account in a law practice's trust ledger to another trust ledger account in the trust ledger, but only if—
  - (a) the law practice is entitled to withdraw the money and pay it to the other trust ledger account; and
  - (b) subsection (2) is complied with.
- (2) **The transfer must be authorised in writing—**
  - (a) by an authorised principal of the law practice; or
  - (b) if a principal mentioned in paragraph (a) is not available—
    - (i) by an authorised legal practitioner associate; or
    - (ii) by an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money; or
    - (iii) by 2 or more authorised associates jointly; or
  - (c) by an external intervener for the practice.
- (3) A law practice must keep a trust account transfer journal if it transfers trust money by journal entry.
- (4) The following particulars must be recorded in the trust account transfer journal in relation to each transfer of trust money by journal entry:
  - (a) the date of the transfer;
  - (b) the trust ledger account from which the money is transferred (including its identifying reference);
  - (c) the trust ledger account to which the money is transferred (including its identifying reference);

- (d) the amount transferred;
  - (e) particulars sufficient to identify the purpose for which the transfer is made, the matter reference and a short description of the matter.
- (5) Journal pages or entries must be consecutively numbered.
- (6) A law practice must keep particulars of the authorisation for each transfer of trust money by journal entry, whether in the trust account transfer journal or in some other way.
- (7) In this section:

*associate* means an associate of the law practice.

*authorised* means authorised by the law practice or an external intervener for the practice to effect, direct or give authority for the transfer of trust money by journal entry from 1 trust ledger account in the practice's trust ledger to another trust ledger account in the trust ledger.

*external intervener*—see the [Act](#), section 473 (1).

#### 48 **Reconciliation of trust records**

- (1) A law practice that keeps 1 or more general trust accounts must reconcile the trust records relating to each account.
- (2) **The trust records relating to a general trust account must be reconciled as at the end of each named month by preparing—**
- (a) a statement—
    - (i) reconciling the general trust account balance as shown in ADI records with the balance of the practice's trust account cash books; and
    - (ii) showing the date the statement was prepared; and

- (b) a statement—
  - (i) reconciling the balance of the trust ledger accounts with the balance of the practice's trust account cash books; and
  - (ii) containing a list of the practice's trust ledger accounts showing the name, identifying reference and balance of each and a short description of the matter to which each relates; and
  - (iii) showing the date the statement was prepared.
- (3) The statements must be prepared no later than 15 working days after the end of the month to which the statements relate.
- (4) The statements must be kept by the law practice.

**49 Trust ledger account in name of law practice or legal practitioner associate**

- (1) A law practice must not keep a trust ledger account in the name of the practice or a legal practitioner associate of the practice except as authorised by this section.
- (2) A law practice may keep in its trust ledger—
  - (a) a trust ledger account in the practice's name, but only for the purpose of aggregating in the account, by transfer from other accounts in the trust ledger, money properly due to the practice for legal costs; and
  - (b) a trust ledger account in a legal practitioner associate's name, but only in relation to money in which the associate has a personal and beneficial interest as a vendor, purchaser, lessor or lessee or in another similar capacity.
- (3) In a case to which subsection (2) (a) applies, the law practice must ensure that the money in the trust ledger account is withdrawn from the general trust account not later than 1 month after the day on which the money was transferred to the trust ledger account.

- (4) In a case to which subsection (2) (b) applies, the law practice must ensure that the money in the trust ledger account is withdrawn from the general trust account at the conclusion of the matter to which the money relates.

**50 Notification requirements for general trust accounts**

- (1) Not later than 14 days after establishing a general trust account, a law practice must give the law society council written notice of the establishment of the account.
- (2) A law practice—
- (a) either before, or not later than 14 days after, authorising or ending the authority of an associate of the practice or an Australian legal practitioner—
- (i) to sign cheques drawn on a general trust account of the practice; or
- (ii) otherwise to effect, direct or give authority for the withdrawal of money from a general trust account of the practice;

**must give the law society council written notice of the authorisation or ending of authorisation** (including the name and address of the associate or practitioner and indicating, in the case of an associate, whether the associate is an employee of the practice); and

- (b) **during July of each year**, must give the law society council written notice of the associates and Australian legal practitioners (including their names and addresses) who are authorised, as at 1 July of that year:
  - (i) to sign cheques drawn on a general trust account of the practice; or
  - (ii) otherwise to effect, direct or give authority for the withdrawal of money from a general trust account of the practice.
- (3) **Not later than 14 days after the closure of a general trust account kept by it, a law practice must give the law society council written notice of the closure.**
- (4) A notice under this section given by a law practice must include particulars sufficient to identify the general trust accounts of the practice.
- (5) In this section—

*law practice* includes a former law practice and the people who were principals of a law practice immediately before the law practice stopped existing as a law practice or engaging in legal practice in the ACT.

## **Division 6.4                      Controlled money**

### **51                      Maintenance of controlled money accounts—Act, s 224 (4)**

- (1) A controlled money account must be kept under an account name that includes 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) other particulars sufficient to identify the purpose of the account and to distinguish the account from any other account kept by the law practice.
- (2) This section does not apply to an account established in the ACT before the commencement of this section.

## 52 Receipt of controlled money

- (1) This section applies if a law practice receives controlled money.
- (2) The law practice must operate a single controlled money receipt system for the receipt of controlled money for all its controlled money accounts.
- (3) After receiving controlled money, the law practice must make out a receipt.
- (4) The receipt must be made out as soon as practicable—
  - (a) after the controlled money is received except as provided by paragraph (b); or
  - (b) in the case of controlled money received by direct deposit—after the law practice receives or accesses notice or confirmation (in written or electronic form) of the deposit from the ADI concerned.
- (5) The receipt, containing the required particulars, must be made out in duplicate, whether by way of making a carbon copy or otherwise, unless at the time the receipt is made out those particulars are recorded by computer program in the register of controlled money.
- (6) For subsection (5), the *required particulars* are as follows:
  - (a) the date the receipt is made out and, if different, the date of receipt of the money;
  - (b) the amount of money received;
  - (c) the form in which the money was received;

- (d) the name of the person from whom the money was received;
  - (e) details clearly identifying the name of the person on whose behalf the money was received and the matter description and matter reference;
  - (f) particulars sufficient to identify the purpose for which the money was received;
  - (g) the name of and other details clearly identifying the controlled money account to be credited, unless the account has not been established by the time the receipt is made out;
  - (h) the name of the law practice, or the business name under which the law practice engages in legal practice, and the expression “controlled money receipt”;
  - (i) the name of the person who made out the receipt;
  - (j) the number of the receipt.
- (7) If the controlled money account to be credited has not been established by the time the receipt is made out, the name of and other details clearly identifying the account when established must be included on the duplicate receipt (if any).
- (8) The original receipt must be given, on request, to the person from whom the controlled money was received.
- (9) Receipts must be consecutively numbered and issued in consecutive sequence.
- (10) If a receipt is cancelled or not delivered, the original receipt must be kept.
- (11) A receipt is not required to be made out for any interest or other income received from the investment of controlled money and credited directly to a controlled money account.

**53 Deposit of controlled money—Act, s 224 (5)**

The period for which a written direction mentioned in the [Act](#), section 224 (1) must be kept is 7 years after finalisation of the matter to which the direction relates.

**54 Withdrawal of controlled money must be authorised**

- (1) A withdrawal of money from a controlled money account of a law practice must be effected by, under the direction of or with the authority of—
  - (a) an authorised principal of the law practice; or
  - (b) if a principal mentioned in paragraph (a) is not available—
    - (i) an authorised legal practitioner associate; or
    - (ii) an authorised Australian legal practitioner who holds an unrestricted practising certificate authorising the receipt of trust money; or
    - (iii) 2 or more authorised associates jointly.
- (2) A written record of the required particulars must be kept of each withdrawal unless at the time the withdrawal is made those particulars are recorded by computer program.
- (3) If at the time the withdrawal is made the required particulars are recorded by computer program, a written record must be kept that is sufficient to enable the accuracy of the particulars recorded by the computer program to be verified.
- (4) For subsections (2) and (3), the *required particulars* are as follows:
  - (a) the date and number of the transaction;
  - (b) the amount withdrawn;
  - (c) in the case of a transfer made by electronic funds transfer—the name and number of the account to which the amount was transferred and the relevant BSB number;

- (d) the name of the person to whom payment is to be made or, in the case of a payment to an ADI, the name or BSB number of the ADI and the name of the person receiving the benefit of the payment;
  - (e) details clearly identifying the name of the person on whose behalf the payment was made and the matter reference;
  - (f) particulars sufficient to identify the purpose for which the payment was made;
  - (g) the person or people effecting, directing or authorising the withdrawal.
- (5) The particulars are to be recorded in the order in which the payments are recorded and are to be recorded separately for each controlled money account.
- (6) In this section:

*associate* means an associate of the law practice.

*authorised* means authorised by the law practice to effect, direct or give authority for a withdrawal of money from the controlled money account.

## **55 Register of controlled money**

- (1) A law practice that receives controlled money must keep a register of controlled money consisting of the records of controlled money movements for the controlled money accounts of the practice.
- (2) A separate record of controlled money movements must be kept for each controlled money account.

- (3) A record of controlled money movements for a controlled money account must record the following information:
- (a) the name of the person on whose behalf the controlled money is held;
  - (b) the person's address;
  - (c) particulars sufficient to identify the matter;
  - (d) any changes to the information referred to in paragraphs (a) to (c).
- (4) The following particulars must be recorded in a record of controlled money movements for a controlled money account:
- (a) the date the controlled money was received;
  - (b) the number of the receipt;
  - (c) the date the money was deposited in the controlled money account;
  - (d) the name of and other details clearly identifying the controlled money account;
  - (e) the amount of controlled money deposited;
  - (f) details of the deposit sufficient to identify the deposit;
  - (g) interest received;
  - (h) details of any payments from the controlled money account, including the particulars required to be recorded under section 54 (4).
- (5) With the exception of interest and other income received in relation to controlled money, particulars of receipts and payments must be entered in the register as soon as practicable after the controlled money is received by the law practice or any payment is made.

- (6) Interest and other income received in relation to controlled money must be entered in the register as soon as practicable after the law practice is notified of its receipt.
- (7) The law practice must keep as part of its trust records all supporting information (including ADI statements and notifications of interest received) relating to controlled money.
- (8) Not later than 15 working days after each named month, the law practice must prepare and keep as a permanent record a statement as at the end of the named month—
  - (a) containing a list of the practice's controlled money accounts showing—
    - (i) the name, number and balance of each account in the register; and
    - (ii) the name of the person on whose behalf the controlled money in each account was held; and
    - (iii) a short description of the matter to which each account relates; and
  - (b) showing the date the statement was prepared.

## **Division 6.5 Transit money**

### **56 Information to be recorded about transit money—Act, s 225**

- (1) This section has effect for the [Act](#), section 225 (Transit money).
- (2) A law practice must, in relation to transit money received by the practice, record and keep brief particulars sufficient to identify the relevant transaction and any purpose for which the money was received.

## Division 6.6 Trust money generally

### 57 Trust account statements

- (1) A law practice must give a trust account statement to each person for whom or on whose behalf trust money (other than transit money) is held or controlled by the law practice or an associate of the practice.
- (2) In the case of trust money in relation to which the law practice is required to keep a trust ledger account, the practice must give a separate statement for each trust ledger account.
- (3) In the case of controlled money in relation to which the law practice is required to keep a record of controlled money movements, the practice must give a separate statement for each record.
- (4) In the case of trust money subject to a power given to the law practice or an associate of the practice in relation to which the practice is required to keep a record of all dealings with the money to which the practice or associate is a party, the practice must give a separate statement for each record.
- (5) A trust account statement is to contain particulars of—
  - (a) all the information required to be kept under this part in relation to the trust money included in the relevant ledger account or record; and
  - (b) the remaining balance (if any) of the money.
- (6) A trust account statement must be given—
  - (a) as soon as practicable after completion of the matter to which the ledger account or record relates; or
  - (b) as soon as practicable after the person for whom or on whose behalf the money is held or controlled makes a reasonable request for the statement during the course of the matter; or
  - (c) except as provided by subsection (7), as soon as practicable after 30 June in each year.

- (7) The law practice is not required to give a trust account statement under subsection (6) (c) in relation to a ledger account or record if at 30 June—
- (a) the ledger account or record has been open for less than 6 months; or
  - (b) the balance of the ledger account or record is zero and no transaction affecting the account has taken place within the previous 12 months; or
  - (c) a trust account statement has been given within the previous 12 months and there has been no subsequent transaction affecting the ledger account or record.
- (8) The law practice must keep a copy of a trust account statement given under this section.

## **58 Trust account statements for sophisticated clients**

- (1) Section 57 does not apply to a sophisticated client to the extent to which the client directs the law practice not to provide trust account statements under that section.
- (2) If the sophisticated client directs the law practice to provide trust account statements on a basis different from that under section 57, the law practice must supply those statements as directed, except to the extent to which the direction is unreasonably onerous.
- (3) The law practice must keep a copy of a trust account statement given under this section.
- (4) In this section:  
*sophisticated client*—see the [Act](#), section 261.



**59 Register of investments—Act, s 221**

- (1) This section applies if trust money mentioned in the [Act](#), section 212 (3) (Money involved in financial services or investments) is invested by a law practice for or on behalf of a client, but this section does not itself give power to make investments.
- (2) The law practice must keep a register of investments of trust money.
- (3) The register must record the following information in relation to each investment:
  - (a) the name in which the investment is held;
  - (b) the name of the person on whose behalf the investment is made;
  - (c) the person’s address;
  - (d) particulars sufficient to identify the investment;
  - (e) the amount invested;
  - (f) the date the investment was made;
  - (g) particulars sufficient to identify the source of the investment, including, for example—
    - (i) a reference to the relevant trust ledger; and
    - (ii) a reference to the written authority to make the investment; and
    - (iii) the number of the cheque for the amount to be invested;
  - (h) details of any documents evidencing the investment;
  - (i) details of any interest received from the investment or credited directly to the investment;
  - (j) details of the repayment of the investment and any interest, on maturity or otherwise.

- (4) This section does not require particulars to be recorded in the register if the particulars are required to be recorded elsewhere by another section.

## **60 Trust money subject to specific powers—Act, s 226**

- (1) This section has effect for the [Act](#), section 226 (Trust money subject to specific powers).
- (2) If a law practice or an associate of the practice is given a power to deal with trust money for or on behalf of another person, the practice must keep—
- (a) a record of all dealings with the money to which the practice or associate is a party; and
  - (b) all supporting information in relation to the dealings;
- in a way that enables the dealings to be clearly understood.
- (3) The record, supporting information and power must be kept by the law practice as part of the practice's trust records.

## **61 Register of powers and estates in relation to trust money**

- (1) A law practice must keep a register of powers and estates in relation to which the law practice or an associate of the practice is acting or entitled to act, alone or jointly with the law practice or 1 or more associates of the practice, in relation to trust money.
- (2) Subsection (1) does not apply if the law practice or associate is also required to act jointly with 1 or more people who are not associates of the practice.
- (3) The register of powers and estates must record—
- (a) the name and address of the donor and date of each power; and
  - (b) the name and date of death of the deceased in relation to each estate of which the law practice or the associate is executor or administrator.

**62      **Withdrawing trust money for legal costs—Act, s 229 (1) (b)****

- (1) This section prescribes, for the [Act](#), section 229 (1) (b) the procedure for the withdrawal of trust money held in a general trust account or controlled money account of a law practice for payment of legal costs owing to the practice by the person for whom the trust money was paid into the account.
- (2) The trust money may be withdrawn as set out in subsection (3) or (4).
- (3) The law practice may withdraw the trust money—
  - (a) if—
    - (i) the money is withdrawn in accordance with a costs agreement that complies with the legislation under which it is made and that authorises the withdrawal; or
    - (ii) the money is withdrawn in accordance with instructions that have been received by the practice and that authorise the withdrawal; or
    - (iii) the money is owed to the practice by way of reimbursement of money already paid by the practice on behalf of the person; and
  - (b) if, before effecting the withdrawal, the practice gives or sends to the person—
    - (i) a request for payment, referring to the proposed withdrawal; or
    - (ii) written notice of the proposed withdrawal and when it will occur.

- (4) **The law practice may withdraw the trust money—**
- (a) if the practice has given the person a bill relating to the money;  
and
  - (b) if—
    - (i) the person has not objected to withdrawal of the money not later than 7 days after being given the bill; or
    - (ii) the person has objected not later than 7 days after being given the bill but has not applied for a review of the legal costs under the [Act](#) not later than 60 days after being given the bill; or
    - (iii) the money otherwise becomes legally payable.
- (5) Instructions mentioned in subsection (3) (a) (ii)—
- (a) if given in writing—must be kept as a permanent record; or
  - (b) if not given in writing—either before, or not later than 5 working days after, the law practice effects the withdrawal, must be confirmed in writing and a copy kept as a permanent record.
- (6) For subsection (3) (a) (iii), money is taken to have been paid by the law practice on behalf of someone if the relevant account of the practice has been debited.

### **63 Keeping of trust records—Act, s 232 (2) (a)**

- (1) This section has effect for the [Act](#), section 232 (Keeping trust records).
- (2) Trust records must be kept for a period of 7 years after—
  - (a) for a trust record mentioned in the [Act](#), section 210 (2), definition of *trust records*, paragraphs (a) to (m)—the only or the last transaction entry in the trust record is made; or
  - (b) for any other trust record—finalisation of the matter to which the trust record relates.

- (3) This section does not apply to a written direction mentioned in the [Act](#), section 222 (2) (a) (Certain trust money to be deposited in general trust account) or section 224 (1) (Controlled money).

#### **64 Keeping other records and information**

- (1) A record kept under section 34 (Chronological record of information to be made) is, so far as it relates to particular information, to be kept by the law practice for a period of 7 years after finalisation of the matter to which the record relates.
- (2) Any other record or information required by this part to be kept by a law practice is to be kept for a period of 7 years after finalisation of the matter to which the record or information relates.
- (3) This section does not apply to records to which section 39 (Deposit records for trust money), section 53 (Deposit of controlled money—Act, s 224 (5)) or section 63 (Keeping of trust records—Act, s 232 (2) (a)) applies.

#### **65 Statements about receipt or holding of trust money**

- (1) The law society council may, by notice given under this section, require a law practice to give the law society council a statement—
- (a) stating whether or not the practice has during a stated period received or held trust money; and
- (b) if it has received or held trust money during the period, stating to which of the following categories the trust money belongs:
- (i) general trust money (other than that mentioned in subparagraphs (ii) to (iv));
- (ii) controlled money;
- (iii) transit money;
- (iv) money subject to a power.

- (2) A notice may be given to apply in relation to 1 or more periods (whether occurring annually or otherwise), and may be withdrawn or amended by a further notice.
- (3) A notice may state the time by which or the period during which the requirement must be complied with.
- (4) A notice is given to—
  - (a) a particular law practice by sending the notice by post to the practice; or
  - (b) a particular class of law practices by publishing the notice in a circular distributed generally to law practices of the class or in a magazine or other publication available generally to law practices of the class.
- (5) A law practice—
  - (a) must comply with a requirement imposed on it under this section and must do so by the time or during the period stated in the notice for compliance; and
  - (b) must not include in the statement any information that is false or misleading in a material particular.

## **Division 6.7 External examinations**

### **66 Appointment of external examiners—Act, s 241 (1)**

- (1) This section applies to a law practice that receives or holds trust money or controlled money in a trust accounting year.
- (2) **The law practice must—**
  - (a) **appoint an external examiner not later than 8 April in the trust accounting year; and**
  - (b) **give the law society council written notice each time it appoints an external examiner.**

- (3) A notice under subsection (2) (b) must be given to the law society council not later than 1 month after the appointment of the external examiner.
- (4) In this section:  
*trust accounting year*—see section 69 (1).

**67 Requirement for external examination—Act, s 241 (3)**

If the only trust money received or held by a law practice during a financial year is transit money, the practice's trust records in relation to the year are not required to be externally examined.

**68 Carrying out examination—Act, s 246**

- (1) An external examination of trust records must be carried out in accordance with this section.
- (2) An external examiner's report on an examination must include the information, and be given in the way, approved by the law society council.

*Note* If a form is approved by the law society council under the [Act](#), s 583 for this provision, the form must be used.

## Division 6.8 Statutory deposits

### 69 Interpretation—div 6.8

- (1) In this division:  
***trust accounting year* means a period of 12 months commencing on 1 April.**
- (2) In this division, a reference to the ***notional amount*** standing to the credit of the general trust account of a law practice on the day immediately before the date fixed for section 71 (1) (Law practice to deposit part of trust money with law society) is a reference to the lowest amount that stood to the credit of the account at any time during the 6 months immediately before that date.
- (3) In this division, a reference to the ***notional amount* standing to the credit of the general trust account of a law practice on the last day of a year** is a reference to the lowest amount that stood to the credit of the account at any time during that year.
- (4) For the period beginning on the date fixed for section 71 (1) and ending on the next 31 March, this division applies as if that period were a year.
- (5) If a law practice keeps more than 1 general trust account in accordance with this division, a reference in this division to the general trust account kept by the law practice is a reference to each general trust account kept by the law practice.



- (6) If a law practice has—
- (a) in the 6 months immediately before the date fixed for section 71 (1); or
  - (b) in any year;
- kept 2 or more general trust accounts, the law practice is taken, for this division, to have kept, during the period for which the practice kept the general trust accounts, only 1 general trust account and the amount that stood, on any day during that period, to the credit of the general trust account that the practice is to be taken to have kept is taken, for this division, to be the total of the amounts that stood to the credit of the bank accounts that were in fact kept by the law practice on that day.
- (7) For this division, the amount standing to the credit of a general trust account on a day is the amount shown by the bank statement in relation to the account as standing to the credit of the account on that day.
- (8) For this division, the amount of any trust money paid into the general trust account kept by a law practice and subsequently paid by the practice into a special trust account in accordance with the instructions of the client from whom, or on whose behalf, the money was received must not be taken into account in working out the lowest amount that stood to the credit of that general trust account at any time.

**70 Statutory interest account—Act, s 253 (2) (a) and (b)**

- (1) The law society must open and keep an account at an ADI in the ACT under the title of the ‘statutory interest account’.
- (2) The law society must deposit in the account—
  - (a) the interest received from money deposited with the society by a law practice under this part; and
  - (b) any other money required by law to be deposited in the account.

- (3) The law society must operate the account for the [Act](#), section 253 (Statutory Deposits) and this division.

## **71 Law practice to deposit part of trust money with law society**

- (1) If the notional amount standing to the credit of the general trust account kept by a law practice on the day immediately before a date fixed by the Attorney-General under subsection (5) is not less than \$3 000, the law practice must deposit, within 1 month after that day, with the law society an amount that is equal to  $\frac{2}{3}$  of that notional amount.

- (2) **If, on the last day of a trust accounting year—**

- (a) the notional amount standing to the credit of the general trust account kept by a law practice is not less than \$3 000; and
- (b) no trust money of the law practice is on deposit with the law society;

**the law practice must deposit, within 3 months after that day, with the law society an amount equal to  $\frac{2}{3}$  of the notional amount referred to in paragraph (a).**

- (3) If, on the last day of a trust accounting year —

- (a) trust money of a law practice is on deposit with the law society; and
- (b) the amount of the money is less than  $\frac{2}{3}$  of the total of the amount of the money and the notional amount standing on that day to the credit of the general trust account kept by the law practice;

the law practice must deposit, within 3 months after that day, with the law society the amount that will bring the amount of the money on deposit with the law society to an amount equal to  $\frac{2}{3}$  of the total mentioned in paragraph (b).

- (4) Subsections (2) and (3) do not apply in relation to a trust accounting year that ends before the day fixed for subsection (1).
- (5) The Attorney-General may fix a day for subsection (1).
- (6) The fixing of a day under subsection (5) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

## 72 Repayment of deposits

- (1) Money on deposit with the law society in a statutory deposit account is repayable on demand to the law practice that deposited the money.
- (2) However, a law practice must not make a demand for repayment of money under subsection (1) unless—
  - (a) the repayment of the money is required to enable necessary payments to be made out of the general trust account of the practice; and
  - (b) the law practice has reasonable grounds for believing that the payment is to be made within 7 days after the day when the demand is made.
- (3) If, on the last day of a trust accounting year—
  - (a) trust money of a law practice is on deposit with the law society; and
  - (b) the amount of the money exceeds  $\frac{2}{3}$  of the total of the amount of the money and the notional amount standing on that day to the credit of the general trust account kept by the law practice;the law practice is entitled to be repaid an amount equal to the amount of the excess.

- (4) If, on the last day of a trust accounting year—
- (a) trust money of a law practice is on deposit with the law society;  
and
  - (b) the total of the amount of the money and the notional amount standing to the credit of the general trust account kept by the law practice on that day is less than \$3 000;

the law practice is entitled to have repaid to the law practice the amount that the law practice has on deposit.

### **73 Obligation to deposit subject to availability of trust funds**

- (1) If—
- (a) a law practice has not, before the end of a period within which the law practice is required to make a deposit under this division, made the deposit; and
  - (b) on the last day of the period, the money standing to the credit of the law practice's general trust account is not sufficient to enable the deposit to be made;

the period is extended until there is standing to the credit of the general trust account of the law practice on a subsequent quarter day in the trust accounting year in which the end of that period happens an amount sufficient to enable the deposit to be made.

- (2) In this section:

***quarter day*** means 30 September, 31 December, 31 March or 30 June.

## **74 Amendment of notional amount by law society**

- (1) If the law society is during a trust accounting year satisfied, on an application made to it by a law practice that is under an obligation to deposit, or has on deposit, with the law society money under this division, that, having regard to the amount of trust money standing, on the day the application is made, to the credit of the general trust account of the practice, it is appropriate that the notional amount standing to the credit of the general trust account of the law practice on the last day of the previous trust accounting year should be reduced, the law society may decide that that notional amount be reduced to an amount stated in the decision.
- (2) If the law society makes a decision mentioned in subsection (1) in relation to a law practice—
  - (a) this division, in its application to the law practice, applies, during the remainder of the trust accounting year in which the decision is made, as if the amount stated in the decision had been the notional amount standing to the credit of the general trust account of the law practice on the last day of the previous trust accounting year; and
  - (b) if, on the day when the decision is made, the law practice has on deposit with the law society money exceeding the amount that the practice would have been required to have on deposit with the law society if the amount stated in the decision had been the notional amount standing to the credit of the general trust account of the practice on the last day of the previous year—the practice is entitled to be repaid an amount equal to the amount of the excess.

**75 Statutory deposit account—Act, s 253 (2) (a) and (b)**

- (1) The law society must open and keep an account at an ADI in the ACT under the title of the ‘statutory deposit account’.
- (2) The law society must deposit in the account—
  - (a) the money deposited with the society by a law practice under this division; and
  - (b) any other money required by law to be deposited in the account.
- (3) The law society must operate the account for the [Act](#), section 253 (Statutory Deposits) and this division.

**76 Arrangements relating to statutory interest account**

- (1) The law society may enter into an arrangement with an ADI in the ACT for payment by the ADI to the law society of amounts in relation to money held in any trust account kept by a law practice at the ADI.
- (2) The law society must credit an amount paid to it under an arrangement under subsection (1) to a statutory interest account.

**77 Use of money in statutory interest account—  
Act, s 253 (2) (c)**

- (1) This section applies if the bar council asks the law society to ask the Attorney-General to consent to the use (the *proposed use*) of money in the statutory interest account for a purpose stated by the bar council.
- (2) The bar council must give the law society reasonable written notice of the request, including details of—
  - (a) the proposed use; and
  - (b) the proposed amount; and
  - (c) the proposed purpose.

- (3) The law society—
  - (a) must tell the Attorney-General about the bar council's request;  
and
  - (b) may tell the Attorney-General its view on the proposed use.
- (4) If the law society tells the Attorney-General its view on the proposed use, it must, at the same time, also tell the bar council.
- (5) The bar council may also tell the Attorney-General its view on the proposed use.
- (6) The law society or the bar association may use money in the statutory interest account in accordance with the Attorney-General's written consent.

## **78 Audit of deposits etc**

- (1) The law society must keep records of each of the following:
  - (a) money deposited with it under this division;
  - (b) interest received by it from the investment of the money;
  - (c) amounts credited to an account under section 76 (2) (Arrangements relating to statutory interest account);
  - (d) payments made by it out of the statutory interest account;
  - (e) the use of money standing to the credit of a statutory interest account.
- (2) The law society must have the records audited annually by a registered company auditor within the meaning of the [Corporations Act](#).
- (3) The law society must give a copy of each audit under this section to the Attorney-General.

## Division 6.9                      Miscellaneous

### 79                      Law practice closing down, closing office or ceasing to receive or hold trust money

- (1) A law practice that holds trust money must give the law society council at least 14 days written notice of its intention—
  - (a) to stop existing as a law practice; or
  - (b) to stop engaging in legal practice in the ACT; or
  - (c) to stop practising in a way that involves receiving trust money.
- (2) Not later than 14 days after the day it stops holding trust money, a law practice that holds trust money must give the law society council—
  - (a) written notice that it has stopped holding trust money; and
  - (b) if the practice has not given a notice under subsection (1) within the previous 28 days, a notice that complies with that subsection.
- (3) A notice under this section must include particulars sufficient to identify—
  - (a) a law practice's general trust accounts and controlled money accounts; and
  - (b) trust money controlled by the practice (or by an associate) under a power; and
  - (c) trust money invested by the practice.
- (4) In this section:  
*law practice* includes a former law practice and the people who were principals of a law practice immediately before the law practice stopped existing as a law practice or engaging in legal practice in the ACT.



**80 Disclosure of accounts used to hold money entrusted to legal practitioners—Act, s 258 (1)**

- (1) A law practice must give the law society council the following details for each account that is kept at an ADI by the law practice in which the money entrusted to the law practice, or a legal practitioner associate of the law practice, is held:
- (a) the name of the ADI and its BSB number;
  - (b) the name and number of the account;
  - (c) the name of each person who is authorised to operate on the account;
  - (d) for each amount of money entrusted to the practice or associate—
    - (i) the name of the person for whom the money is entrusted; and
    - (ii) the purposes for which the money is entrusted; and
    - (iii) the date on which, and the way in which, the money is deposited in the account; and
    - (iv) the date on which, and the way in which, the money is withdrawn from the account.
- (2) The details must be given to the law society council at the times and in the way the law society council requires.

## **81 Exemptions**

The law society council may—

- (a) exempt a law practice from complying with any of the provisions of this part, subject to any conditions that may be imposed by the law society council; and
- (b) at any time, impose a new condition on the exemption, amend or revoke a condition already imposed on the exemption, or revoke the exemption.