

Guidelines for trust account operations

Direct Debit Authority Titles
Registry of Department
of Resources

Trust Guidelines for trust account operations

Direct Debit Authority Titles Registry of Department of Resources

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Background

Pursuant to section 250(1) of the *Legal Profession Act 2007* ("the Act") a Queensland law practice cannot disburse money from a law practice trust account, or controlled money account, by electronic funds transfer unless the law practice has been authorised by the Queensland Law Society ("the Society") to do so.

Direct debit authority payments are a form of electronic funds transfer.

The Titles Registry of the Department of Resources has submitted an application for the Society to authorise all Queensland law practices to make payments to the Department of Resources by direct debit authority payments from law practice trust accounts. In April 2021, the Society issued the first Direct Debit Authorities Titles Registry of Department of Resources Guidelines for trust account operations.

The Department of Resources has a web based electronic lodgement portal for Titles Registry documents, called the Automated Titles System (ATS) Electronic Lodgement portal (eLodgement), which provides a secure platform by which direct debit payments of lodgement fees can be made.

Payments via ATS eLodgement can only be made to the Department of Resources and cannot be made for more than the amount of lodgement that is payable in respect of the matter.

The Society has delegated to the General Manager of the Regulation Department, the power to authorise Queensland law practices to make lodgement payments to the Department of Resources by direct debit authority payments via ATS eLodgement from law practice trust accounts.

1. ATS eLodgement portal

1.1 Registering as a ATS eLodgement user

The law practice, once approved by the Society, gives a direct debit authority to its financial institution that authorises the financial institution to permit the Department of Resources to electronically withdraw money from the law practice's trust bank account.

The law practice enters into an agreement with the Department of Resources when it registers as a user of the ATS eLodgement portal. This allows the Department of Resources to withdraw money from the law practice's trust bank account, if the law practice has given a specific authorisation to the Department of Resources to withdraw the money from the law practice trust bank account.

The specific authorisation is given to the Department of Resources by the law practice via the lodgement function in the ATS eLodgement portal. The Department of Resources cannot withdraw money from the law practice trust bank account unless the Department of Resources has been specifically authorised by the law practice to do so.

1.2 ATS eLodgement Users

The ATS eLodgement portal provides for different user levels:

- 1.2.1 A standard user (creator) who can create, save and submit draft records to another user within the law practice for approval – this type of user cannot authorise payments;
- 1.2.2 A standard user (payer), given admin rights by a super user, who can authorise payments in respect of transactions which have been assessed; and
- 1.2.3 A super user who can do everything a standard user can do and can control which users can authorise payments by adding, deleting and varying the access levels of existing users. This user will be assigned as part of the agreement with the Department of Resources.

The law practice controls which users have authorising access via an admin rights maintenance function – only available to a super user.

Only a solicitor, who is a signatory to the trust bank account, can be given an access level that permits the user to authorise payments – this is controlled by the law practice.

1.3 Protection of user identification information and password

The ATS eLodgement agreement includes a three factor authentication process where, in addition to a username and password, users are required to utilise a SecurID token to navigate department firewalls and which needs to be successfully validated before being presented with the screen to enter username and password credentials.

Note: The SecurID token is charged to law practice as \$110.00 per annum. Please note that this fee may be subject to changes and the fee is current as at the date these Guidelines were published by the Society.

It is imperative that username and password information of admin users, payments authorisers and super users, are kept secure. Under no circumstances should an authorised trust account signatory share these details with another person. Nor is an authorised trust account signatory to store them in a way that another person may easily gain access to them.

2. Authorising Direct Debit payments with Department of Resources

While Section 38(2) of the Regulation permits sole and joint signatories to authorise payments via electronic funds transfer, the ATS eLodgement system has no provision for joint signatories. Therefore, **only an authorised solicitor** i.e. employed solicitor can approve the disbursement of funds from the ATS eLodgement portal.

3. Procedure for preparing documents and authorising payments

3.1 Procedure for preparing documents

A solicitor or representative prepares the Registry documents for a matter.

- 3.1.1 The user will log onto the ATS eLodgement portal and upload the documents as a lodgement
- 3.1.2 The user will enter a unique payment reference number (assigned by the law practice – see Item 4 below) in the 'payment reference field' which will link the documents for each matter together as a bundle for lodgement, pending approval and payments.
- 3.1.3 The ATS eLodgement portal will present the solicitor/representative with a list of lodgements uploaded but not paid. The solicitor/representative will open the lodgement and identify the relevant matters by the document reference.
- 3.1.4 The solicitor/representative will check that the information recorded in respect of each matter is correct and that the transaction number is included in the information on the screen. If not, it is to be added to the 'payment reference field' before the payment is authorised.

3.2 Procedure for authorising payment

If the solicitor is satisfied with the information on the screen is correct and complete, then:

- 3.2.1 The solicitor checks the trust account ledger for the relevant matters to establish whether there are sufficient cleared funds held in the trust account for paying the lodgement fees.
- 3.2.2 If the solicitor is satisfied there are sufficient cleared funds held for that purpose (payment of lodgement fees), the solicitor authorises the payment by confirming the lodgement and entering the necessary credentials to authorise the payment.
- 3.2.3 The solicitor will then be presented with a screen that confirms lodgement has occurred. The message states "Success – Lodgement was confirmed successfully".
- 3.2.4 The solicitor will then need to print the Titles Registry Receipt to accompany the QLS Direct Debit Requisition Form (see Item 6 below), as the trust account records for the payment.

4. Payment reference number

When a lodger is setup for direct debit from a trust account a mandatory, 'payment reference' field must be entered by the law practice. The mandatory field is limited to 15 characters. The value entered in this field will appear on the trust account bank statement. The payment reference number will ensure that the related matters are linked together for subsequent payment processing (i.e. all documents with the same reference number will be taken in one payment e.g. Release, Transfer and Mortgage).

Therefore, the Payment reference number is the 'transaction number' in terms of trust accounting requirements. That is that the Payment reference number is the linkage for the various trust accounting records i.e. trust account bank statement, trust account cashbook, trust account ledger, QLS Direct Debit Requisition Form and the Titles Registry Receipt.

As a law practice is able to have multiple matters in a lodgements or multiple dealings in a matter, the recommendation for the Payment reference number is to utilise a sequential sequence of numbers specific for Department of Resources direct debits for instance Titles01, Titles02, Titles03, etc.

5. Information Recorded on Bank Statement

Direct debit payments made to the Department of Resources via the ATS eLodgement portal will result in the following information being recorded on the law practice's trust account bank statement:

- Date the payment is made;
- The payment reference number (generated and recorded by the law practice in the ATS eLodgement portal); and
- The amount of the payment.

6. Written records

Section 38 of the *Legal Profession Regulation 2017* ("the Regulation") states that in respect of payments by electronic funds transfer the law practice must keep a **written record** of the payment. Direct debit is a form of electronic funds transfer.

The written records in terms of direct debits to the Department of Resources are the QLS Direct Debit Requisition Form and the Titles Registry Receipt generated after the payment is authorised in the ATS eLodgement portal.

The Society has created the QLS Direct Debit Requisition Form – Appendix C, as the Department of Resources records are inadequate for the legislative provisions. Together the two records comply with the requirements of the Act and Regulation.

6.1 QLS Direct Debit Requisition Form

The QLS Direct Debit Requisition Form is the written record for the purposes of direct debit payments to the Department of Resources. The following required particulars of the payment are to be recorded as follows:

- a) The date of the transaction;
- b) The number of the transaction (i.e. the Payment Reference Number allocated by the law practice Titles01, Titles02, etc.);
- c) The amount transferred;
- d) The name and number of the account to which the amount was transferred and relevant BSB number
Note: It is the responsibility of the law practice to obtain the Department of Resources bank account details. This information should be obtainable when the law practice registers as a user with the ATS eLodgement portal.
- e) The name of the person to whom the payment was made (i.e. Department of Resources);
- f) Details clearly identifying the name of the person on whose behalf the payment was made and the matter reference (i.e. client name and matter number);
- g) Details clearly identifying the ledger account to be debited (i.e. matter description);
- h) Particulars sufficient to identify the purpose for which the payment was made (i.e. lodgement fees); and

- i) The name, position and signature of the person who authorised the payment (this must be a sole signatory and be the same person who authorised the payment via the ATS eLodgement portal).

Note: The person authorising the payment must be a sole signatory and be the same person who authorised the payment via the ATS eLodgement portal.

6.2 Titles Registry Receipt

The Titles Registry Receipt can be generated upon lodgement of the dealing. In addition, a receipt is emailed where an email address exists or if no email address the receipt is sent to the reports page in the eLodgement portal.

Titles Registry Receipt Example:

 Queensland Government		TITLES REGISTRY		Tax Invoice / Receipt	
Department of Resources ABN 59 020 847 551		Receipt Number: EL-1-202104			
Received with thanks from: Lodger Code:		Date: 01/04/2021 09:23			
QUEENSLAND LAW SOCIETY GPO BOX 1785 BRISBANE QLD 4001		Office: ELECT LODGEMENT			
GOODS OR SERVICES		PRICE (exc GST)	GST	TOTAL PRICE	
LODGEMENT PAYMENT Your Ref: 20210401QLS	9000100	\$5,149.00	Nil	\$5,149.00	
			Total (excluding GST)	\$5,149.00	
			GST	Nil	
			Total Price	\$5,149.00	
PAYMENT MODE				AMOUNT	
DIRECT DEBIT	TITLES01			\$1,584.00	
DIRECT DEBIT	TITLES02			\$1,204.00	
DIRECT DEBIT	TITLES03			\$427.00	
DIRECT DEBIT	TITLES04			\$1,934.00	
			Tendered	\$5,149.00	

7. Recording payments in Trust Account Records

There are several legislative and regulatory requirements that a law practice must comply with in relation to recording payments in the trust accounting records.

It is worth mentioning that if a law practice is using a computerised accounting system, that when the payment is recorded to the trust ledger account, it will automatically appear in the trust account payments cash book. However, the law practice is still obligated to ensure that, the above information, as per sections 41 and 42 of the Regulation, appear in the relevant trust account records.

Law practice's that continue to prepare, record and retain manual records must ensure that the below information is recorded for each direct debit payment on both the trust account payments cash book and the trust ledger account.

7.1 Cashbook

Section 41(2) of the Regulation states that 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 electronic funds transfer:

- a) The date **and** number of the transaction (i.e. the Payment Reference Number allocated by the law practice Titles01, Titles02, etc.);
- b) The amount transferred/direct debited;
- c) The name and number of the account to which the amount was transferred **and** the relevant BSB number;
Note: The payee account details should be obtainable when the law practice registers with the ATS eLodgement portal. It is the responsibility of the law practice to obtain this information from the Department of Resources.
- d) The name of the person to whom the payment was made (i.e. Department of Resources);
- e) Details clearly identifying the name of the person on whose behalf the payment was made and the matter reference (typically when using a computerised accounting system, this information automatically appears when recording a payment);
- f) Details clearly identifying the ledger account to be debited (again, typically when using a computerised accounting system, this information automatically appears when recording a payment);
- g) Particulars sufficient to identify the purpose for which the payment has been made (i.e. lodgement fees).

7.2 Trust Ledger

Section 42(6) of the Regulation states that the following information **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 (i.e. the Payment Reference Number allocated by the law practice Titles01, Titles02, etc.)
- b) The amount transferred/direct debited;
- c) The name **and** number of the account to which the amount was transferred **and** the relevant BSB number;
Note: The payee account details should be obtainable when the law practice registers with the ATS eLodgement portal. It is the responsibility of the law practice to obtain this information from the Department of Resources.
- d) The name of the person to whom the payment was made (i.e. Department of Resources);
- e) Particulars sufficient to identify the purpose for which the payment has been made (i.e. lodgement fees).

8. Retention of written records

The material to be retained as the **written record** for the Department of Resources direct debit payments is the QLS Direct Debit Requisition Form and the Titles Registry Receipt. These records can either be printed in paper form or kept in a printable format (i.e. PDF).

Written records must be:

- Kept for each payment (as per s38(3) of the Regulation);
- Kept in the order in which the transfers were effected (as per s38(6) of the Regulation); and
- Kept for a period of 7 years of the only or the last transaction entry in the trust record (as per s59 of the Regulation).
Copies of the confirmation of payment record can also be kept on the relevant client files, although not necessary.

This means that a copy of the QLS Direct Debit Requisition Form and the supporting Titles Registry Receipt must be kept by the law practice in order in which the direct debit payments were made.

The Society suggests that the law practice keep either:

- a) A physical folder where copies of the QLS Direct Debit Requisition Form and Titles Registry Receipt can be kept; or
- b) Keep an electronic folder where electronic copies of the QLS Direct Debit Requisition Form and Titles Registry Receipt can be kept, if they can be printed on demand. Electronic copies of written records must also be backed up at least monthly and stored in a separate location (as per s32 of the Regulation).

Document History

Version Number	Amended	Details
1	April 2021	New Guidelines implemented by QLS

Appendix A

Application Letter

[DATE]

PRIVATE & CONFIDENTIAL

General Manager Regulation
Queensland Law Society
GPO Box 1785
BRISBANE QLD 4001

Email: managertai@qls.com.au

Dear Colleague

APPLICATION FOR APPROVAL TO DIRECT DEBIT PAYMENTS TO TITLES REGISTRY OF THE DEPARTMENT OF RESOURCES

[XYZ Law Practice] hereby applies to the General Manager Regulation Department of the Queensland Law Society for approval to make direct debit payments to the Titles Registry of the Department of Resources

The application is made in accordance with the Society's Direct Debit Authorities Titles Registry of Department of Resources Guidelines for Trust Account Operations. This will allow the law practice to make direct debit payments for lodgement fees through the Titles Registry, Automated Titles System (ATS) Electronic Lodgement portal (eLodgement) platform.

I enclose a Certificate, signed by a principal of [XYZ Law Practice], in support of this application.

Yours sincerely

[name of principal]

[XYZ Law Practice]

Appendix B

Certificate in Support of Application for Approval to make Direct Debit Payments to Titles Registry of the Department of Resources

I,, the principal of, (“the law practice”), certify that the Direct Debit Authority Titles Registry of the Department of Resources Guidelines prepared by the Queensland Law Society (“the Guidelines”) have been read and, to the best of my knowledge, are understood by the relevant authorised trust account signatories, relevant staff involved in the management of the trust account and responsible for the preparation of electronic funds transfer payments.

I further certify that, to the best of my knowledge, suitable practices and procedures have been implemented and will be observed by the law practice to comply with the Guidelines.

Details of the trust account signatories and staff of the law practice that have read the Guidelines are set out hereunder:

Full Name	Job Description	Trust Account Signatory
		Y/N

..... Signature

..... Name of principal

..... Date

Appendix C

QLS Direct Debit Requisition Form

Date	
Payment Reference Number (Note 1)	Titles
Amount	\$
Payee account details (Note 2)	Account Name: BSB: Account Number:
Debit trust ledger account or controlled money account (client, matter name and number, if there is a number)	Client: Matter Description: Matter Number:
Reason/purpose for payment	Registration Fees
Name and position of person who authorised payment (Note 3)	
Signature of person who authorised payment	

(Titles Registry Receipt to be attached to QLS Direct Debit Requisition Form)

Note 1: The Payment Reference Number allocated to the Direct Debit (EFT) payment is a unique and sequential number, generated by the law practice to be recorded in the eLodgement system to appear on bank statement and link the trust records – Refer Item 4 of the Guidelines for more information

Note 2: It is the responsibility of the law practice to obtain the Department of Resources bank account details which are to be included in the written record (QLS Direct Debit Requisition form) and in the other trust account records – Refer Item 6 and 7 of the Guidelines for more information

Note 3: The person who authorises the payment must be a **sole signatory** i.e. employed solicitor – Refer to Item 2 of the Guidelines for more information