

**Authorised Version**

**Estate Agents (General, Accounts and Audit)**  
**Regulations 2018**  
**S.R. No. 48/2018**

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## **Authorised Version**

### **STATUTORY RULES 2018**

S.R. No. 48/2018

#### ***Estate Agents Act 1980***

### **Estate Agents (General, Accounts and Audit) Regulations 2018**

The Governor in Council makes the following Regulations:

Dated: 1 May 2018

Responsible Minister:

MARLENE KAIROUZ

Minister for Consumer Affairs, Gaming and Liquor  
Regulation

ANDREW ROBINSON  
Clerk of the Executive Council

## **Part 1—Introductory**

### **1 Objectives**

The objectives of these Regulations are—

- (a) to prescribe the procedures for the keeping and auditing of trust accounts; and
- (b) to prescribe forms; and
- (c) to prescribe other matters to facilitate the operation of the Act.

### **2 Authorising provision**

These Regulations are made under section 99 of the **Estate Agents Act 1980**.

### 3 Commencement

These Regulations come into operation on 20 May 2018.

### 4 Revocation

The following regulations are **revoked**—

- (a) Estate Agents (General, Accounts and Audit) Regulations 2008<sup>1</sup>;
- (b) Estate Agents (General, Accounts and Audit) Amendment (Infringements) Regulations 2011<sup>2</sup>;
- (c) Estate Agents (General, Accounts and Audit) Amendment Regulations 2011<sup>3</sup>;
- (d) Estate Agents (General, Accounts and Audit) Amendment (Penalty and Infringements) Regulations 2014<sup>4</sup>.

### 5 Definitions

In these Regulations—

**AFI** has the same meaning as **authorised financial institution** has in section 4(1) of the Act;

**BSB number** means the Bank State Branch number assigned to identify a particular branch of a particular AFI;

**deficiency** in a trust account or trust ledger account means a shortage in a trust account or trust ledger account that is caused when the whole or any part of an amount that is required to be kept in a trust account or trust ledger account is—

- (a) not paid into that account; or
- (b) withdrawn from that account;

***licensed working director*** means a working director who is also a licensed estate agent;

***permanent form*** means the form for the keeping of accounting records, files and other records set out in section 63(2) of the Act;

***practising accountant*** means a person who—

- (a) is registered as a company auditor by the Australian Securities and Investments Commission; or
- (b) is a Member of CPA Australia or Chartered Accountants Australia and New Zealand; or
- (c) has attained the status of Member or Fellow of either the Institute of Public Accountants or the Association of Taxation and Management Accountants; or
- (d) has attained the status of Fellow of the National Tax & Accountants' Association Limited;

***principal*** means a person who engages the services of an estate agent to undertake estate agency work on that person's behalf;

***the Act*** means the **Estate Agents Act 1980**;

***trust money*** means money received or held by an estate agent while acting as an estate agent (whether by the estate agent or by an employee or agent's representative) on behalf of any person or as a stakeholder or in trust pending the completion of any transaction;

***trust record*** means the following documents—

- (a) register of trust receipts;
- (b) original or duplicate of every trust receipt required to be kept by the Act;

- (c) duplicates of every completed trust account deposit form;
- (d) AFI's statement relating to trust accounts;
- (e) record of trust money payments including cheque butts, records of electronic fund transfers or other permanent records;
- (f) register of trust cheques;
- (g) trust account cash journals;
- (h) trust transfer journals;
- (i) trust ledger accounts;
- (j) monthly trust account reconciliation statements;
- (k) register of securities;
- (l) any other books, accounts or records kept by an estate agent relating to trust money.

## Part 2—Notification obligations and forms

### 6 Notification of ineligibility

- (1) An estate agent must immediately notify the Authority in writing if—
  - (a) the estate agent becomes an insolvent under administration or an externally administered body corporate; or
  - (b) the estate agent becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
  - (c) the estate agent is convicted of, or has found proven against them, any offence involving fraud, dishonesty, drug trafficking or violence which is punishable by imprisonment for 3 months or more; or
  - (d) in relation to the estate agent, any claim has been allowed against the Victorian Property Fund under Part VII of the Act or any corresponding fund established under any corresponding previous enactment; or
  - (e) the estate agent is made the subject of an order by any regulatory body in or outside Victoria disqualifying the estate agent from acting as an estate agent or agent's representative (or an equivalent occupation under the jurisdiction of the regulatory body).

Penalty: 10 penalty units.

- (2) The officer in effective control of the estate agency business of a corporation must immediately notify the Authority in writing if—

Part 2—Notification obligations and forms

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- (a) the corporation becomes an insolvent under administration or an externally administered body corporate; or
- (b) in relation to the corporation, any claim has been allowed against the Victorian Property Fund under Part VII of the Act or any corresponding fund established under any corresponding previous enactment; or
- (c) the corporation is convicted of, or has found proven against it, an offence involving fraud, dishonesty, drug trafficking or violence that, if it was a natural person, would be punishable by imprisonment for 3 months or more; or
- (d) the corporation is made the subject of an order by any regulatory body in or outside Victoria disqualifying the corporation from acting as an estate agent (or an equivalent occupation under the jurisdiction of the regulatory body).

Penalty: 10 penalty units.

- (3) The officer in effective control of the estate agency business of a corporation must immediately notify the Authority in writing upon becoming aware that—
    - (a) a director of that corporation has become an insolvent under administration or an externally administered body corporate; or
    - (b) a director of that corporation has become a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
    - (c) a director of that corporation has been convicted of, or has found proven against the director, any offence involving fraud, dishonesty, drug trafficking or violence
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Part 2—Notification obligations and forms

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- which is punishable by imprisonment for 3 months or more; or
- (d) in relation to a director of that corporation, any claim has been allowed against the Victorian Property Fund under Part VII of the Act or any corresponding fund established under any corresponding previous enactment; or
  - (e) a director of that corporation has been made the subject of an order by any regulatory body in or outside Victoria disqualifying the person from acting as an estate agent (or an equivalent occupation under the jurisdiction of the regulatory body).

Penalty: 5 penalty units.

- (4) An agent's representative must immediately notify the Authority in writing if—
  - (a) the agent's representative becomes an insolvent under administration; or
  - (b) the agent's representative becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
  - (c) the agent's representative is convicted of, or has found proven against them, any offence involving fraud, dishonesty, drug trafficking or violence which is punishable by imprisonment for 3 months or more; or
  - (d) in relation to the agent's representative, any claim has been allowed against the Victorian Property Fund under Part VII of the Act or any corresponding fund established under any corresponding previous enactment; or

- (e) the agent's representative is made the subject of an order by any regulatory body in or outside Victoria disqualifying them from acting as an agent's representative (or an equivalent occupation under the jurisdiction of the regulatory body).

Penalty: 10 penalty units.

#### **7 Statement under section 51(1A) of the Act**

An estate agent or auctioneer who gives a statement under section 51(1A) of the Act must do so in the form of Form 1 in Schedule 1.

Penalty: 5 penalty units.

#### **8 Statement to be given on sale of small business**

- (1) For the purposes of the definition of *small business* in section 4(1) of the Act, a small business is a business the goodwill, plant equipment and fittings of which are sold or offered for sale or authorized to be sold at a total price not exceeding \$450 000.
- (2) For the purposes of section 52(1) of the Act, the prescribed form of a statement with respect to the sale of a small business is the form set out in Form 2 in Schedule 1.
- (3) The Business Operating Report in Section D of Form 2 must—
  - (a) show the required information for the current accounting period; and
  - (b) show the required information for the 2 previous accounting periods, unless the vendor has not owned the business for that long; and
  - (c) be certified in the terms set out in Item 2 of Section D of Form 2 by a practising accountant.

- (4) Subject to subregulation (5), an accounting period for the purposes of subregulation (3) is—
  - (a) a financial year; or
  - (b) a continuous period of 12 months.
- (5) If a particular accounting period was changed for bookkeeping purposes that period may be treated as an accounting period for the purposes of subregulation (3).

## **9 Embargo notice**

For the purposes of section 70O of the Act, the prescribed form of an embargo notice issued by an inspector is the form set out in Form 3 in Schedule 1.

## **Part 3—Trust accounts**

### **Division 1—General trust accounting**

#### **10 Establishment of trust account**

- (1) A trust account established at an AFI under section 59(3) of the Act must include in the name of the account—
  - (a) the name under which the estate agent is licensed to carry on business as an estate agent; and
  - (b) the expression "estate agency business statutory trust account" or "estate agency business statutory trust a/c".
- (2) Subregulation (1) does not apply to an account established in Victoria before 21 May 2008.
- (3) Subregulation (1)(b) does not require the repetition of the words "estate agency business" if those words form part of the name of the estate agency business.

#### **11 Estate agent's use of trust money**

An estate agent who holds trust money and who withdraws from trust money an amount in satisfaction of a claim for commission, fees, costs or disbursements that the agent has against the person on whose behalf the money is held or for the making of any other payment authorised by law must—

- (a) before withdrawing the money, obtain the person's written authority to do so; and
- (b) enter in the trust record details of the transaction and full and accurate particulars of the amount withdrawn.

Penalty: 20 penalty units.

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**12 Estate agent's notification of trust account deficiency**

- (1) An estate agent must notify the agent's auditor and the Director within 3 business days of becoming aware of any deficiency in the agent's—

- (a) trust account; or
- (b) trust ledger account.

Penalty: 10 penalty units.

- (2) The estate agent must include in the notification of the deficiency, details of—

- (a) the date on which the deficiency occurred; and
- (b) the amount; and
- (c) the reason why the deficiency occurred; and
- (d) full particulars of any action taken to restore the deficiency.

Penalty: 5 penalty units.

- (3) Subregulation (1) does not apply if—

- (a) the deficiency was caused solely by an error by an AFI or by inadvertence; and
- (b) the deficiency is rectified within 2 business days of the estate agent becoming aware of the deficiency.

- (4) A notification under subregulation (1) is not admissible as evidence in any proceedings under section 90(1) of the Act.

**13 Register of trust receipts**

- (1) An estate agent who in accordance with section 63 of the Act uses pre-printed trust receipts must keep a register of those receipts which records—

- (a) the number printed on each receipt; and

- (b) the date a batch of receipts is received from the printer; and
- (c) the name of any employee or agent's representative to whom receipts are given; and
- (d) the date receipts are given to an employee or agent's representative; and
- (e) the date receipts are returned by an employee or agent's representative.

Penalty: 5 penalty units.

- (2) For the purposes of subregulation (1), it is sufficient to record the number of the first and last trust account receipts where they are part of a sequence of numbers.

#### **14 Trust receipts**

- (1) An estate agent must ensure that the estate agent's trust receipts are issued in the numerical sequence of the series to which they belong.

Penalty: 5 penalty units.

- (2) An estate agent must record the following particulars on each trust receipt—
  - (a) the name under which the estate agent carries on business as an estate agent;
  - (b) the number of the receipt;
  - (c) the date the receipt is made out and, if different, the date on which the trust money is received;
  - (d) the amount of the money received;
  - (e) the form in which the money was received including in cash or by cheque or by electronic funds transfer or otherwise;

- (f) the name of the person from whom the money was received;
- (g) the name and reference number or other identification of the person on whose behalf the money was received;
- (h) particulars sufficient to identify the purpose for which the money was received;
- (i) the name of the person who made out the receipt.

Penalty: 10 penalty units.

- (3) An electronic record of a payment received by an estate agent must record the particulars set out in subregulation (2)(b) to (i) and must be in the form of an entry in the estate agent's trust account cash receipts journal.

Penalty: 10 penalty units.

- (4) Where an estate agent is required under section 63(3) of the Act to give a receipt for a payment received and the receipt is cancelled or not delivered, the estate agent must retain the original receipt.

Penalty: 5 penalty units.

**Note**

Under section 63(4), estate agents are not required to give receipts for certain payments by cheque or electronic funds transfer where an electronic record of the payment is made as soon as practicable after the payment is received. In these cases, regulation 14(4) does not apply.

**15 Approval of alternative arrangement for duplicate receipts under section 63(3) of the Act**

- (1) This section applies to an estate agent who under section 63(3) of the Act proposes to use a record for the receipt of trust money which does not involve the agent keeping a duplicate copy of the receipt.

- (2) An estate agent must apply in writing to the Director for approval to use an alternative record for the receipt of trust money as set out in the application.
- (3) Within 28 days of receiving an application for approval under subregulation (2), the Director must notify the estate agent in writing whether or not the application is approved, and whether or not the approval, if any, is given with or without variation.
- (4) An approval applies only to the estate agent who applied for and received the approval.
- (5) If the Director becomes dissatisfied with an approved record, the Director may give to the estate agent a written notice—
  - (a) stating that the approval is revoked; or
  - (b) requiring the estate agent to make specified variations to the approved record within 28 days of the notice being given.
- (6) If a notice is given under subregulation (5)(a), the approval ceases 28 days after the notice is given.
- (7) If a notice is given under subregulation (5)(b) and the variations are not made, then the approval ceases 28 days after the notice is given.
- (8) The Director may at any time require an estate agent to obtain and give to the Director a report from the agent's auditor about whether the form of record being used complies with the record approved by the Director and the agent must provide a report if required to do so.

Penalty: 5 penalty units.



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**16 Approval of alternative numbering of receipts under section 63(3B) of the Act**

- (1) This section applies to an estate agent who under section 63(3B) of the Act proposes to use receipts or duplicate copies or other records of those receipts that are not sequentially numbered.
- (2) An estate agent must apply in writing to the Director for approval to use the alternative method of numbering or marking as set out in the application.
- (3) Within 28 days of receiving an application for approval under subregulation (2), the Director must notify the estate agent in writing whether or not the application is approved, and whether or not the approval, if any, is given with or without variation.
- (4) An approval applies only to the estate agent who applied for and received the approval.
- (5) If the Director becomes dissatisfied with an approved method, the Director may give to the estate agent a written notice—
  - (a) stating that the approval is revoked; or
  - (b) requiring the estate agent to make specified variations to the approved method within 28 days of the notice being given.
- (6) If a notice is given under subregulation (5)(a), the approval ceases 28 days after the notice is given.
- (7) If a notice is given under subregulation (5)(b) and the variations are not made, then the approval ceases 28 days after the notice is given.
- (8) The Director may at any time require an estate agent to obtain and give to the Director a report from the agent's auditor about whether the method of numbering receipts being used complies with

the method approved by the Director and the agent must provide a report if required to do so.

Penalty: 5 penalty units.

#### **17 Trust account deposit forms**

- (1) An estate agent who deposits trust money into an AFI, other than a deposit made directly by electronic means, must for each deposit of trust money received, make and give to their AFI a completed trust account deposit form at the time the deposit is made.

Penalty: 5 penalty units.

- (2) For the purposes of subregulation (1), an estate agent making a trust account deposit form must record—
- (a) the date of the deposit; and
  - (b) the name and number of the agent's trust account; and
  - (c) the amount of the deposit; and
  - (d) whether the deposit consists of cheques or cash and the total amount of all cheques and the total amount of cash received; and
  - (e) if the deposit includes cheques—
    - (i) the name of the drawer of the cheque; and
    - (ii) the name and branch (or the BSB number) of the AFI against which the cheque is drawn; and
    - (iii) the amount of the cheque.

Penalty: 10 penalty units.

- (3) An estate agent must make and retain a duplicate copy of each completed trust account deposit form.

Penalty: 10 penalty units.

#### **18 Register of trust cheques**

- (1) An estate agent who makes a payment from a trust account by cheque must keep a register of trust cheques which records—
- (a) the serial number of each cheque; and
  - (b) the date a batch of cheques is received from the AFI; and
  - (c) the name of any employee or agent's representative to whom cheques are given; and
  - (d) the date cheques are given to an employee or agent's representative; and
  - (e) the date cheques are returned by an employee or agent's representative.

Penalty: 5 penalty units.

- (2) For the purposes of subregulation (1), it is sufficient to record the number of the first and last trust cheques where they are part of a sequence of numbers.

#### **19 Record of trust money payments by cheque**

- (1) If an estate agent makes a payment of trust money from a trust account by cheque, the cheque must—
- (a) be machine numbered in sequence; and
  - (b) be marked "not negotiable"; and
  - (c) not be payable to cash; and

- (d) contain the name under which the estate agent conducts business and the words "trust account".

Penalty: 5 penalty units.

- (2) An estate agent must ensure that cheques are drawn in the numerical order of the series in which they belong and that for each cheque a cheque butt or other printed record is kept of the following particulars—
  - (a) the date of the cheque;
  - (b) the serial number of 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 AFI, the name or BSB number of the AFI and the name of the person receiving the benefit of the payment;
  - (d) the name and reference number or other identification of the person on whose behalf the cheque was drawn;
  - (e) details identifying the account in the trust ledger to which the cheque is to be debited;
  - (f) particulars sufficient to identify the purpose for which the cheque was drawn;
  - (g) the amount of the cheque.

Penalty: 10 penalty units.

- (3) It is sufficient compliance with the record-keeping requirements of subregulation (2) if, at the time the cheque is issued, the particulars set out in subregulation (2) are recorded by the computerised accounting system in the trust account cash payments journal.
- (4) An estate agent who makes payment from a trust account must ensure that the cheque is signed by—

- (a) the estate agent who carries on business as an estate agent, or if the estate agent is a corporation, the officer in effective control; or
- (b) if the estate agent or officer in effective control referred to in paragraph (a) is not available, an employee who is a signatory to the trust account of the estate agency business kept at an AFI under section 59(3) of the Act.

Penalty: 10 penalty units.

- (5) An estate agent must ensure that records relating to payments made by cheque are kept in the order in which the cheques were issued.

Penalty: 5 penalty units.

## **20 Record of trust money payments by electronic funds transfer**

- (1) An estate agent must ensure that for each payment of trust money from a trust account by electronic funds transfer, a record is kept in a permanent form of the following particulars—
  - (a) the date of the transfer;
  - (b) the amount transferred;
  - (c) the name of the person to whom the payment is to be made or, in the case of a payment to an AFI, the name or BSB number of the AFI and the name of the person receiving the benefit of the payment;
  - (d) the reference number or other particulars sufficient to identify the transfer;
  - (e) the name and number of the account, including the BSB number, to which the amount was transferred;

- (f) the name and reference number or other identification of the person on whose behalf the transfer was made;
- (g) details identifying the account in the trust ledger to which the payment is to be debited;
- (h) particulars sufficient to identify the purpose for which the payment was made.

Penalty: 10 penalty units.

- (2) It is sufficient compliance with the record-keeping requirements of subregulation (1) if, at the time the payment is made, the particulars set out in subregulation (1) are recorded by the computerised accounting system in the trust account cash payments journal.
- (3) For the purposes of a payment under subregulation (1), an estate agent must ensure that an electronic funds transfer is made under the direction of or with the authority of—
  - (a) the estate agent who carries on business as an estate agent, or if the estate agent is a corporation, the officer in effective control; or
  - (b) if the estate agent or officer in effective control referred to in paragraph (a) is not available, an employee who is a signatory to the trust account of the estate agency business kept at an AFI under section 59(3) of the Act.

Penalty: 10 penalty units.

- (4) An estate agent must ensure that records relating to payments by electronic funds transfer are kept in the order in which the transfers were made.

Penalty: 5 penalty units.

## **21 Journal references**

An estate agent must ensure that any journal reference numbers are allocated in sequence and, where an estate agent uses a computerised accounting system, are under the control of that computerised accounting system.

Penalty: 5 penalty units.

## **22 Trust account cash receipts journal**

- (1) An estate agent must keep a trust account cash receipts journal which records all daily receipts of money into the estate agent's trust account.

Penalty: 20 penalty units.

- (2) Each entry in the cash receipts journal with respect to a receipt of trust money must include the following particulars—
  - (a) the date the receipt is made out and, if different, the date of receipt of the money;
  - (b) the receipt number;
  - (c) the form in which the money was received including cash, cheque, electronic funds transfer or otherwise;
  - (d) the name of the person from whom the money was received;
  - (e) the name and reference number or other identification of the person on whose behalf the money was received;
  - (f) particulars sufficient to identify the purpose for which the money was received;
  - (g) details identifying the ledger account to be credited;
  - (h) the amount of the money received.

Penalty: 10 penalty units.

- (3) The particulars in relation to receipts must be recorded in the order in which the receipts are made out.

### **23 Trust account cash payments journal**

- (1) An estate agent must keep a trust account cash payments journal which records all daily payments of money out of the estate agent's trust account.

Penalty: 20 penalty units.

- (2) Each entry in the trust account cash payments journal with respect to a payment of trust money must include the following particulars—

- (a) if the payment is made by cheque, the particulars set out in regulation 18(1);
- (b) if the payment is made by electronic funds transfer, the particulars set out in regulation 20(1).

Penalty: 10 penalty units.

- (3) The particulars in relation to payments must be recorded in the order in which the payments are made.

### **24 Recording transactions in the trust ledger accounts**

- (1) An estate agent must keep a trust ledger consisting of a separate identifiable account for—

- (a) each person on behalf of whom the estate agent holds trust money; and
- (b) each transaction pending the completion of which the estate agent holds trust money as a stakeholder or in trust.

Penalty: 5 penalty units.



- (2) The following details must be included in the title of each trust ledger account—

- (a) the name and address of the agent's principal;
- (b) particulars sufficient to identify the purpose for which the money was received.

Penalty: 5 penalty units.

- (3) An estate agent must ensure that the following particulars are recorded in the trust ledger account in respect of each receipt of trust money—

- (a) the date the receipt is made out and, if different, the date of receipt of the money;
- (b) the receipt number;
- (c) the name of the person from whom the money was received;
- (d) the purpose for which the money was received;
- (e) the amount received.

Penalty: 10 penalty units.

- (4) An estate agent must ensure that the following particulars are recorded in the trust ledger account in respect of each payment of trust money—

- (a) the date of the cheque;
- (b) the cheque number;
- (c) the name of the person to whom the money was paid;
- (d) the purpose of the receipt or payment;
- (e) the amount paid.

Penalty: 10 penalty units.

- (5) The following particulars must be recorded in the trust ledger account in respect of each payment of trust money made by electronic funds transfer—
- (a) the date of the electronic funds transfer;
  - (b) the electronic funds transfer number;
  - (c) the name of the person to whom the money was paid;
  - (d) the name and number of the account, including the BSB number, to which the money was paid;
  - (e) the purpose of the payment;
  - (f) the amount paid.

Penalty: 10 penalty units.

- (6) The following particulars must be recorded in the trust ledger account in respect of each transfer of money made by a journal entry—
- (a) the date of the funds transfer;
  - (b) the transfer journal folio number;
  - (c) the name of the other trust ledger account from which or to which the money was transferred;
  - (d) the purpose of the transfer;
  - (e) the amount transferred.

Penalty: 10 penalty units.

- (7) An estate agent must ensure that transactions relating to trust money are recorded in the trust ledger account in the order in which the transactions are made.

Penalty: 5 penalty units.

- (8) The estate agent must ensure that a trust ledger account at all times shows a continuous running balance disclosing the amount of money held.

Penalty: 10 penalty units.

## **25 Transfer journal**

- (1) An estate agent must not transfer money between accounts in the trust ledger unless the agent is entitled to transfer the money for that purpose.

Penalty: 10 penalty units.

- (2) An estate agent must record all transfers of trust money between accounts in the trust ledger in a transfer journal kept exclusively for that purpose.

Penalty: 10 penalty units.

- (3) An entry in a transfer journal must include the following particulars—

- (a) the date of the transfer;
- (b) the amount transferred to and from each trust ledger account;
- (c) the names of all trust ledger accounts to be debited or credited, including identifying references;
- (d) particulars sufficient to identify the purpose for which the money was transferred.

Penalty: 10 penalty units.

- (4) An estate agent must ensure that transfer journal pages or entries are consecutively numbered.

Penalty: 5 penalty units.

## **26 Trust account reconciliation statements**

- (1) An estate agent must complete a trust account reconciliation statement at the end of each named month, for the period from the first day of that

named month to the last day of that named month, which—

- (a) ascertains the balance of the trust journals; and
- (b) reconciles the balance of the estate agent's trust account at an AFI with the balance of the estate agent's trust cash journals; and
- (c) reconciles the balances of the accounts of the estate agent's trust ledger with the balance of the estate agent's trust cash journal.

Penalty: 20 penalty units.

- (2) For the purposes of subregulation (1)(c), it is sufficient if the list of accounts is in the same sequence as they appear in the trust ledger and shows—
  - (a) the reference number or code identifying each account; and
  - (b) the separate balance in each account; and
  - (c) the total of the balances in all accounts.
- (3) An estate agent who carries on an estate agency business, or if the estate agent is a corporation, a licensed working director or the officer in effective control, must verify that the trust account reconciliation statement is true and accurate within 14 days after the end of the preceding named month.

Penalty: 20 penalty units.

**Note**

Under section 70C of the Act, an inspector may require an estate agent to demonstrate that the trust account reconciliation verification required under subregulation (1) has been undertaken within the required timeframe.

- (4) The reconciliation statement must be kept by the estate agency business.

Penalty: 20 penalty units.

## **27 Register of securities**

- (1) An estate agent who holds securities and documents of title for trust money on behalf of another person must keep a register of the following—
- (a) all securities for money the title to which is transferable by delivery, held by the estate agent on behalf of another person;
  - (b) all securities and documents of title held on behalf of another person—
    - (i) by the estate agent in the estate agent's own name; or
    - (ii) by the estate agent in joint names with another estate agent; or
    - (iii) under the control of the estate agent; or
    - (iv) under the joint control of the estate agent with another estate agent;
  - (c) all receipts for the deposit of money with any person made on behalf of another person—
    - (i) by the agent in the estate agent's own name; or
    - (ii) by the estate agent in joint names with another agent; or
    - (iii) under the control of the estate agent; or
    - (iv) under the joint control of the estate agent with another estate agent.

Penalty: 10 penalty units.

- (2) An estate agent must ensure that a register kept for the purposes of subregulation (1) shows—
- (a) the date on which the security, document of title, or receipt was received; and
  - (b) a description of the security, document of title, or receipt; and
  - (c) the value or amount of the security or money deposited; and
  - (d) the name of the person for whom the security, document of title, or receipt is held; and
  - (e) the date of delivery of the security, document of title, or receipt by the agent to another person, and the name of the person to whom it is given; and
  - (f) the reason why the security, document of title, or receipt is being held; and
  - (g) if the security, document of title, or receipt is held jointly with another agent, the name under which the other agent operates an estate agency business.

Penalty: 5 penalty units.

## **Division 2—Computerised accounting system**

### **28 Application**

This Division applies to an estate agent who keeps trust account records by means of a computerised accounting system.

### **29 Chronological record of information to be made**

An estate agent must keep a record, compiled in chronological sequence, of the creation, amendment or deletion of information in the computerised accounting system of the estate agency business in relation to the following—

- (a) the principal's name;
- (b) the principal's address;
- (c) the principal's reference number or other identification;
- (d) a description of the transaction;
- (e) a ledger account reference number or other identification for each trust ledger account;
- (f) a ledger account number—

disclosing the details before and after the creation, amendment or deletion of the information.

Penalty: 20 penalty units.

**30 Requirements regarding computerised accounting system controls**

- (1) An estate agent must ensure that the computerised accounting system for the estate agency business is not capable of accepting the entry of a transaction that results in a debit balance in a trust account, unless a contemporaneous record of the transaction is made in a manner that enables the production, in a permanent form, on demand, of a separate chronological report of all such occurrences.

Penalty: 20 penalty units.

- (2) An estate agent must ensure that the computerised accounting system for the estate agency business 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) where the account is deleted, a copy of the account is retained in a permanent form.

Penalty: 20 penalty units.

- (3) The estate agent must ensure that any entry in a record produced in a permanent form appears in chronological sequence.

Penalty: 5 penalty units.

- (4) An estate agent must ensure each page of each record required under subregulation (1) is numbered sequentially under the control of the computerised accounting system in a manner that enables the completeness of the records required to be kept by this Part to be conveniently verified.

Penalty: 10 penalty units.

- (5) An estate agent must ensure that the computerised accounting system of the estate agency business is not capable of amending the particulars of a transaction already recorded otherwise than by a transaction separately recorded that makes the amendment.

Penalty: 10 penalty units.

- (6) The estate agent must ensure that the computerised accounting system of the estate agency business requires input in every field of a data entry screen intended to receive information by this Part to be included in trust records.

Penalty: 5 penalty units.

### **Division 3—Records**

#### **31 Records to be retained**

- (1) An estate agent who holds trust money must keep on each file relating to the trust money, full and accurate particulars of—
- (a) all expenses incurred by the estate agent; and



- (b) all payments made out of the estate agent's own money; and
  - (c) commission and other charges relating to any payment made out of the trust money—
- in relation to that file.

Penalty: 20 penalty units.

- (2) An estate agent must retain in a permanent form—
- (a) every trust record and statement which the agent is required by these Regulations to keep; and
  - (b) any files where the estate agent has received or is entitled to receive any commission, or where trust money has been received.

Penalty: 20 penalty units.

### **32 Backup of electronic records**

An estate agent must ensure that—

- (a) a backup copy of all records required by this Part is made not less frequently than once each month; and
- (b) each backup copy is retained by the estate agent in charge of the estate agency business or the officer in effective control in charge of the estate agency business of a corporation; and
- (c) a complete set of the backup copies is kept in a separate location so that any incident that may adversely affect the records would not also affect the backup copies.

Penalty: 20 penalty units.

### **Division 4—Audit of trust accounts**

#### **33 Trust account reconciliation statements to be produced**

For any audit or report under section 64, 64A or 64B of the Act, an estate agent must produce to the auditor all trust account reconciliation statements for the period to which the audit or report relates.

Penalty: 10 penalty units.

#### **34 Production of statements required by section 64(10) and (13) of the Act**

An estate agent must give to the auditor the statements required by section 64(10) and (13) of the Act within one month after the last day of the period to which the audit relates.

Penalty: 5 penalty units.

#### **35 Trust account receipts—cessation of business**

- (1) Except in the case of a partnership, an individual estate agent or a corporation must immediately give to the auditor any unused trust account receipts in the agent's possession if the estate agent or corporation ceases to carry on the business of an estate agent.

Penalty: 5 penalty units.

- (2) After completing the audit required under section 64B(1) of the Act, the auditor must destroy the receipts received in accordance with subregulation (1) and notify the Director of their destruction.

Penalty: 5 penalty units.

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### **36 Auditor's notification of trust account deficiency**

- (1) It is a duty of an auditor who inspects an estate agent's trust accounts, other than for the purpose of auditing those accounts, to notify the estate agent and the Director within 3 business days of becoming aware of or having reasonable ground to suspect any deficiency in the estate agent's—
  - (a) trust account; or
  - (b) trust ledger account.
- (2) The auditor must include in the notification of the deficiency, details of—
  - (a) the date on which the deficiency occurred; and
  - (b) the amount; and
  - (c) the reason why the deficiency occurred; and
  - (d) full particulars of any action taken to restore the deficiency.
- (3) Subregulation (1) does not apply if—
  - (a) the deficiency was caused solely by an error by an AFI or by inadvertence; and
  - (b) the deficiency is rectified within 2 business days of the auditor becoming aware of the deficiency.

#### **Note**

An auditor is required to send a report to the Director under section 64(15) of the Act and a signed copy of that report to the agent if a loss or deficiency of trust money is discovered while auditing an estate agent's accounts, unless—

- (a) the deficiency was caused solely by an error by an AFI or by inadvertence; and
- (b) the deficiency is rectified within 2 business days of its discovery.

## **Part 4—Victorian Property Fund**

### **37 Disallowance of a claim against the Fund**

For the purposes of section 81(5) of the Act, the prescribed form of the notice of the Secretary's disallowance of all or part of a claim is the form set out in Form 4 in Schedule 1.

## **Part 5—Infringement offences**

### **38 Infringement offences and infringement penalties**

For the purposes of section 95A of the Act—

- (a) an offence against a provision of the Act or these Regulations that is set out in column 2 of Schedule 2 is specified as an offence in respect of which an infringement notice may be issued; and
- (b) the prescribed infringement penalty for an offence against a provision of the Act or these Regulations is the amount set out opposite the provision referred to in column 2, in column 3 of that Schedule.

## **Schedule 1—Forms**

### **FORM 1**

#### **STATEMENT CONCERNING PROMISE OF FINANCE BY AUCTIONEER OR ESTATE AGENT TO PURCHASER OR PERSON ACTING ON BEHALF OF PURCHASER**

Regulation 7

**Statement concerning promise of finance by auctioneer or estate agent  
to purchaser or person acting on behalf of purchaser**

**Estate Agents Act 1980**

Section 51

This statement is given by:

*[Insert name of auctioneer/estate agent]*

in relation to:

*[Insert address or description of real estate or business to be sold]*

Seller's name:

Address:

Purchaser's name:

Address:

Details of any promise made by the auctioneer or estate agent (or by any employee or person acting on behalf of the auctioneer or estate agent) concerning the obtaining of a loan to help finance the purchase of the real estate or business:

Amount of loan \$

Rate of interest % per annum

Date by which loan is to be repaid

Amount of repayment instalments

Interval at which repayments to be made

Name of lender

The loan \*is to be/\*is not to be obtained by the \*auctioneer/\*estate agent

Any other promise which may previously have been made concerning the obtaining of a loan to help finance the purchase of the real estate or business is withdrawn.

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This statement is given on:

Signed:

Auctioneer/Estate Agent

(or person authorised in writing by Auctioneer/Estate Agent).

I,

*[Insert name of person to whom notice is given]*

acknowledge that I have received a copy of this statement.

Signed:

\* Delete if not applicable.

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**FORM 2**

**STATEMENT BY A VENDOR OF A SMALL BUSINESS**

Regulation 8

**Statement by a vendor of a small business**

**Estate Agents Act 1980**

Section 52

***Introduction***

For the purposes of section 52 of the **Estate Agents Act 1980**, a small business is a business in which the goodwill, plant, equipment and fittings being sold have a total price of \$450 000 or less. In accordance with section 52(8), the reference to price in this paragraph does not include an amount representing the value of a liquor licence or permit under the **Liquor Control Reform Act 1998**.

This Statement contains 6 sections—

Section A—Important Information for Vendor

Section B—Important Information for Purchaser

Section C—Business Information

Section D—Vendor's Business Operating Report

Section E—Vendor's Declaration

Section F—Acknowledgement of Receipt by Purchaser

In this Statement a person who is seeking to sell a small business is referred to as a "vendor" and a person who is seeking to buy a small business is referred to as a "purchaser".

**SECTION A—IMPORTANT INFORMATION FOR VENDOR**

1. A vendor must sign this Statement.
2. A vendor or their estate agent must give the purchaser or their representative a completed and signed copy of this Statement before the purchaser or their representative—
  - (a) signs the contract; OR
  - (b) pays the deposit—with respect to the sale of a small business.



Schedule 1—Forms

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3. The financial and accounting information in the Business Operating Report in Section D must—
- (a) cover the trading of the business for the current accounting period (year to date figures); and
  - (b) cover the trading of the business for the previous two accounting periods, unless the vendor has not owned the business for that long; and
  - (c) include a statement by a practising accountant that the information is in accordance with the vendor's books of account.

Item 2 in the Business Operating Report in Section D lists the people who are practising accountants for the purpose of this Statement.

4. An accounting period is a financial year; or a continuous period of 12 months; or if a particular accounting period was changed for bookkeeping purposes that period may be treated as an accounting period.
5. A part year is the period between the end of accounting period B and the end of the most recent quarter before this statement was signed. If this statement was signed in the first quarter of the new financial year (or equivalent period as set out at 4 above), the part year accounting period column in the Business Operating Report in Section D is not applicable.
6. A single asterisk, (\*), means strike out the item if it is not applicable.

**WARNING TO THE VENDOR**

If this Statement is incomplete or inaccurate, the purchaser may avoid the contract provided they do so within three months of signing the contract and have not already taken possession of the business. If a purchaser avoids a contract on these grounds, the vendor must repay any money paid by the purchaser under the contract. A vendor who fails to give a purchaser or their representative this Statement or gives a Statement that is incomplete, is liable for a fine of up to 10 penalty units.

**SECTION B—IMPORTANT INFORMATION FOR PURCHASER**

1. Section 52 of the **Estate Agents Act 1980** requires that a purchaser of a small business or their representative be given a completed and signed copy of this Statement by the vendor or their estate agent. The purpose of this Statement is to notify the purchaser of certain particulars concerning the trading and financial position of the business to be acquired.

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2. The information contained in this Statement does not replace due diligence undertaken by the purchaser. It provides key financial information which will assist the purchaser to identify those matters where further information and documentation is required. At a minimum, the purchaser should ask the vendor to provide copies of—
    - the Balance Sheet and the Profit and Loss Statement for the business for the last two accounting periods; and
    - the most recent Tax Assessment by the Australian Taxation Office for the business; and
    - any quarterly Business Activity Statements (BAS) prepared for the business since the end of the last financial year.
  3. The purchaser should consider seeking expert advice to assess and interpret the information contained in this Statement and other information provided by a vendor with respect to the business.
  4. The purchaser may also consider—
    - arranging a trial period before the settlement date during which they have the right to attend the business to observe its operation. Such a period provides an opportunity for the purchaser to gain experience with the running of the business, with the vendor's assistance. Whether or not a trial period is appropriate will depend upon the nature of the business; and
    - appointing an accredited stocktaker to assess the stock at hand for the business.
  5. The purchaser should ensure that the contract for the sale of the business has warranties with respect to assets, stock and the business accounts.
  6. If the vendor purchased the business from a previous owner who only operated the business for a short time, the purchaser should ask the vendor to also provide a copy of the Statement by a Vendor of a Small Business with respect to the previous sale of the business.
  7. Where the sale of the business is to include the sale of land, a disclosure statement with respect to the land will be given to the purchaser or their representative in accordance with section 32 of the **Sale of Land Act 1962**.
  8. Where the sale of business is to include an assignment of lease of retail premises as defined in the **Retail Leases Act 2003**, the vendor will give to the purchaser a disclosure statement in accordance with section 61(5A) of that Act.

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**NOTICE TO THE PURCHASER**

The purchaser may avoid the contract if information in this statement is inaccurate or incomplete and is entitled to a full refund of any moneys they have paid under the contract.

**SECTION C—BUSINESS INFORMATION**

**1. Vendor**

Name:

Address:

Phone:

Email:

**2. Vendor's agent**

Name:

Address:

Phone:

Fax:

DX:

Email:

**3. Business details**

(a) Name:

Street address:

Postal address:

Phone:

Fax:

DX:

Email:

(b) Description of the business:

(c) The vendor has carried on business for a period of \*years/\*months/\*weeks commencing on

(d) The vendor has carried on business at the present location for \*years/\*months/\*weeks.

(e) The business is conducted from premises that are \*owned/\*leased by the vendor.

If the vendor is the owner of the premises in which the business is being conducted, the premises \*are/\*are not being sold with the business.

(f) The normal trading hours of the business are—

Monday to Friday:

Saturday:

Sunday:

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- (g) Members of the vendor's family or other persons \*worked/\*did not work in the business and \*were/\*were not paid wages.

Payments made to family or other associated persons have been included in Item 7 in the Business Operating Report in Section D.

**SECTION D—VENDOR'S BUSINESS OPERATING REPORT**

The figures in this Statement relate to the business being sold and are prepared on an \*accrual/\*cash accounting basis.

**Note:** Accrual accounting is the method whereby revenue and expenses are recorded in the period in which the entitlement to income and costs are incurred, even though they may not have been received or paid.

Cash accounting means that revenue and expenses are recorded in the period in which the money was receipted and paid.

**1. BUSINESS OPERATING REPORT**

	<i>Accounting period A</i>	<i>Accounting period B</i>	<i>(*)Part year</i>
(The figures for the most recent previous accounting period should be in column B)	From  To	From  To	(*)From  (*)To
Number of weeks of operation			
<b>1. TOTAL GROSS INCOME OF BUSINESS</b>	\$	\$	(*)\$
Average per week	\$	\$	(*)\$
<b>2. COST OF GOODS SOLD</b>			
(a) Opening stock			
(b) Plus purchases in period			
(c) Less closing stock			
<b>TOTAL COST OF GOODS</b>	\$	\$	
<b>3. GROSS PROFIT for the business</b>			
[Total Gross Income of Business (Item 1) less the cost of goods/services provided]	\$	\$	
Gross Profit [Item 3] as a % of Total Gross Income of Business [Item 1]	%	%	

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	<i>Accounting period A</i>	<i>Accounting period B</i>
<b>4. TOTAL OPERATING EXPENSES</b> (a) Accounting charges (b) Advertising (c) Bad debts written off (d) Bank and transaction charges (excluding interest) (e) Cartage and freight (f) Cleaning, laundry, protective clothing (g) Depreciation and amortisation (h) Electricity, fuel, gas (i) Equipment rental/hire (not hire purchase) (j) Insurances (excluding motor vehicle) (k) Interest (l) Licences, registration, trade subscriptions (m) Motor vehicle running costs for business purposes i.e. petrol, maintenance, insurance, registration (excluding depreciation) (n) Packaging and wrappings (o) Postage, printing, stationery (p) Rates and outgoing (q) Rent of business premises (r) Repairs and maintenance to business premises, plant, equipment, chattels (s) Staff amenities (t) Superannuation payments for benefit of employees (u) Telephone and Internet (v) Travel and accommodation		

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	<i>Accounting period A</i>	<i>Accounting period B</i>
(w) Wages paid to employees (excluding vendor/associated persons) (x) Workcover premiums and other wage costs and taxes (y) Other sundry business expenses (itemise) (z) Other expenses unique to the business <b>TOTAL OPERATING EXPENSES</b> directly related to the business	\$	\$
<b>5. NET PROFIT FOR THE BUSINESS</b> (Item 3 less Item 4)	\$	\$
<b>6. PERSONAL EXPENSES and outgoings of the present vendor</b> (a) Depreciation and amortisation (b) Financing and interest costs (c) Vendor's personal expenses (d) Vendor's other sundry expenses (e) Wages paid to associated persons (f) Superannuation paid to associated persons Add others if applicable	\$	\$
<b>7. ADJUSTED NET PROFIT to owners of the business</b> (Item 5 less Item 4 plus Item 6)	\$	\$
<b>8. FURTHER CONSIDERATIONS—ASSET QUALITY</b> 1. Business debts Trade debtors (owed to business) at end of accounting period B Less provision for doubtful debts <b>NET DEBTORS</b>		\$

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<p>2. Contingent liabilities</p> <p>Itemise other matters that could impact upon the owner's equity in the business as at the proposed settlement date. This includes any liability that runs with the business, for example, an adverse planning or environment ruling affecting the operating precinct of the business or a taxation dispute or other litigation concerning the business if it is a corporation.</p>	\$
--	----

**2. STATEMENT BY PRACTISING ACCOUNTANT**

I,

[Insert practising accountant's name]

of

[Insert practising accountant's address]

Phone:

being a—(Tick the relevant box)

- ☐ registered company auditor with the Australian Securities and Investments Commission; OR
- ☐ Member of CPA Australia or Chartered Accountants Australia and New Zealand; OR
- ☐ Member or Fellow of either the Institute of Public Accountants or the Association of Taxation and Management Accountants; OR
- ☐ Fellow of the National Tax and Accountants' Association Limited—

have compared the accounting and financial information set out in the Business Operating Report with the books of account of the vendor and I advise it is in accordance with the books of account of the vendor, and make additional comments—

Practising Accountant's Signature:

Date:

**SECTION E—VENDOR'S DECLARATION**

The vendor declares that—

- (a) since the end of the last accounting period in column B of the Business Operating Report—
  - (i) circumstances have arisen or practices have been adopted that \*have/\*have not affected the gross profit of the business; and

(ii) no circumstances adversely affecting, or likely to adversely affect, the conduct of the business have arisen, except the following—

(b) the information in this Statement (including the Business Operating Report) is accurate and complete.

Vendor's Signature:

Date:

**SECTION F—ACKNOWLEDGEMENT OF RECEIPT  
BY PURCHASER**

The purchaser acknowledges receipt of this completed Statement by the vendor of a small business.

I,

*[Insert purchaser's name]*

of

*[Insert purchaser's address]*

Purchaser's Signature:

Date:



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**FORM 3**  
**EMBARGO NOTICE**

Regulation 9

**Embargo notice**  
**Estate Agents Act 1980**

Section 70O

- (1) The item described below has been embargoed under section 70O of the **Estate Agents Act 1980**.
- (2) Section 70O(2) provides that a person who knows that an embargo notice relates to a thing and who—
- (a) sells; or
  - (b) leases; or
  - (c) without the written consent of the inspector who issued the embargo notice, moves; or
  - (d) transfers; or
  - (e) otherwise deals with—
- the thing or any part of the thing is guilty of an offence and liable to a penalty not exceeding 25 penalty units.
- (3) Section 70O(3) provides that it is a defence to a prosecution for such an offence to prove that the thing or part of the thing was moved for the purpose of protecting and preserving it.
- (4) Section 70O(4) provides that despite anything in any other Act, a sale, lease, transfer or other dealing with a thing in contravention of that section is void.

Description of embargoed item:

This notice has been—

- ☐ served on *[Insert name]*
- ☐ affixed to the item described above

Signature of inspector:

Name of inspector:

Telephone number:

Date:

Time:

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**FORM 4**

**NOTICE OF DISALLOWANCE OF CLAIM FOR  
COMPENSATION FROM THE VICTORIAN  
PROPERTY FUND**

Regulation 37

**Notice of disallowance of claim for compensation from the  
Victorian Property Fund**

**Estate Agents Act 1980**

Section 81

To:

*[Insert name of claimant]*

of

*[Insert address of claimant]*

The Secretary \*wholly disallows/\*partly disallows your claim for compensation from the Victorian Property Fund.

\*\*The Secretary disallows \$ \_\_\_\_\_ of your claim.

The reasons for the \*disallowance/\*partial disallowance are:

Signed:

Dated:

(For and on behalf of the Secretary of the Department of Justice)

*\*Delete if not applicable.*

*\*\*Delete if claim wholly disallowed.*

## Schedule 2—Infringement offences and infringement penalties

Regulation 38

### INFRINGEMENT OFFENCES AND INFRINGEMENT PENALTIES

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item No.</i>	<i>Infringement notice offence</i>	<i>Prescribed infringement penalty for offence</i>
1	section 16(7)	6·25 penalty units
2	section 21B(2)	2·5 penalty units
3	section 29A(1)	6·25 penalty units
4	section 30A(1)	6·25 penalty units
5	section 41(1)	6·25 penalty units
6	section 41(2)	2·5 penalty units
7	section 42(1)	6·25 penalty units
8	section 43(1)	6·25 penalty units
9	section 47(2)	5 penalty units
10	section 47(2A)	5 penalty units
11	section 47A(1)	6·25 penalty units
12	section 47D(4)	12 penalty units
13	section 48(2)	12 penalty units for a natural person 25 penalty units for a body corporate
14	section 48A(2)	12 penalty units
15	section 49A(2)	12 penalty units for a natural person 25 penalty units for a body corporate
16	section 59(1)(a)	12 penalty units for a natural person 30 penalty units for a body corporate

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Schedule 2—Infringement offences and infringement penalties

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item No.</i>	<i>Infringement notice offence</i>	<i>Prescribed infringement penalty for offence</i>
17	section 59(1)(b)	12 penalty units for a natural person 30 penalty units for a body corporate
18	section 59(1)(c)	12 penalty units for a natural person 30 penalty units for a body corporate
19	section 59(7)	10 penalty units for a natural person 15 penalty units for a body corporate
20	section 63(1)(a)	6·25 penalty units
21	section 63(1)(b)	6·25 penalty units
22	section 63(1)(c)	6·25 penalty units
23	section 63(1)(d)	6·25 penalty units
24	section 63(3)	5 penalty units
25	section 63(3B)	5 penalty units
26	section 63(5)(a)	6·25 penalty units
27	section 63(5)(b)	5 penalty units
28	section 64(1)	6·25 penalty units
29	section 64(1A)	6·25 penalty units
30	section 64(2A)	12 penalty units for a natural person 30 penalty units for a body corporate
31	section 64(3)	5 penalty units
32	section 64(9)	6·25 penalty units
33	section 64(13)	6·25 penalty units
34	section 64B(1)(a)	6·25 penalty units
35	section 64B(1)(b)	6·25 penalty units
36	section 69(1B)	6·25 penalty units

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Schedule 2—Infringement offences and infringement penalties

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item No.</i>	<i>Infringement notice offence</i>	<i>Prescribed infringement penalty for offence</i>
37	section 70B	6·25 penalty units
38	section 98A(1)	12 penalty units for a natural person 25 penalty units for a body corporate
39	regulation 6(1)	2·5 penalty units
40	regulation 6(2)	2·5 penalty units
41	regulation 6(4)	2·5 penalty units
42	regulation 7	1·25 penalty units
43	regulation 11	5 penalty units
44	regulation 12(2)	1·25 penalty units
45	regulation 13(1)	1·25 penalty units
46	regulation 14(1)	1·25 penalty units
47	regulation 14(2)	2·5 penalty units
48	regulation 14(3)	2·5 penalty units
49	regulation 14(4)	1·25 penalty units
50	regulation 15(8)	1·25 penalty units
51	regulation 16(8)	1·25 penalty units
52	regulation 17(2)	2·5 penalty units
53	regulation 17(3)	2·5 penalty units
54	regulation 18(1)	1·25 penalty units
55	regulation 19(1)	1·25 penalty units
56	regulation 19(2)	2·5 penalty units
57	regulation 19(4)	2·5 penalty units
58	regulation 19(5)	1·25 penalty units
59	regulation 20(1)	2·5 penalty units
60	regulation 20(3)	2·5 penalty units
61	regulation 20(4)	1·25 penalty units
62	regulation 21	1·25 penalty units

Authorised by the Chief Parliamentary Counsel

Estate Agents (General, Accounts and Audit) Regulations 2018  
S.R. No. 48/2018

Schedule 2—Infringement offences and infringement penalties

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item No.</i>	<i>Infringement notice offence</i>	<i>Prescribed infringement penalty for offence</i>
63	regulation 22(1)	5 penalty units
64	regulation 23(1)	5 penalty units
65	regulation 23(2)	2·5 penalty units
66	regulation 24(1)	1·25 penalty units
67	regulation 24(3)	2·5 penalty units
68	regulation 24(4)	2·5 penalty units
69	regulation 24(5)	2·5 penalty units
70	regulation 24(6)	2·5 penalty units
71	regulation 24(7)	1·25 penalty units
72	regulation 24(8)	2·5 penalty units
73	regulation 25(2)	2·5 penalty units
74	regulation 25(4)	1·25 penalty units
75	regulation 26(1)	5 penalty units
76	regulation 26(3)	5 penalty units
77	regulation 26(4)	5 penalty units
78	regulation 27(1)	2·5 penalty units
79	regulation 27(2)	1·25 penalty units
80	regulation 30(2)	5 penalty units
81	regulation 30(3)	1·25 penalty units
82	regulation 30(5)	2·5 penalty units
83	regulation 31(1)	5 penalty units

## Endnotes

<sup>1</sup> Reg. 4(a): S.R. No. 39/2008 as amended by S.R. Nos 32/2011, 100/2011 and 153/2014.

<sup>2</sup> Reg. 4(b): S.R. No. 32/2011.

<sup>3</sup> Reg. 4(c): S.R. No. 100/2011.

<sup>4</sup> Reg. 4(d): S.R. No. 153/2014.

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### Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2017 is \$158.57.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.