

**FT305**

**SETTLEMENT AGENTS ACT 1981**

**SETTLEMENT AGENTS AMENDMENT REGULATIONS (No. 2) 1996**

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Settlement Agents Amendment Regulations (No. 2) 1996*.

**Commencement**

2. These regulations come into operation on the day on which the provisions of the *Real Estate Legislation Amendment Act 1995*, other than sections 11, 46 and 52, come into operation.

**Principal regulations**

3. In these regulations the *Settlement Agents Regulations 1982\** are referred to as the principal regulations.

[\* Reprinted as at 9 April 1996.]

**Regulation 2 repealed and a regulation substituted**

4. Regulation 2 of the principal regulations is repealed and the following regulation is substituted —

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**Interpretation**

2. In these regulations, unless the contrary intention appears —

“**record**” means a record under section 50 (1) (b) of the Act;

“register” means the register referred to in regulation 7 (b);

“working day” means a day that is not a Saturday, Sunday, public holiday or public service holiday.

#### **Regulations 6A, 6B, 6C, 6D, 6E and 6F inserted**

5. After regulation 6 of the principal regulations the following regulations are inserted —

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#### **Definition of “authorized financial institution” — prescribed classes**

**6A.** For the purposes of the definition of “authorized financial institution” in section 48 of the Act, the following classes of bodies are prescribed —

- (a) the class that consists of all banks; and
- (b) the class that consists of all societies.

#### **Designation of trust accounts**

**6B.** (1) For the purposes of section 49 (1) of the Act, a trust account is to be designated in the manner provided for in this regulation.

(2) The designation of a trust account, other than a separate account, is to include —

- (a) the description “SA Trust Account”;
- (b) the name of the holder of the triennial certificate, and any business name of that holder, recorded in the register; and
- (c) the letters “TC” followed by the triennial certificate number recorded in the register.

(3) The designation of a separate account is to include —

- (a) the description “SA Trust Account — IB”;
- (b) the name of the holder of the triennial certificate, and any business name of that holder, recorded in the register;
- (c) the words “in trust for” followed by the name of the person who requested the separate account; and
- (d) the letters “TC” followed by the triennial certificate number recorded in the register.

#### **Prescribed requirements for separate accounts**

**6C.** For the purposes of section 49A (4) of the Act, a settlement agent shall only comply with a request for a separate account if the settlement agent is satisfied that —

- (a) the amount of moneys paid to the settlement agent exceeds \$20 000; or
- (b) the transaction in respect of which moneys are paid is not to be settled within 60 days.

#### **Interest payable on trust accounts**

**6D.** (1) For the purposes of section 49B (1) of the Act, interest on the balance of a trust account is to be paid —

- (a) at the rate that is 70% of the relevant bank accepted bills rate calculated on a daily basis; and

- (b) within 5 working days of the end of each month.
- (2) In subregulation (1) (a) —

**“relevant bank accepted bills rate”** means the 30 day bank accepted bills rate as published in Table F.1 of the “Reserve Bank of Australia Bulletin” for the month that is 2 months before the month in respect of which the interest is to be paid.

(For example, the relevant bank accepted bills rate for May is the 30 day bank accepted bills rate for March.)

### **Content of receipts**

**6E.** A receipt given under section 50 (1) (a) of the Act shall contain the following information —

- (a) the name of the holder of the triennial certificate, and any business name of that holder, recorded in the register;
- (b) a number or letter, or a combination of both, in consecutive order that allows the receipt to be uniquely identified;
- (c) the date on which the money is received;
- (d) the name of the person paying the money;
- (e) the amount of money received;
- (f) a brief description of the purpose of the payment; and
- (g) if the receipt is hand-written, the name of the person receiving the money evidenced by the signature of that person.

### **Records under section 50 (1) (b)**

**6F.** (1) A record shall be —

- (a) kept in written form;
- (b) kept for a period of not less than 6 years from the date on which the money was received; and
- (c) readily accessible.

(2) Where a receipt has been given for money received, a record shall contain the information contained in the receipt and may take the form of a duplicate copy of the receipt.

(3) Where money has been received by electronic transfer, a record shall contain the information specified in regulation 6E (b), (c), (d), (e) and (f) and, for that purpose, the reference in regulation 6E (b) to “receipt” is to be read as a reference to “record”.

### **Regulation 9 repealed and a regulation substituted**

**6.** Regulation 9 of the principal regulations is repealed and the following regulation is substituted —

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#### **Application of Board Interest Account**

**11.** For the purposes of section 105 of the Act —

- (a) moneys standing to the credit of the Account are to be applied monthly before the end of each month; and

- (b) the following proportions are prescribed —
- (i) 10% to the Fidelity Fund; and
  - (ii) 90% to the General Purpose Fund.

**Regulation 11 repealed**

7. Regulation 11 of the principal regulations is repealed.

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

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