

Western Australia

Settlement Agents Act 1981

Settlement Agents Regulations 1982

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Settlement Agents Regulations 1982

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Defined Terms

Settlement Agents Regulations 1982

1. Citation

These regulations may be cited as the *Settlement Agents Regulations 1982*¹.

2. Terms used in these regulations

In these regulations, unless the contrary intention appears —
approved educational activity means an educational activity approved under regulation 4C(1)(a)(ii) or (b);

core professional development subject means a professional development subject approved under regulation 4C(1)(a)(i);

points, in respect of an approved educational activity, means the number of points specified in respect of that activity under regulation 4C(1);

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.

*[Regulation 2 inserted in Gazette 25 Jun 1996 p. 2925-6;
amended in Gazette 28 Dec 2007 p. 6408.]*

3. Common seal

- (1) The common seal of the Board shall be circular in form inscribed with the words “Settlement Agents Supervisory

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Board” around its circumference and “Common Seal” in its centre.

- (2) The common seal of the Board shall be kept in safe custody and shall not be applied to any document except pursuant to a resolution of the Board.
- (3) The common seal is to be affixed by the Registrar or by such other officer approved by the Board.

4. Fees

The fees set out in Schedule 1 shall be payable in respect of the matters prescribed in that Schedule.

[Regulation 4 amended in Gazette 29 Oct 1982 p. 4323-4; 23 May 1997 p. 2420.]

4A. Holding fee

- (1) In this regulation —
holding fee means the fee set out in item 8 of Schedule 1 and referred to in section 30(3a)(b) of the Act.
- (2) The holding fee is payable —
 - (a) in the case of a licensee who, on the coming into operation of Part 9 of the *Business Licensing Amendment Act 1995*, holds a licence but does not hold a triennial certificate in respect of the licence, within 60 days after the coming into operation of that Part, and triennially after that payment; or
 - (b) in any other case, within 60 days after a licensee ceases to hold a current triennial certificate in respect of the licence held by the licensee, and triennially after that payment.

- (3) The Board may refund to a licensee —
 - (a) two-thirds of the holding fee paid by the licensee if the licensee is granted a triennial certificate less than one year after paying the holding fee; or
 - (b) one-third of the holding fee paid by the licensee if the licensee is granted a triennial certificate one year or more, but less than 2 years, after paying the holding fee.

[Regulation 4A inserted in Gazette 2 Aug 1996 p. 3731-2; amended in Gazette 23 May 1997 p. 2420.]

4B. Prescribed educational requirements — section 31(2a)

- (1) This regulation applies only in respect of a licensee —
 - (a) who is a natural person; and
 - (b) whose triennial certificate is due to expire on or after 1 January 2009.
- (2) The educational requirements prescribed for the purposes of section 31(2a) of the Act are that during each of the preceding 3 full calendar years before the year in which a triennial certificate is due to expire —
 - (a) approved educational activities to the total value of at least 6 points have been undertaken; and
 - (b) those activities include at least one activity approved under regulation 4C(1)(a)(ii) in respect of 2 of the core professional development subjects approved for that year.
- (3) In respect of a triennial certificate that is due to expire —
 - (a) in 2009, the educational requirement prescribed in subregulation (2)(a) and (b) are to be met only in respect of the calendar year beginning 1 January 2008; and
 - (b) in 2010, the educational requirement prescribed in subregulation (2)(a) and (b) are to be met only in respect of the calendar years beginning 1 January 2008 and 1 January 2009.

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- (4) In respect of a triennial certificate that is due to expire for the first time after it was granted, the educational requirement prescribed in subregulation (2)(a) and (b) are to be met only in respect of each of the preceding 2 full calendar years before the year in which the certificate is due to expire.
- (5) The value in points accrued by a person in a calendar year is the sum of the points specified for each approved educational activity undertaken by the person in that year.

[Regulation 4B inserted in Gazette 28 Dec 2007 p. 6408-9.]

4C. Board to approve educational activities

- (1) In respect of each calendar year, commencing with the calendar year beginning 1 January 2008, the Board —
 - (a) is to —
 - (i) approve 4 of the subjects listed in Schedule 1A as core professional development subjects; and
 - (ii) approve one or more educational activity referred to in subregulation (5) in respect of each core professional development subject approved under subparagraph (i);
 - and
 - (b) may approve one or more educational activity referred to in subregulation (5) in respect of any other professional development subject listed in Schedule 1A,
- and, in respect of each educational activity approved, is to specify the value in points that is to be allotted to undertaking the activity.
- (2) The Board is to ensure that there is published on its website on or before 1 January of the calendar year to which an approval under subregulation (1)(a) relates a notice setting out —
 - (a) sufficient details to identify —
 - (i) the 4 core professional development subjects approved under subregulation (1)(a)(i); and

- (ii) the educational activity or activities approved in respect of each of those subjects under subregulation (1)(a)(ii);
 - and
 - (b) the value in points that is to be allotted to undertaking each of the activities approved.
- (3) If, in respect of a calendar year, the Board approves one or more educational activity under subregulation (1)(b) it is to ensure that there is published on its website a notice setting out —
- (a) sufficient details to identify —
 - (i) each activity approved; and
 - (ii) the professional development subject to which the activity relates;
 - and
 - (b) the value in points that is to be allotted to undertaking each of the activities approved.
- (4) If a person undertakes, or commences to undertake, an educational activity the details of which are later published on the Board's website as an approved educational activity, then the person does not accrue any points in respect of that activity.
- (5) The following types of educational activities that may be approved under subregulation (1) are —
- (a) attendance, including by means of audiolink or videolink, at a training course provided by a specified body or person and successful completion of any assessment requirements for that course;
 - (b) attendance, including by means of audiolink or videolink, at a seminar presented by a specified body or person and successful completion of any assessment requirements for that seminar;

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- (c) viewing of a specified recording and successful completion of any assessment requirements for that viewing;
 - (d) participation in a specified course of study, or a specified component of a course of study, and successful completion of any assessment requirements for that course or component.
- (6) In subregulations (1) and (5) —
specified means specified by the Board in the notice published under subregulation (2) or (3).
- (7) An approval under subregulation (1) may apply in relation to all licensees to whom regulation 4B applies or to any class of such licensees.

[Regulation 4C inserted in Gazette 28 Dec 2007 p. 6409-10.]

5. Publication of notice of application

- (1) Notice of an application for the grant of a licence to be advertised pursuant to section 24(2) of the Act —
- (a) shall be in a form approved by the Board; and
 - (b) shall be published by the applicant in an issue of a newspaper known as *The West Australian* not less than 14 days before the day fixed for the hearing of the application.
- (2) An applicant for a licence shall prior to the hearing of his application lodge with the Registrar the whole page of the newspaper in which notice of his application was advertised in accordance with this regulation.

6. Examinations

- (1) The prescribed examinations for the purposes of Schedule 1 clause 1(1)(a) of the Act are the examinations which are required by a public training provider or a registered training provider to be passed to complete —

-
- (a) a Diploma of Financial Services (Conveyancing); and
 - (b) the following units —
 - (i) FNSCONV601A: Obtain and analyse information;
 - (ii) FNSCONV603A: Negotiate to achieve goals and manage disputes.
- (2) The prescribed examinations for the purposes of clause 2(1)(a) of Schedule 1 to the Act are —
- (a) the examinations prescribed by subregulation (1); and
 - (b) the examinations required to be passed to complete a unit covering the settlement of business transactions.
- (2a) Despite subregulations (1) and (2), until 30 June 2009 —
- (a) a person who has passed the examinations prescribed under subregulation (1) as in force immediately before the coming into operation of the *Settlement Agents Amendment Regulations (No. 2) 2007*¹ is, subject to the Act, qualified for the grant of a real estate settlement agent's licence; and
 - (b) a person who has passed the examinations prescribed under subregulation (1) as in force immediately before the coming into operation of the *Settlement Agents Amendment Regulations (No. 2) 2007*¹ and the examinations referred to in subregulation (2)(b) is, subject to the Act, qualified for the grant of a business settlement agent's licence.
- (3) In this regulation —
- public training provider** and **registered training provider** have the same meanings as they have in the *Vocational Education and Training Act 1996*;
- unit** means a component of a course, provided by a public training provider or a registered training provider, for the training of real estate settlement agents or business settlement agents or both.

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[Regulation 6 inserted in Gazette 15 Jun 2004 p. 2024-5; amended in Gazette 16 Jun 2006 p. 2121-2; 29 Jun 2007 p. 3188; 17 Jun 2008 p. 2559.]

6AA. Information to be included in agent's authority to act

For the purposes of section 43(2)(a) of the Act the information contained in Form 1 of the Schedule to the *Settlement Agents' Code of Conduct 1982* is prescribed.

[Regulation 6AA inserted in Gazette 26 May 2000 p. 2525.]

6A. Definition of "authorised financial institution" — prescribed classes

For the purposes of the definition of "authorised 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.

[Regulation 6A inserted in Gazette 25 Jun 1996 p. 2926.]

6B. Designation of trust accounts

- (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.

[Regulation 6B inserted in Gazette 25 Jun 1996 p. 2926.]

6C. Prescribed requirements for separate accounts

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.

[Regulation 6C inserted in Gazette 25 Jun 1996 p. 2926.]

6D. Interest payable on trust accounts

- (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.)

[Regulation 6D inserted in Gazette 25 Jun 1996 p. 2926-7.]

6E. Content of receipts

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.

[Regulation 6E inserted in Gazette 25 Jun 1996 p. 2927.]

6F. Records under section 50(1)(b)

- (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 6F inserted in Gazette 25 Jun 1996 p. 2927.]

7. Particulars to be included in registers

The particulars to be recorded, pursuant to section 110(2) of the Act, by the Registrar —

- (a) in the register of licensees are, in respect of each licensee —
 - (i) the name and address of the licensee;
 - (ii) where the licensee is a firm, the name and address of each partner constituting the firm and the licence number of each partner in the firm who is licensed;
 - (iii) where the licensee is a body corporate, the name and address of each director of the licensee and the licence number of each director who is licensed;
 - (iv) the licence number and the date on which the licence held by the licensee was granted;
 - (v) any special conditions to which the licence held by the licensee is subject;
 - (vi) where a claim has been made or sustained against the Account in respect of the licensee, a reference to that claim;
- (b) in the register of holders of current triennial certificates are, in respect of each holder —
 - (i) the name and address of the holder;
 - (ii) any business name under which the holder carries on business as a settlement agent;
 - (iii) the situation of the registered office of the holder;

- (iv) the situation of every registered branch office of the holder and the name and licence numbers of each branch manager;
- (v) where the holder is a firm, the name and address of each partner constituting the firm and the licence number of each partner in the firm who is licensed;
- (vi) where the holder is a body corporate, the name and address of each director of the holder and the licence number of each director who is licensed;
- (vii) where the holder is a firm or body corporate the name and address of the person in *bona fide* control of the business of the holder;
- (viii) the licence number and the date on which the licence held by the holder of the certificate was granted;
- (ix) whether the holder is licensed as a real estate settlement agent, business settlement agent or both;
- (x) the certificate number, and the date on which the certificate currently held by the holder was granted or renewed, as the case may be;
- (xi) the policy number of the current certificate of fidelity and professional indemnity insurance held by the holder of the triennial certificate;
- (xii) the name and address of the auditor appointed by the holder; and
- (xiii) the amount of any payment made under section 92 of the Act by the holder.

[Regulation 7 amended in Gazette 26 Oct 2007 p. 5651.]

8. Recovery of fees and costs

- (1) The amount of —
 - (a) any fees prescribed by these regulations;

[(b) deleted]

- (c) any costs ordered by the Board to be paid to the Registrar upon the determination of any proceedings, may be sued for and recovered by the Registrar on behalf of the Crown in any court of competent jurisdiction.
- (2) Where, upon the determination of any proceedings, the Board makes an order for costs in favour of a person other than the Registrar, the amount of those costs may be sued for by that person and recovered from the person against whom the order is made, in any court of competent jurisdiction.

[Regulation 8 amended in Gazette 30 Dec 2004 p. 6927.]

9. Application of Board Interest Account

For the purposes of section 105 of the Act moneys standing to the credit of the Account are to be applied monthly before the end of each month.

[Regulation 9 inserted in Gazette 6 Feb 2007 p. 310.]

10. Claims against the Fidelity Guarantee Account

A claim against the Fidelity Guarantee Account shall be made in writing and be verified by a statutory declaration made by a person who deposes to the facts therein set out of his own knowledge.

[Regulation 10 amended in Gazette 26 Oct 2007 p. 5651.]

11. Documents that a real estate settlement agent may draw etc.

- (1) For the purposes of clause 1(2)(a) of Schedule 2 to the Act the forms of offer and acceptance set out in Part A of Schedule 3 are prescribed and, if any of those forms is revised, the current revision of it is prescribed.
- (2) For the purposes of clause 1(2)(b) of Schedule 2 to the Act a licensee may draw or prepare a document containing any or all of the requisitions on title set out in Part B of Schedule 3 subject

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to the condition that the requisitions are only issued in respect of land that is registered under the *Transfer of Land Act 1893*.

- (3) For the purposes of clause 1(2)(c) of Schedule 2 to the Act the documents set out in Part C of Schedule 3 are prescribed subject to any conditions set out in that Part.

[Regulation 11 inserted in Gazette 23 May 1997 p. 2420.]

12. Documents that a business settlement agent may draw etc.

For the purposes of clause 2(fa) of Schedule 2 to the Act any document set out in Schedule 4 is prescribed.

[Regulation 12 inserted in Gazette 23 May 1997 p. 2420.]

12A. Power of attorney

The power of attorney prescribed for the purposes of paragraph (1)(h) of clause 1 of Schedule 2 of the Act is a power of attorney in the form set forth in the Nineteenth Schedule of the *Transfer of Land Act 1893*.

[Regulation 12A inserted in Gazette 30 Mar 1984 p. 910.]

13. Warning notice by certain exempted persons

The form of the notice to be given by a person exempted under section 26A or 26B of the Act before arranging or effecting a settlement to which the exemption conferred by that section applies is as set out in Schedule 2.

[Regulation 13 inserted in Gazette 29 Oct 1982 p. 4323; amended in Gazette 23 May 1997 p. 2420.]

14. Absence of licensee

- (1) A person who is in *bona fide* control of a business operated under a licence shall not, without the prior approval in writing of the Board, absent himself from that business for more than 4 continuous weeks in any one calendar year.

Penalty: \$100.

- (2) An application for approval under subregulation (1) shall state whether, in the absence of the person in *bona fide* control of the business, that business is to be —
- (a) closed; or
 - (b) conducted by another person.
- (3) The Board may refuse to grant approval under subregulation (1) —
- (a) where the business is to be closed, unless and until the person in *bona fide* control of that business has satisfied the Board that at the date of closure he will have carried out all his obligations under the Act or the code of conduct; or
 - (b) where the business is to be conducted by another person, if the Board does not consider that person is suitable to conduct that business.
- (4) A person who, pursuant to an approval granted by the Board under this regulation, conducts a business operated under a licence during the absence of the person in *bona fide* control of that business does not commit an offence under section 26 of the Act.

*[Regulation 14 inserted in Gazette 30 Mar 1984 p. 910;
Erratum in Gazette 6 Apr 1984 p. 998.]*

15. Infringement notices

- (1) An offence under section 65(1) in respect of a contravention or failure to observe a provision of the Act specified in Schedule 5 Part 1 is an offence for which an infringement notice may be issued under Part 2 of the *Criminal Procedure Act 2004*.
- (2A) An offence under section 120(1) in respect of a contravention or failure to comply with a provision of the Act specified in Schedule 5 Part 2 is an offence for which an infringement notice may be issued under Part 2 of the *Criminal Procedure Act 2004*.

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- (2) The modified penalty specified opposite a provision in Schedule 5 is the modified penalty for a contravention or failure to observe, or comply with, that provision for the purposes of section 5(3) of the *Criminal Procedure Act 2004*.
- (3) The Board may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of Part 2 of the *Criminal Procedure Act 2004*.
- (4) The Board is to issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

*[Regulation 15 inserted in Gazette 22 Sep 2006 p. 4131;
amended in Gazette 23 Dec 2008 p. 569-70.]*

16. Forms

The forms set out in Schedule 6 are prescribed in relation to the matters specified in those forms.

[Regulation 16 inserted in Gazette 22 Sep 2006 p. 4131.]

Schedule 1 — Prescribed fees

[r. 4, 4A]

[Heading inserted in Gazette 27 Jun 2006 p. 2271.]

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1. Grant of licence to a natural person (including triennial certificate)	628
2. Grant of licence to a firm (including triennial certificate).....	822
3. Grant of licence to a body corporate (including triennial certificate)	822
4. Renewal of triennial certificate	404
5. Inspection of register	10
6. Certificate as to an individual registration —	
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each subsequent page	2
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8. For the purposes of section 30(3a) (the holding fee)	190

[Schedule 1 inserted in Gazette 27 Jun 2006 p. 2271; amended in Gazette 17 Jun 2008 p. 2559-60.]

Schedule 1A — Professional development subjects

[r. 4B]

[Heading inserted in Gazette 28 Dec 2007 p. 6411.]

1. Joint Form of General Conditions
2. Conflicts of interest and disclosures
3. Reconciliation of trust accounts
4. Risk management — Professional indemnity insurance claims
5. Business management practices
6. Communication
7. Customer service skills
8. Disciplinary proceedings
9. Law of contract
10. Managing agency risk
11. Legislation regulating the carrying on of business as a settlement agent in Western Australia
12. Settlement of commercial property
13. Strata title settlements
14. Understanding real estate and settlement documents
15. Valid appointment to act
16. Office of State Revenue rulings and practices
17. Landgate practices and procedures
18. Legislative change affecting conveyancing

[Schedule 1A inserted in Gazette 28 Dec 2007 p. 6411.]

Schedule 2 — Notice under section 26A or 26B of the Act

WESTERN AUSTRALIA

SETTLEMENT AGENTS ACT 1981

Take notice that I/We
of
being a licensed Real Estate and/or Business Agent exempted under
section(s) 26A and/or 26B of the above Act may not arrange or effect
settlements for reward.

This means that I/We can arrange or effect your settlement free of charge but
you will not be entitled to make any claim against the “Settlement Agents
Fidelity Guarantee Account” or to the protection of the Settlement Agents Act
generally in respect of the settlement.

*[Schedule 2 inserted in Gazette 29 Oct 1982 p. 4323-4; amended in
Gazette 23 May 1997 p. 2421; 26 Oct 2007 p. 5652.]*

Settlement Agents Regulations 1982

Schedule 3 Documents that a real estate settlement agent may draw or prepare

Part A Offer and acceptance

Schedule 3 — Documents that a real estate settlement agent may draw or prepare

[Heading inserted in Gazette 23 May 1997 p. 2421.]

[Reg. 11]

Part A — Offer and acceptance

1. “Contract for Sale of Land by Offer and Acceptance” (1994 revision) incorporating the “1994 Joint Form of General Conditions for the Sale of Land”, as adopted jointly by the Law Society of Western Australia (Inc) and the Real Estate Institute of Western Australia (Inc) and approved by the Settlement Agents Association (Inc) and the Associated Settlement Agents of Western Australia (Inc).
2. “Contract for Sale of Strata Title Property by Offer and Acceptance” incorporating the “1994 Joint Form of General Conditions for the Sale of Land”, as adopted jointly by the Law Society of Western Australia (Inc) and the Real Estate Institute of Western Australia (Inc) and approved by the Settlement Agents Association (Inc) and the Associated Settlement Agents of Western Australia (Inc).

[Part A inserted in Gazette 23 May 1997 p. 2421.]

Part B — Requisitions on title

1. Is the certificate or certificates of title to the land the subject of any dealing or dealings under the *Transfer of Land Act 1893*? If so, please provide true copies of all documents lodged under the *Transfer of Land Act 1893* relating to such dealing or dealings.
2. Is the vendor aware of any circumstances which could give rise to a claim to an interest in the land, or any parts of it, by virtue of adverse possession? If so, please provide details.
3. Is the vendor, after due enquiry, aware of any pending or threatened suit relating to the title of the land or any claim to its use generally or for any particular purpose adverse to the title of the vendor? If so, please provide details.
4. Is the vendor aware of any circumstances, including enjoyment or use, which would give rise to claims to rights of way, liens, restrictive covenants, grants of licence or of other rights or easements, public or

private, or trusts, affecting the land, not referred to in the certificate or certificates of title to the land? If so, please provide details.

5. Does the vendor have any knowledge of any circumstances which could give rise to a charge against or interest in the land pursuant to any statute including, but not limited to, any of the following Acts:
- (a) *Lands Acquisition Act 1989* (Cwlth);
 - (b) *Energy Operators (Powers) Act 1979*;
 - (c) *Environmental Protection Act 1986*;
 - (d) *Heritage of Western Australia Act 1990*;
 - [(e) deleted]*
 - (f) *Local Government Act 1995*;
 - (g) *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*;
 - (ga) *Public Works Act 1902*;
 - (h) *Retirement Villages Act 1992*;
 - (i) *Soil and Land Conservation Act 1945*;
 - (j) *Strata Titles Act 1985*?
6. Is anybody in occupation of the land under any or any alleged lease or licence? If so, please provide precise details of the terms of any such lease or licence or alleged lease or licence and provide copies of any agreements in respect thereof.
7. Are there any claims by any third parties to a mining lease or licence under the *Mining Act 1978*? If so, please provide precise details of the terms of any claim.
8. The vendor is to list all applications, transfers, instruments, statutory declarations, discharges of mortgages, withdrawals of caveats or other documents to be tendered at settlement in order for the purchaser to become registered as the proprietor of the freehold of the land without any encumbrances on the title to it.

[Part B inserted in Gazette 23 May 1997 p. 2421-2; amended in Gazette 15 Jun 2004 p. 2026; 22 Dec 2006 p. 5808.]

Settlement Agents Regulations 1982

Schedule 3 Documents that a real estate settlement agent may draw or prepare

Part C Documents for registration or lodgement

Part C — Documents for registration or lodgement

1. Under or for the purposes of the *Strata Titles Act 1985* the following documents, subject to the condition that a licensee shall not draft a resolution of a strata company under or for the purposes of that Act:

(a) these documents for the purposes of these provisions of that Act:

Provision	Description of document
ss. 4-5B	Application for registration of a strata plan or a survey-strata plan
s. 69C	Vendor's notice to purchaser of notifiable variation;

(b) these forms in Schedule 3 to the *Strata Titles General Regulations 1996*:

Form	Description of form
10	Certificate of Strata Company Consenting to Conversion of Common Property
11	Certificate of Consent by Strata Company to Amended Schedule of Unit Entitlement
12	Certificate of Strata Company Authorising Application to State Administrative Tribunal
13	Certificate of Strata Company Authorising Acceptance of Transfer or Lease
14	Certificate of Resolution and Consents to Transfer or Lease, Easement or Restrictive Covenant
15	Notification of Resolution of Termination of Scheme
16	Notice of Change of Address for Service of Notices
17	Notice of Change of Name of Scheme and Change of Address for Service of Notices
19	Notice of Resolution to Vary, Remove or Add a Restriction;
20	Application for Re-subdivision by Strata Company

Form	Description of form
21	Notice of Amendment, Repeal or Addition of By-law
22	Disposition on Subdivision
23	Disposition on Re-subdivision
24	Application to Western Australian Planning Commission for Approval to Strata Plan
28	Disclosure Statement
30	Notice of Resolution of Merger of Buildings
39	Disposition on Merger of Land or Conversion to a Survey-Strata Scheme
40	Notice of Objection to Change of Fencing Provisions
41	Notice of Termination of Insurance Order.

2. Under or for the purposes of the *Transfer of Land Act 1893* —

(a) these documents under these provisions of that Act for the purposes described:

Provision	Description of document and purpose
s. 48B	Request in relation to the issue of duplicate certificate of title
s. 59	Application to remove notation as to legal disability
s. 71	Application for a consolidated certificate of title
s. 71A	Application for a certificate of title for the balance of land in a certificate of title
s. 74B	Application for a new duplicate certificate of title
s. 75	Application for a replacement duplicate certificate of title
s. 82	Transfer
s. 84	Transfer
s. 129BB	Application for discharge or modification of restrictive covenant
s. 136J	Application for discharge or modification of restrictive covenant

Settlement Agents Regulations 1982

Schedule 3 Documents that a real estate settlement agent may draw or prepare

Part C Documents for registration or lodgement

Provision	Description of document and purpose
s. 137	Caveat to protect the interest of a purchaser or mortgagee for whom the licensee is acting
s. 138B	Application to have notice sent to caveator
s. 146	Application for search certificate
s. 148	Application for stay of registration
s. 166	Application for new certificates of title on a subdivision of land that is held in fee simple
s. 219	Application on a transmission
s. 221	Application by remainderman on a transmission
s. 227	Application by the survivor of joint proprietors
s. 240A	Application to change an address;
(b)	a withdrawal of a caveat lodged by a purchaser or mortgagee, or prepared by the licensee to protect the interest of a purchaser or mortgagee for whom the licensee is acting, if — <ol style="list-style-type: none">there is to be lodged with the withdrawal a transfer of the whole of the land the subject of the withdrawal to the caveator or to a person nominated in writing by the caveator, or if there is more than one caveator, by each of them;no other person has acquired or claims any interest in the land that has priority over, or that is adverse to, the caveator's claim; andno dealing that is adverse to, or that derogates from, the caveator's claim is lodged or is to be lodged after the withdrawal and before the transfer to the caveator or the caveator's nominee;
(c)	an application to amend the Register as to the name of a registered proprietor;
(d)	a notice under section 67B of the <i>Water Agencies (Powers) Act 1984</i> , to be provided by the Water Corporation, directing that section 67B of that Act cease to apply to specified land;

- (e) a notice under section 62D of the *Water Boards Act 1904*, to be provided by a Water Board, directing that section 62B of that Act cease to apply to specified land.

[Part C inserted in Gazette 23 May 1997 p. 2422-4; amended in Gazette 30 Dec 2004 p. 6927.]

Settlement Agents Regulations 1982

Schedule 4 Documents that a business settlement agent may draw or prepare

Schedule 4 — Documents that a business settlement agent may draw or prepare

[Reg. 12]

1. A memorandum of satisfaction of a bill of sale for the purposes of section 21 of the *Bills of Sale Act 1899*.

[Schedule 4 inserted in Gazette 23 May 1997 p. 2424.]

Schedule 5 — Prescribed offences and modified penalties

[r. 15]

[Heading inserted in Gazette 23 Dec 2008 p. 5470.]

Part 1 — Offences under section 65

[Heading inserted in Gazette 23 Dec 2008 p. 5470.]

Provision of the <i>Settlement Agents Act 1981</i>	Modified Penalty
s. 51(1)	\$600
s. 51(3)(a)	\$600

Part 2 — Offences under section 120

[Heading inserted in Gazette 23 Dec 2008 p. 5470.]

Provision of the <i>Settlement Agents Act 1981</i>	Modified Penalty
s. 36(1)	\$400
s. 37(1)	\$200
s. 38(1)	\$200
s. 38(2)	\$200
s. 38(3)	\$400
s. 41(1)(a)	\$200
s. 41(1)(b)	\$200
s. 41(2)	\$200
s. 42(1)(a)	\$400
s. 42(1)(b)	\$400
s. 42(2)(a)	\$400
s. 42(2)(b)	\$400

[Schedule 5 inserted in Gazette 23 Dec 2008 p. 5470.]

Schedule 6 — Forms

[r. 16]

[Heading inserted in Gazette 22 Sep 2006 p. 4132.]

Form 1 — Infringement notice

<i>Settlement Agents Act 1981</i>		Infringement notice no.
Infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Company name _____	
	ACN _____	
Address _____		Postcode _____
Alleged offence	Description of offence _____	
	<i>Settlement Agents Act 1981 s.</i> _____	
	Date _____ / _____ /20	Time _____ a.m./p.m.
	Modified penalty \$ _____	
Officer issuing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of notice _____ / _____ /20	
Notice to alleged offender	<p>It is alleged that you have committed the above offence. If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice.</p> <p>How to pay</p> <p>By post: Send a cheque or money order (payable to 'Approved Officer — <i>Settlement Agents Act 1981</i>') to: Approved Officer — <i>Settlement Agents Act 1981</i> Settlement Agents Supervisory Board Locked Bag 14 Cloisters Square Perth WA 6850</p> <p>In person: Pay the cashier at: Settlement Agents Supervisory Board 219 St George's Terrace, Perth WA</p> <p>If you do not pay the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver's licence and/or vehicle licence may be suspended.</p> <p>If you need more time to pay the modified penalty, you can apply for an extension of time by writing to the Approved Officer at the</p>	

	above postal address.
	If you want this matter to be dealt with by prosecution in court, sign here _____ and post this notice to the Approved Officer at the above postal address within 28 days after the date of this notice.

[Form 1 inserted in Gazette 22 Sep 2006 p. 4132.]

Form 2 — Withdrawal of infringement notice

<i>Settlement Agents Act 1981</i>		Withdrawal no.
Withdrawal of infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Company name _____	
	ACN _____	
Address _____		Postcode _____
Infringement notice	Infringement notice no. _____	
	Date of issue / /20	
Alleged offence	Description of offence _____	
	<i>Settlement Agents Act 1981 s.</i> _____	
	Date / /20	Time a.m./p.m.
Officer withdrawing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of withdrawal / /20	
Withdrawal of infringement notice	The above infringement notice issued against you has been withdrawn. If you have already paid the modified penalty for the alleged offence you are entitled to a refund. * Your refund is enclosed. or * If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to: Approved Officer — <i>Settlement Agents Act 1981</i> Settlement Agents Supervisory Board Locked Bag 14 Cloisters Square Perth WA 6850	
<i>[*delete whichever is not applicable]</i>	Signature _____ / /20	

[Form 2 inserted in Gazette 22 Sep 2006 p. 4132-3.]

Notes

¹ This is a compilation of the *Settlement Agents Regulations 1982* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Settlement Agents Regulations 1982</i>	19 Mar 1982 p. 886-7	19 Mar 1982
<i>Settlement Agents Amendment Regulations 1982</i>	29 Oct 1982 p. 4323-4	29 Oct 1982
<i>Settlement Agents Amendment Regulations 1984</i>	30 Mar 1984 p. 910 (erratum 6 Apr 1984 p. 998)	30 Mar 1984
<i>Settlement Agents Amendment Regulations 1985</i>	21 Jun 1985 p. 2263	21 Jun 1985
<i>Settlement Agents Amendment Regulations 1986</i>	13 Jun 1986 p. 1997	1 Jul 1986 (see r. 2)
<i>Settlement Agents Amendment Regulations 1987</i>	4 Sep 1987 p. 3519	4 Sep 1987
<i>Settlement Agents Amendment Regulations 1988</i>	2 Sep 1988 p. 3466	2 Sep 1988
<i>Settlement Agents Amendment Regulations (No. 2) 1988</i>	25 Nov 1988 p. 4761 (erratum 2 Dec 1988 p. 4799)	25 Nov 1988
<i>Settlement Agents Amendment Regulations 1989</i>	30 Jun 1989 p. 1970-1	1 Jul 1989 (see r. 2)
<i>Settlement Agents Amendment Regulations 1990</i>	1 Aug 1990 p. 3653	1 Aug 1990
<i>Settlement Agents Amendment Regulations 1991</i>	13 Dec 1991 p. 6161	13 Dec 1991
<i>Settlement Agents Amendment Regulations 1992</i>	14 Aug 1992 p. 4009	14 Aug 1992
<i>Settlement Agents Amendment Regulations 1993</i>	30 Nov 1993 p. 6407-8	30 Nov 1993

Citation	Gazettal	Commencement
Reprint of the Settlement Agents Regulations 1982 as at 9 Apr 1996 (includes amendments listed above)		
<i>Settlement Agents Amendment Regulations (No. 2) 1996</i>	25 Jun 1996 p. 2925-8	1 Jul 1996 (see r. 2 and <i>Gazette</i> 25 Jun 1996 p. 2902)
<i>Settlement Agents Amendment Regulations 1996</i> ²	2 Aug 1996 p. 3731-2	2 Aug 1996
<i>Settlement Agents Amendment Regulations (No. 3) 1996</i>	30 Aug 1996 p. 4322	30 Aug 1996
<i>Settlement Agents Amendment Regulations 1997</i>	23 May 1997 p. 2419-24	24 May 1997 (see r. 2 and <i>Gazette</i> 23 May 1997 p. 2417)
Reprint of the Settlement Agents Regulations 1982 as at 12 Dec 1997 (includes amendments listed above)		
<i>Settlement Agents Amendment Regulations 2000</i>	26 May 2000 p. 2525	26 Aug 2000 (see r. 2 and <i>Gazette</i> 26 May 2000 p. 2526)
<i>Settlement Agents Amendment Regulations 2004</i>	6 Apr 2004 p. 1131	6 Apr 2004
<i>Settlement Agents Amendment Regulations (No. 2) 2004</i> ³	15 Jun 2004 p. 2024-6 (as amended 21 Jan 2005 p. 258 and 16 Jun 2006 p. 2122)	15 Jun 2004
<i>Settlement Agents Amendment Regulations (No. 4) 2004</i>	30 Dec 2004 p. 6927	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
Reprint 3: The Settlement Agents Regulations 1982 as at 18 Mar 2005 (includes amendments listed above)		
<i>Settlement Agents Amendment Regulations (No. 2) 2006</i>	16 Jun 2006 p. 2121-2	16 Jun 2006
<i>Settlement Agents Amendment Regulations (No. 3) 2006</i>	27 Jun 2006 p. 2270-1	1 Jul 2006 (see r. 2)
<i>Settlement Agents Amendment Regulations 2006</i>	22 Sep 2006 p. 4130-3	22 Sep 2006 (see r. 2(a))
<i>Settlement Agents Amendment Regulations (No. 4) 2006</i>	22 Dec 2006 p. 5807-8	1 Jan 2007 (see r. 2 and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Settlement Agents Amendment Regulations 2007</i>	6 Feb 2007 p. 310	6 Feb 2007

Settlement Agents Regulations 1982

Citation	Gazettal	Commencement
<i>Settlement Agents Amendment Regulations (No. 2) 2007</i>	29 Jun 2007 p. 3187-8	r. 1 and 2: 29 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Settlement Agents Amendment Regulations (No. 3) 2007</i>	26 Oct 2007 p. 5651-2	r. 1 and 2: 26 Oct 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 27 Oct 2007 (see r. 2(b))
<i>Settlement Agents Amendment Regulations (No. 4) 2007</i>	28 Dec 2007 p. 6407-11	r. 1 and 2: 28 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Dec 2007 (see r. 2(b))
Reprint 4: The Settlement Agents Regulations 1982 as at 1 Feb 2008 (includes amendments listed above)		
<i>Settlement Agents Amendment Regulations 2008</i>	17 Jun 2008 p. 2559-60	r. 1 and 2: 17 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b))
<i>Settlement Agents Amendment Regulations (No. 2) 2008</i> ⁴	23 Dec 2008 p. 5469-70	r. 1 and 2: 23 Dec 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Dec 2008 (see r. 2(b))

² These regulations were in place of the *Settlement Agents Amendment Regulations 1996* published in *Gazette* 5 Jul 1996 p. 3224-5. Those regulations were published in the *Gazette* after the day on which they purported to commence (1 Jul 1996 — see proclamation published in *Gazette* 1 Jul 1996 p. 3179 fixing 1 Jul 1996 as the day on which Part 9 of the *Business Licensing Amendment Act 1995* came into operation).

³ The *Settlement Agents Amendment Regulations (No. 2) 2004* r. 4 (as amended in *Gazette* 21 Jan 2004 p. 258 and 16 Jun 2006 p. 2122) reads as follows:

“

4. Transitional

Despite the repeal effected by regulation 3, in relation to an application for a licence made under Part III of the Act before 1 July 2007, a person is taken to have passed the examinations prescribed for the purposes of clause 1(1)(a) or 2(1)(a) of Schedule 1 to the Act if the person has passed the examinations —

- (a) prescribed by the repealed regulation 6; or

- (b) required to be passed for the conferring by a college (within the meaning of the *Vocational Education and Training Act 1996*) of —
 - (i) a Certificate in Settlement Agency Procedure; or
 - (ii) a Certificate IV in Conveyancing.

*[Regulation 4 amended in Gazette 21 Jan 2005 p. 258;
16 Jun 2006 p. 2122.]*

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⁴ The *Settlement Agents Amendment Regulations (No. 2) 2008* were published on 23 Dec 2008 p. 5469-70 and again on 30 Dec 2008 p. 5640-1. The publication of 30 Dec 2008 has no effect.

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
approved educational activity	2
core professional development subject	2
holding fee	4A(1)
points.....	2
public training provider.....	6(3)
record	2
register	2
registered training provider.....	6(3)
relevant bank accepted bills rate	6D(2)
specified	4C(6)
unit	6(3)
working day	2