

FT302

REAL ESTATE AND BUSINESS AGENTS ACT 1978

**REAL ESTATE AND BUSINESS AGENTS (GENERAL) AMENDMENT
REGULATIONS (No. 3) 1996**

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Real Estate and Business Agents (General) Amendment Regulations (No. 3) 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 *Real Estate and Business Agents (General) Regulations 1979** are referred to as the principal regulations.

[* Reprinted as at 1 October 1992.
For amendments to 10 June 1996 see 1995 Index to Legislation of
Western Australia, Table 4, p. 233.]

Regulation 2 repealed and a regulation substituted

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 Regulation 2 of the principal regulations is repealed and the following regulation is substituted —

“

Interpretation

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

“**dwelling**” has the same meaning as it has in section 131L of the Act;

“**Ministry**” means the department of the Public Service principally assisting the Minister in the administration of the Act;

“**record**” means a record under section 69 (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 6C, 6D, 6E, 6F, 6G and 6H inserted

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

“

Definition of “authorized financial institution” — prescribed classes

6C. For the purposes of the definition of “authorized financial institution” in section 67 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

6D. (1) For the purposes of section 68 (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 “REBA Trust Account” or “REBA Tenancy Bond Trust Account” as appropriate;
- (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 “REBA 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

6E. (1) For the purposes of section 68A (4) of the Act, where the transaction in respect of which moneys are paid relates to the sale of real estate or a business, an agent shall only comply with the request for a separate account if the agent is satisfied that —

- (a) the amount of moneys paid to the agent exceeds \$20 000; or
 - (b) the transaction is not to be settled within 60 days.
- (2) In subregulation (1) —

"business" means any commercial undertaking or enterprise in respect of any profession, trade, employment, vocation, or calling.

Interest payable on trust accounts

6F. (1) For the purposes of section 68B (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

6G. A receipt given under section 69 (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 69 (1) (b)

6H. (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 6G (b), (c), (d), (e) and (f) and, for that purpose, the reference in regulation 6G (b) to "receipt" is to be read as a reference to "record".

Regulation 7AA inserted

6. After regulation 7 of the principal regulations the following regulation is inserted —

“

Definition of "lending institution" — prescribed class

7AA. For the purposes of the definition of "lending institution" in section 131A of the Act, the class consisting of bodies, other than bodies referred to in paragraphs (a), (b) and (c) of that definition, that provide loans to persons in order to assist those persons to purchase a dwelling is prescribed.

Regulations 11, 11A, 11AA and 11B repealed and a regulation substituted

7. Regulations 11, 11A, 11AA and 11B of the principal regulations are repealed and the following regulation is substituted —

“

Application of Board Interest Account

11. For the purposes of section 127 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) 1% to the Fidelity Fund;
 - (ii) 64% to the General Purpose Fund; and
 - (iii) 35% to the Assistance Fund.

Schedule 2 amended

8. Schedule 2 to the principal regulations is amended in Form 1 —

- (a) in the heading by deleting "bank or building society" and substituting the following —

“ lending institution ”;

- (b) in item 2 by deleting —

“

Weekly Gross Income from Employer

Applicant 1. \$

Applicant 2. \$ (If applicable)

Spouse/Partner \$ (If applicable)

”

and substituting the following —

“

Gross annual income earned			
	Last financial year (ending 30 June)	Since end of last financial year	Name(s) of current employer(s)
Applicant 1	\$	\$
Applicant 2	\$	\$
Spouse/ Partner	\$	\$”;

(c) in item 4 by deleting “authority/authorities” and substituting the following —

“ institution/institutions ”;

(d) by deleting item 5 and substituting the following item —

“
5. Particulars of incidental expenses

Expense	\$	Carried forward	\$
Stamp duty — transfer — mortgage		Lending institution fees for lodging this application	
Registration fees — transfer — mortgage		Mortgage guarantee fees or mortgage insurance premium (not house and contents insurance)	
Settlement agent's fees		Inspection fees	
Solicitor's fees		Establishment fees	
Valuation fees			
Sub Total	\$	Total	\$

”;

and

(e) in the declaration at the end of the form by deleting the passage beginning “I do solemnly declare” and ending “a home by me.” and substituting the following —

“
I do solemnly and sincerely declare that —

- (a) the information listed above is true and correct;
- (b) I will not lease the dwelling, or permit it to be leased, for the period of 12 months after settlement on its purchase; and
- (c) the dwelling, unless it is a partly built dwelling, is to be used as the principal place of

residence of myself and my immediate family
for the period referred to in paragraph (b) of
this declaration.

”.

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.
