



New South Wales

Property, Stock and Business Agents (General) Amendment (Financial Institutions) Regulation 1998

under the

Property, Stock and Business Agents Act 1941

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Property, Stock and Business Agents Act 1941*.

JEFFREY SHAW, Q.C., M.L.C.,
Minister for Fair Trading

Explanatory note

Section 36AD (2A) of the *Property, Stock and Business Agents Act 1941* enables regulations to be made requiring a financial institution to provide additional information to the Director-General of the Department of Fair Trading relating to trust accounts kept by the financial institution under the Act.

The object of this Regulation is to prescribe the additional information that is to be provided by a financial institution (for example, details concerning any overdrawn trust account or any dishonoured cheques presented on a trust account).

This Regulation is made under the *Property, Stock and Business Agents Act 1941*, including section 36AD (2A) and section 92 (the general regulation-making power).

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Clause 1 Property, Stock and Business Agents (General) Amendment (Financial Institutions) Regulation 1998

Property, Stock and Business Agents (General) Amendment (Financial Institutions) Regulation 1998

1 Name of Regulation

This Regulation is the *Property Stock and Business Agents (General) Amendment (Financial Institutions) Regulation 1998*.

2 Commencement

This Regulation commences on 1 January 1999.

3 Amendment of Property, Stock and Business Agents (General) Regulation 1993

The *Property Stock and Business Agents (General) Regulation 1993* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Part 7, Division 1, heading

Insert before clause 26:

Division 1 Licensee's responsibilities

[2] Division 2

Insert after clause 38A:

Division 2 Financial institution's responsibilities

38B Closure of trust accounts

Within 14 days after the end of each month, a bank, building society or credit union must, by notice in writing, inform the Director-General of the following if a trust account kept with it under section 36 of the Act was closed during the month:

- (a) the name and number of the account,
- (b) the date on which the account was closed.

Maximum penalty: 40 penalty units.

38C Overdrawn trust accounts

Within 5 business days of a bank, building society or credit union becoming aware that a trust account kept with it under section 36 of the Act is overdrawn, the bank, building society or credit union must, by notice in writing, inform the Director-General of the date on which the account became overdrawn.

Maximum penalty: 40 penalty units.

38D Dishonoured cheques

Within 5 business days of a bank, building society or credit union becoming aware that a cheque presented on a trust account kept with it under section 36 of the Act

has been dishonoured, the bank, building society or credit union must, by notice in writing, inform the Director-General of the following:

- (a) the name and number of the account,
- (b) the amount of the dishonour,
- (c) the date on which the cheque was dishonoured.

Maximum penalty: 40 penalty units.

38E Monthly certification

Within 14 days of the end of each month, a bank, building society or credit union must provide a written report to the Director-General, certified as correct by the bank, building society or credit union, containing the following information in relation to trust accounts kept by it under section 36 of the Act during the month:

- (a) the name of the bank, building society or credit union and its branch number or its BSB number,
- (b) the period to which the report relates,
- (c) the name of each account,
- (d) the number of each account,
- (e) the end of month balance for each account (including any nil or overdrawn balances),
- (f) the interest earned on each account during the month,
- (g) the interest rate applied to calculate the interest earned on each account during the month,
- (h) the total amount of interest that the bank, building society or credit union paid under section 36AC (1) (b) of the Act during the month in respect of the accounts.

Maximum penalty: 40 penalty units.

38F Annual certification

Within 21 days of the end of each financial year ending 30 June, a bank, building society or credit union must certify in writing to the Director-General as to the following:

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Amendments

Schedule 1

- (a) that the bank, building society or credit union has complied with the requirements of sections 36AC and 36AD of the Act and this Division in relation to trust accounts kept by it under section 36 of the Act.
- (b) the total amount of interest that the bank, building society or credit union paid under section 36AC (1) (b) of the Act during the financial year in respect of those accounts.

Maximum penalty: 40 penalty units.