



New South Wales

Property, Stock and Business Agents (General) Amendment (Penalty Notices) Regulation 1999

under the

Property, Stock and Business Agents Act 1941

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

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

The objects of this Regulation are to prescribe certain offences under the *Property, Stock and Business Agents Act 1941* as penalty notice offences and to prescribe short descriptions for those offences.

This Regulation is made under the *Property, Stock and Business Agents Act 1941*, including section 86C (Penalty notices) and section 92 (the general regulation-making power).

2000 No 72

Clause 1 Property, Stock and Business Agents (General) Amendment (Penalty Notices) Regulation 1999

Property, Stock and Business Agents (General) Amendment (Penalty Notices) Regulation 1999

1 Name of Regulation

This Regulation is the *Property, Stock and Business Agents (General) Amendment (Penalty Notices) Regulation 1999*.

2 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.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clauses 48A and 48B

Insert after clause 48:

48A Penalty notice offences

For the purposes of section 86C of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 2 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 4 of Schedule 2.

48B Short description of offences

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence arising under a provision specified in Column 1 of Schedule 2 consists of the IPB Code set out in relation to the offence in Column 2 together with:
 - (a) the expression specified in Column 3 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence arising under a provision specified in Column 1 of Schedule 2, the prescribed expression is taken to relate to the offence arising under the provision, as the provision was in force when the offence is alleged to have been committed.

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Schedule 1 Amendments

- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.
- (5) In this clause:
Infringement Processing Bureau means the Infringement Processing Bureau within the Police Service.
IPB Code, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

[2] Schedule 2

Insert after Schedule 1:

Schedule 2 Penalty notice offences and short descriptions

(Clauses 48A and 48B)

Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Prescribed expression	Penalty
Offences under the Act			
Section 34 (4)	7144 BBA	fail to notify change of registered office/address	\$110
Section 34 (4A) (a)	7145 BBB	fail to notify details of new employee	\$110

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Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Prescribed expression	Penalty
Section 34 (4A) (b)	7146 BBC	fail to notify date when person ceases to be employee	\$110
Section 35 (3) (a)	7147 BBD	fail to display licensee's details as required	\$220
Section 35 (3) (a)	7148 BBE	fail to display name of person in charge	\$220
Section 35 (3) (a)	7149 BBF	fail to display details as required	\$220
Section 35 (3) (b)	7150 BBG	falsely imply that person is licensed	\$220
Section 36 (1A)	7152 BBH	fail to ensure notice given that account is trust account	\$220
Section 36 (3A)	7153 BBI	fail to notify closure of trust account	\$220
Section 38D (2) (a)	7154 BBJ	fail to cause audit	\$550
Section 38D (2) (b)	7155 BBK	fail to lodge auditor's report	\$550
Section 38D (2A)	7156 BBL	lodge auditor's report more than 14 days after receipt	\$550
Section 38D (2B)	7157 BBM	lodge auditor's report that is not in approved form	\$550
Section 38D (4)	7158 BBN	fail to preserve auditor's report for 3 years	\$550
Section 38D (6)	7159 BBO	fail to lodge statutory declaration	\$550
Section 40	7160 BBP	fail to produce licence on demand	\$220

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Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Prescribed expression	Penalty
Section 42AA	7161 BBQ	recover/retain remuneration/sum to which not entitled	\$220
Section 47	7162 BBR	sell land/livestock without notice of statutory requirements	\$220
Section 50L	7163 BBS	fail to keep instrument of appointment/delegation	\$220
Section 50L	7164 BBT	fail to produce instrument of appointment/delegation on demand	\$220
Section 84AA (2) (a)	7165 BBU	indicate property for sale/auction when documents unavailable	\$550
Section 84AA (2) (b)	7166 BBV	offer to sell property when documents unavailable	\$550
Section 84AA (2) (c)	7167 BBW	invite offer to purchase when documents unavailable	\$550
Section 84AA (2) (d)	7168 BBX	indicate option may be granted when documents unavailable	\$550
Offences under this Regulation			
Clause 13 (1)	7169 BBY	fail to display guide to fees etc	\$220
Clause 13 (2)	7170 BBZ	display guide without stating that fees etc are negotiable	\$220
Clause 13 (3)	7171 BCA	display guide to fees etc that is not visible to public	\$220

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Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Prescribed expression	Penalty
Clause 14 (1)	7172 BCB	fail to give other party guide to fees etc	\$220
Clause 14 (2)	7173 BCC	give guide without stating that fees etc are negotiable	\$220
Clause 14 (3)	7174 BCD	fail to give non-party guide to fees etc	\$220
Clause 16	7175 BCE	fail to include legible notice in claim/account	\$220
Clause 20	7176 BCF	fail to keep records/entries in English language	\$220
Clause 26	7177 BCG	fail to pay trust money into trust account	\$550
Schedule 1, rule 4	7178 BCH	fail to provide complete sales inspection report	\$550
Schedule 1, rule 5	7179 BCI	fail to inform principal of offer	\$550
Schedule 1, rule 7 (1)	7180 BCJ	fail to give deposit payer required information	\$550
Schedule 1, rule 7 (2)	7181 BCK	fail to give required information in writing	\$550
Schedule 1, rule 7 (3)	7182 BCL	fail to inform deposit payer of subsequent offers	\$550
Schedule 1, rule 9 (1)	7183 BCM	fail to deliver itemised account of costs to prospective lessee	\$550
Schedule 1, rule 9 (2)	7184 BCN	fail to include notice in account of costs	\$550
Schedule 1, rule 10 (a)	7185 BCO	fail to inspect before commencement of lease	\$550

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Schedule 1 Amendments

Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Prescribed expression	Penalty
Schedule 1, rule 10 (a)	7186 BCP	fail to inspect before/after termination of lease	\$550
Schedule 1, rule 10 (b)	7187 BCQ	fail to prepare report of inspection of leased property	\$550
Schedule 1, rule 10 (c)	7188 BCR	fail to retain report of inspection of leased property	\$550
Schedule 1, rule 10 (d)	7192 BCS	fail to forward report of inspection to prospective lessee/lessee	\$550
Schedule 1, rule 11 (a)	7193 BCT	fail to carry out initial inspection of managed property	\$550
Schedule 1, rule 11 (b)	7194 BCU	fail to carry out annual inspection of managed property	\$550
Schedule 1, rule 11 (c)	7195 BCV	fail to prepare report of inspection of managed property	\$550
Schedule 1, rule 11 (d)	7196 BCW	fail to forward report of inspection to principal	\$550
Schedule 1, rule 12	7197 BCX	fail to advise lessor of breach of lease	\$550
Schedule 1, rule 14	7198 BCY	solicit/obtain signature to bond document prior to end of lease	\$550
Schedule 1, rule 16 (1)	7199 BCZ	divulge confidential information	\$550
Schedule 1, rule 16 (3)	7200 BDA	inform holder of details of other agent's property	\$550

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Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Prescribed expression	Penalty
Schedule 1, rule 22	7201 BDB	fail to deliver copy of signed document	\$550
Schedule 1, rule 23	7202 BDC	fail to serve documents within required time	\$550

BY AUTHORITY