

2000 No 87

**PROPERTY, STOCK AND BUSINESS AGENTS (GENERAL)
AMENDMENT (PENALTY NOTICES) REGULATION 2000**

ERRATUM

THE Property, Stock and Business Agents (General) Amendment (Penalty Notices) Regulation 2000, which was published in the *Government Gazette* of 25 February 2000, No. 29, folios 1393 to 1401 contained an error in the main heading. The regulation is now republished in full below.



**Property, Stock and Business Agents
(General) Amendment (Penalty
Notices) Regulation 2000**

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).

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Clause 1 Property, Stock and Business Agents (General) Amendment (Penalty Notices) Regulation 2000

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 2000*.

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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Schedule 1 Amendments

| 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