

Conveyancers Licensing Regulation 2021

[2021-550]



New South Wales

Status Information

Currency of version

Current version for 31 May 2024 to date (accessed 3 January 2025 at 5:30)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Licensing and Registration \(Uniform Procedures\) Amendment Act 2022 No 2](#) (not commenced)
- **Staged repeal status**
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2027

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 31 May 2024

Conveyancers Licensing Regulation 2021



New South Wales

Contents

Part 1 Preliminary	5
1 Name of Regulation	5
2 Commencement	5
3 Definitions	5
4 Operating Account—the Act, s 90.....	5
Part 2 Licensing	5
5 Fees for licence—the Act, s 12(1)	5
6 Professional indemnity insurance—the Act, s 15	6
Part 3 Conduct of conveyancing business	6
7 Exemptions from provisions authorising person in charge of business—the Act, s 20.....	6
8 Rules of conduct—the Act, s 22	8
9 Conduct of other businesses—the Act, s 28	8
10 Obligation to disclose certain matters to client—the Act, s 36	8
11 Itemised account—the Act, s 67	9
Part 4 Resolution of costs disputes	9
12 Notifying Tribunal of costs dispute—the Act, s 43(1)	9
13 Costs of assessment—the Act, s 45	9
14 Transfer of proceedings to or from other courts or tribunals—the Act, s 50(2).....	10
Part 5 Trust money	10
Division 1 General	10

15 Definitions	10
16 Keeping of records generally	10
17 Specific records to be kept by licensees	11
18 Electronic records	11
19 Statements of account—the Act, s 172	12
20 Receipt and withdrawal of money for costs and disbursements—the Act, s 53(3)(a)	14
Division 2 Trust accounts	14
21 Banking of trust money—the Act, s 172	14
22 Receipts for trust money	15
23 Payment of trust money—the Act, s 172	16
24 Trust deposits	17
25 Cash book record of trust account transactions	18
26 Journal	19
27 Trust account ledger	19
28 Trust account ledger trial balance	20
29 Signing of cheques or effecting electronic funds transfers—trust account—the Act, s 172	20
30 Account in the name of a licensee—the Act, s 172	22
Part 6 Records	22
31 Records that licensees must keep	22
32 Period for which records must be kept	23
33 Records and book entries to be in English language	23
Part 7 General	23
34 The Register—the Act, s 162	23
35 Complaints and discipline—the Act, s 133(3)	24
36 Corporate licensees—the Act, s 172	25
37 Secretary’s power to waive, reduce, postpone or refund fees	25
38 Partial refund of application fees for certain licences	25
39 Repeal and savings	26
Schedule 1 Fees	26
Schedule 2 Rules of conduct	28

Schedule 3 Penalty notice offences36

Conveyancers Licensing Regulation 2021



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Conveyancers Licensing Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note—

This Regulation repeals and replaces the *Conveyancers Licensing Regulation 2015*, which would otherwise be repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

In this Regulation—

fee unit—see Schedule 1, Part 2.

the Act means the *Conveyancers Licensing Act 2003*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

4 Operating Account—the Act, s 90

The departmental account known as the Compensation Fund is prescribed for the purposes of the Act, section 90, definition of **Operating Account**.

Part 2 Licensing

5 Fees for licence—the Act, s 12(1)

(1) The application fees payable for the purposes of the Act are listed in Schedule 1, Part 1.

- (2) An amount specified for an application fee in Schedule 1, Part 1, Column 3 under the heading **Processing component** is taken to be a fee to cover the costs incurred by the Secretary in processing the application.

Note—

This amount is consequently a **processing fee** for the purposes of the *Licensing and Registration (Uniform Procedures) Act 2002*, Part 2. If an application is made by electronic communication, the processing fee is discounted (see that Act, section 13). If an application is refused or withdrawn, the applicant is entitled to a refund of all fees paid, other than the processing fee (see that Act, section 22).

- (3) The total application fee is set out in Schedule 1, Part 1, Column 4.
- (4) In addition to the total application fee, an applicant for a licence must pay the contribution to, and any levy for, the Compensation Fund required under the *Property and Stock Agents Act 2002*, section 168 or 169.

Note—

See the *Conveyancers Licensing Act 2003*, section 89.

- (5) An applicant for a licence must pay the same contribution to the Compensation Fund as an applicant for a class 1 licence under the *Property and Stock Agents Act 2002*.

6 Professional indemnity insurance—the Act, s 15

- (1) A licensee must, when carrying out conveyancing work, be insured under a policy of professional indemnity as required under subsection (2).
- (2) The licensee is insured as required under this section if—
 - (a) the licensee is insured under an approved professional indemnity insurance policy in force with respect to the licensee or the licensee’s employer, or
 - (b) the licensee carries out conveyancing work only in the licensee’s capacity as an employee of a complying law practice.
- (3) In this section—

approved professional indemnity insurance policy means a policy, or a policy of a kind, that is approved by the Secretary for the time being by order published on the NSW legislation website.

complying law practice has the same meaning as a law practice in the *Legal Profession Uniform Law (NSW)* that complies with the relevant requirements of the Law, Part 4.4.

Part 3 Conduct of conveyancing business

7 Exemptions from provisions authorising person in charge of business—the Act, s 20

- (1) The Secretary must take into account the following matters in considering whether to

grant an exemption from a provision of the Act, section 20 that will authorise a licensee to be the person in charge of business (the **licensee-in-charge**) at more than 1 place of business of a licensee or to exercise functions or provide services on behalf of 2 or more licensees at a place of business—

- (a) the reasons given by the licensee for why the exemption is needed,
 - (b) the licensee's previous experience as licensee-in-charge at a place of business of a licensee,
 - (c) the capacity of the licensee to comply with any guidelines issued by the Secretary under the Act, section 21(3),
 - (d) the record of the licensee regarding compliance with—
 - (i) the conditions of a licence held at any time by a licensee under the *Conveyancers Licensing Act 1992*, the *Conveyancers Licensing Act 1995* or the *Conveyancers Licensing Act 2003*, and
 - (ii) the provisions of the Act under which the licence was held and the regulations under that Act, and
 - (iii) the relevant provisions of the *Legal Profession Act 1987* and the *Legal Profession Act 2004*, and the relevant provisions of the regulations under those Acts, and
 - (iv) the relevant provisions of the *Legal Profession Uniform Law (NSW)* and the *Legal Profession Uniform Law Application Act 2014*, and the relevant provisions of the rules and regulations under those Acts,
 - (e) employer references for the licensee's experience as a licensee-in-charge.
- (2) The Secretary must take into account the following additional matters in considering whether to grant an exemption from the Act, section 20(1), (2) or (3) that will authorise a licensee to be the licensee-in-charge at more than 1 place of business of a licensee—
- (a) the capacity of the licensee to properly supervise the conduct of business at more than 1 place of business,
 - (b) the office systems proposed to be established at each place of business to provide for accountability to the licensee-in-charge at each place of business,
 - (c) the proposed staffing and office management arrangements at each place of business,
 - (d) whether there is a centralised trust account for the deposit of trust money received in connection with the businesses for which the licensee will be the

licensee-in-charge under the exemption.

- (3) The Secretary must take into account the following additional matters in considering whether to grant an exemption from the Act, section 20(4) that will authorise a licensee employed as the licensee-in-charge at a place of business to exercise functions or provide services on behalf of 2 or more licensees (the **principal licensees**) at the place of business—
- (a) the capacity of the licensee to properly supervise the conduct of business of more than 1 principal licensee,
 - (b) the fiduciary safeguards and office systems proposed to be established to provide for accountability to the licensee-in-charge,
 - (c) whether separate trust accounts are in place for the deposit of trust money received in connection with the business of each principal licensee.

8 Rules of conduct—the Act, s 22

- (1) The rules set out in Schedule 2 are prescribed as rules of conduct for the conduct of a conveyancing business or the exercise of functions under a licence.
- (2) A licensee must comply with the rules set out in Schedule 2 in the course of conducting a conveyancing business or exercising functions under a licence.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

9 Conduct of other businesses—the Act, s 28

- (1) A licensee who conducts a conveyancing business, or is employed in the conduct of a conveyancing business, is prohibited from conducting, or being employed in the conduct of, the business of an agent.
- (2) In this section—

agent means an agent within the meaning of the [Property and Stock Agents Act 2002](#).

10 Obligation to disclose certain matters to client—the Act, s 36

- (1) For the purposes of the Act, section 36(2)(f), the following matters are prescribed as matters that must be disclosed to the client—
 - (a) if the amount of the costs for the conveyancing work is not known—an estimate of the costs for the conveyancing work,
 - (b) if, in the conduct of the matter, the licensee will carry out both conveyancing work and non-conveyancing work for the client—
 - (i) the fact that some of the work is non-conveyancing work, and

(ii) the nature of the non-conveyancing work.

(2) In this section—

non-conveyancing work means work that is not conveyancing work.

11 Itemised account—the Act, s 67

(1) A person may serve a request for an itemised account under the Act, section 67 on the licensee by—

- (a) delivering it personally to the licensee, or
- (b) leaving it for the licensee at a place of business of the licensee, or
- (c) sending it by post to the licensee at the address of a place of business of the licensee, or
- (d) sending it by email to the licensee at an email address provided by the licensee for the service of documents of that kind.

(2) The licensee may give the itemised account to the person by—

- (a) delivering it personally to the person, or
- (b) leaving it for the person at an address specified as the person's address in the request, or
- (c) sending it by post to the person at an address specified as the person's address in the request, or
- (d) sending it by email to the person at an email address provided by the person for the service of documents of that kind.

Part 4 Resolution of costs disputes

12 Notifying Tribunal of costs dispute—the Act, s 43(1)

A notification to the Tribunal of a costs dispute must be made—

- (a) in writing and otherwise in accordance with the requirements for making applications to the Tribunal under the [Civil and Administrative Tribunal Act 2013](#), and
- (b) within 60 days after the licensee has given the client the bill or account for the costs the subject of the dispute.

13 Costs of assessment—the Act, s 45

If the Tribunal refers a costs dispute to an independent expert for assessment, the parties must bear the costs of the assessment in the way ordered by the Tribunal.

14 Transfer of proceedings to or from other courts or tribunals—the Act, s 50(2)

- (1) Proceedings must be transferred by order of the court hearing the costs dispute.
- (2) Notice of the transfer must be given to the principal registrar of the Tribunal by the registrar of the court hearing the costs dispute.
- (3) All documents relating to the proceedings in the custody of the court hearing the costs dispute must be transferred by the registrar of the court to the principal registrar of the Tribunal.
- (4) On receiving the notice of transfer and accompanying documents, the principal registrar must serve on the parties a notice fixing a date and time for the holding of the hearing or a directions hearing for the proceedings.

Part 5 Trust money

Division 1 General

15 Definitions

In this Part—

cash book means the record required to be kept under section 17(c).

trust account means a trust account required to be maintained under the Act, section 53.

trust receipt book means the record required to be kept under section 17(a).

viewable form, in relation to a record, means a form that enables the production of the record, on demand, in permanent legible form in the English language.

16 Keeping of records generally

- (1) For the purposes of the Act, section 172(2)(d), a licensee must keep the records required to be kept under this Part in viewable form.
- (2) A licensee must keep the records, including any records kept electronically, at the place of business where the licensee conducts the conveyancing business under the licence.
- (3) A licensee who conducts a conveyancing business under a licence at more than 1 place of business is taken to comply with subsection (2) if the licensee—
 - (a) keeps the records relating to business transacted at a particular place of business at that place of business, or
 - (b) keeps the records relating to the business transacted at each place of business at

1 place of business specified in a written notice given to the Secretary.

- (4) A licensee must, within 21 days after the end of each named month—
- (a) compile with the records kept by the licensee under this Part the original, or a true copy, of the trial balance statement prepared by the licensee in accordance with section 28 for the named month, and
 - (b) maintain a summary of the total of trust money disclosed in the trial balance statements for the named month.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

17 Specific records to be kept by licensees

For the purposes of the Act, section 172(2)(d), a licensee must keep the following records—

- (a) a trust receipt book containing the duplicates of all receipts issued from the trust receipt book, with the duplicates being machine-numbered consecutively to correspond with the machine-numbered receipts,
- (b) a deposit book of an authorised deposit-taking institution approved by the Secretary under the Act, section 54, for the purposes of the Act, Part 5, showing all deposits made by the licensee into the trust account or other written or electronic record showing the deposits,
- (c) a trust account cash book or other written or electronic record of all receipts of amounts required to be paid into, and of all payments made from, the trust account.

18 Electronic records

- (1) For the purposes of the Act, section 172(2)(d), a licensee who keeps records for the purposes of this Part electronically must comply with this section.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

- (2) The licensee must keep a record, compiled in chronological sequence, of all changes, by creation, amendment or deletion, to any of the following information kept electronically, showing the details of the information before and after the change—
- (a) client name,
 - (b) client address,
 - (c) matter number,
 - (d) matter description,

- (e) client number,
 - (f) trust account number.
- (3) The licensee must ensure that computer programs relating to ledgers are not capable of the following—
- (a) accepting the entry of a transaction resulting in a debit balance to an account unless a contemporaneous record of the transaction is made in a way that enables the production in viewable form, of a separate chronological report of each transaction,
 - (b) amending the particulars of a transaction already recorded otherwise than by a separate transaction effecting the amendment,
 - (c) deleting an account unless—
 - (i) the balance of the account is zero, and
 - (ii) when the account is deleted, a record of the account will be kept in viewable form.
- (4) The licensee must also ensure the following—
- (a) each computer program requires input in each field of a data entry screen intended to receive information required, under this Regulation, to be included in trust records,
 - (b) entries in the ledger of a journal balance before further entries are made,
 - (c) journal reference numbers are allocated in sequence by the computer program,
 - (d) entries in a record kept in viewable form appear in chronological sequence,
 - (e) a report, or each page of or entry in a report, is numbered in sequence by the computer program in a manner that enables easy verification of the completeness of the records required to be kept under this Regulation,
 - (f) a back-up copy of all records required to be kept under this Regulation that are kept electronically is made by electronic means at least once in every four weeks,
 - (g) the most recent back-up copy is kept in a place where any incident, including, for example, a power failure, that could adversely affect the records would not also affect the back-up copy.

19 Statements of account—the Act, s 172

- (1) A licensee must give each person for whom or on whose behalf money is held by the licensee a separate statement of account for the ledger account maintained for the

person.

- (2) The statement of account must be given—
 - (a) within 14 days after the licensee receives a written request for the statement from the person, and
 - (b) within 21 days after each of the following—
 - (i) completion of the matter to which the ledger account relates,
 - (ii) the closure and removal of the account from the relevant ledger,
 - (iii) except as provided by subsection (4)—31 March and 30 September in each year.
- (3) The statement of account must—
 - (a) contain the following particulars—
 - (i) the money received and held by the licensee for or on behalf of the person during the licensee's conveyancing business,
 - (ii) the disbursement of the money,
 - (iii) the remaining balance of the money, and
 - (b) identify the transactions to which the particulars relate.
- (4) A licensee is not required to give a statement of account under subsection (2)(b)(iii) if, at the relevant day—
 - (a) the account has been open for less than 6 months, or
 - (b) the balance of the account is zero and no transaction affecting the account has taken place within the preceding 6 months, or
 - (c) a statement of account has been given within the preceding 6 months and there has been no subsequent transaction affecting the account, or
 - (d) the licensee has received a notice under subsection (5) waiving compliance with the requirement and has not received notice of revocation of the waiver.
- (5) A person for whom or on whose behalf money is held by a licensee—
 - (a) may, by written notice to the licensee in the form approved by the Secretary, waive compliance by the licensee with the requirements of subsection (2)(b)(iii), and
 - (b) may, by further written notice to the licensee, revoke the waiver.

(6) A licensee must keep a copy of a statement of account with the file to which it relates.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

20 Receipt and withdrawal of money for costs and disbursements—the Act, s 53(3)(a)

(1) This section prescribes the procedure a licensee must follow to withdraw or receive, from trust money, money due to the licensee for costs.

(2) The licensee—

(a) must have disclosed, under the Act, Part 3, Division 5, the costs and other matters required to be disclosed under the Act, section 36 to the person from whom or on whose behalf the licensee has received the trust money, or

(b) must be able to claim, under the Act, section 39, that the disclosure was not required because, in the circumstances, it was not reasonable to require it.

(3) The licensee must give the person a bill or account of the costs together with written notice that, unless the person objects, the licensee intends, at the expiration of 30 days (the **notice period**) after giving the person the bill or account, to—

(a) withdraw the money, and

(b) apply it towards payment of the bill or account.

(4) One of the following circumstances must apply—

(a) the person has authorised in writing the withdrawal or receipt,

(b) the notice period has expired and the person has not, within the notice period, made an objection,

(c) the person has made an objection within the notice period but has not, within the period prescribed under section 12(b), notified the Tribunal of a dispute about the costs concerned.

Division 2 Trust accounts

21 Banking of trust money—the Act, s 172

A licensee who receives trust money must pay the trust money into the licensee's trust account—

(a) if practicable—before the end of the next banking day after the day of its receipt, or

(b) otherwise—as soon as practicable after that day.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

22 Receipts for trust money

- (1) For the purposes of the Act, section 172(2)(d), a licensee must cause a receipt to be prepared immediately after the licensee receives trust money for or on behalf of a person.
- (2) The receipt must include the following details—
 - (a) the date the receipt was prepared,
 - (b) the number of the receipt,
 - (c) the name of the licensee, or, if appropriate, the business name under which the licensee conducts the conveyancing business, and the words “Trust Account”,
 - (d) the name of the person from whom the payment was received,
 - (e) the name and ledger reference number of the person on whose behalf the payment was made,
 - (f) particulars sufficient to identify the transaction for which the money was paid,
 - (g) the amount of trust money received and whether, or the extent to which, it was paid in cash, by cheque, by electronic funds transfer or otherwise.
- (3) A copy of the details shown on the receipt must be made simultaneously—
 - (a) if the receipt is issued from the trust receipt book—on the machine-numbered duplicate form provided in the trust receipt book, or
 - (b) otherwise—in the cash book.
- (4) Receipts must be prepared in the numerical order of the series to which the receipts belong.
- (5) The original of a receipt must be given, on demand, to the person from whom the trust money is received.
- (6) The licensee must keep—
 - (a) any original receipt that is not given to the person from whom the trust money is received, and
 - (b) any original receipt that is cancelled after the receipt is prepared, and
 - (c) duplicate receipts, other than receipts referred to in subsection (3)(b).

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

23 Payment of trust money—the Act, s 172

- (1) A licensee must ensure that trust money is not drawn from the licensee’s trust account other than by cheque or electronic funds transfer.
- (2) A cheque drawn from the licensee’s trust account must—
 - (a) be machine numbered in series, and
 - (b) be marked “not negotiable”, and
 - (c) not be payable to cash, and
 - (d) contain the name of the licensee, or, if appropriate, the business name under which the licensee conducts the conveyancing business, and the words “Trust Account”, and
 - (e) be signed by the licensee or another person authorised under section 29 to sign the cheque.
- (3) The licensee must ensure—
 - (a) each cheque is drawn in the numerical order of the series to which the cheque belongs, and
 - (b) a record of the following is kept for each cheque—
 - (i) the number of the cheque,
 - (ii) the date the cheque was prepared,
 - (iii) the payee for the cheque,
 - (iv) the amount of the cheque,
 - (v) details identifying the ledger account to be debited,
 - (vi) the name and ledger reference number of the person on whose behalf the cheque was drawn,
 - (vii) the reason for drawing the cheque.
- (4) The licensee must ensure a record of the following is kept for each electronic funds transfer from the licensee’s trust account—
 - (a) the name of the person effecting the transfer,
 - (b) if the transfer is effected under the direction of another person or under an authority delegated under section 29—the name of the person under whose direction or delegation the transfer is effected,

- (c) the reference number or other particulars sufficient to identify—
 - (i) the transfer, and
 - (ii) the date of the transfer, and
 - (iii) the payee and the amount transferred to or from each ledger account,
- (d) details identifying—
 - (i) the ledger accounts to be debited, and
 - (ii) the name and ledger reference number of each person on whose behalf the transfer was made,
- (e) particulars of the reason for the transfer.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

24 Trust deposits

- (1) For the purposes of the Act, section 172(2)(d), a licensee who makes a deposit of money to the licensee's trust account must ensure that—
 - (a) the relevant deposit book or other written deposit record is produced to the bank when the deposit is made, and
 - (b) the following particulars are entered in the book or record—
 - (i) the date of the deposit,
 - (ii) the amount of the deposit,
 - (iii) whether the deposit consists of cheques, notes or coins,
 - (iv) if cheques are included in the deposit—
 - (A) the name of the drawer, and
 - (B) the name and branch of the bank on which the cheque is drawn, and
 - (C) the amount of each cheque,
 - (c) a duplicate of the particulars of each deposit is kept by the licensee.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

- (2) This section does not apply to a deposit of money made directly to a licensee's trust account by a person other than the licensee, whether electronically or otherwise.

25 Cash book record of trust account transactions

- (1) For the purposes of the Act, section 172(2)(d), a licensee must keep in the cash book a record of daily receipts and payments of money into and out of the licensee's trust account.
- (2) The pages of the cash book must be consecutively numbered.
- (3) The cash book must show the following—
 - (a) the consecutive numbers of receipts issued or cancelled,
 - (b) the consecutive numbers of cheques drawn or cancelled,
 - (c) in the case of money received or disbursed by electronic funds transfer, the consecutive reference numbers or other means of identification of the transfers.
- (4) The licensee must enter the following particulars of payments of money into and out of a licensee's trust account in the cash book as soon as is practicable after the receipt or payment of the money—
 - (a) for money required to be paid into the trust account that is received—the following—
 - (i) the date the receipt was prepared,
 - (ii) the number of the receipt,
 - (iii) the name of the person from whom the payment was received,
 - (iv) the name and ledger reference number of the person on whose behalf the payment was made,
 - (v) particulars sufficient to identify the transaction for which the money was paid,
 - (vi) the amount of money received,
 - (vii) whether, or the extent to which, the money was paid in cash, by cheque, by electronic funds transfer or otherwise,
 - (viii) the date of the deposit of the money to the trust account,
 - (ix) the amount of the deposit,
 - (b) for money paid out of trust account by cheque—the particulars required under section 23(3),
 - (c) for money paid out of the trust account by electronic funds transfer—the particulars required under section 23(4).

- (5) At the end of each month, the licensee must balance the cash book and either—
 - (a) carry forward the balance to the commencement of the next month, or
 - (b) carry forward the balance to a ledger account provided for the purpose.
- (6) At the end of each month, the licensee must prepare a statement reconciling the balance of the licensee's trust account with the balance of the related cash book.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

26 Journal

- (1) For the purposes of the Act, section 172(2)(d), a licensee must record in a journal, maintained exclusively for the licensee's trust account, all transfers between accounts in the trust account ledger that are not effected by cheque or electronic funds transfer.
- (2) The recording must include the following—
 - (a) the date of the transfer,
 - (b) the amount transferred to and from each ledger account,
 - (c) the names of all ledger accounts to be debited or credited,
 - (d) the relevant reference number or other identifier,
 - (e) sufficient particulars to identify the transfer and the reason for the transfer.
- (3) Each transfer, when entered in the journal, is to be numbered consecutively.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

27 Trust account ledger

- (1) For the purposes of the Act, section 172(2)(d), a licensee must maintain a separate ledger account for trust money received on behalf of or paid to each client.
- (2) The ledger account must include—
 - (a) the name of the client, and
 - (b) a reference number or other identifier, and
 - (c) the following particulars of each transaction affecting trust money—
 - (i) the date of the transaction,
 - (ii) a description of the transaction,
 - (iii) particulars sufficient to identify the trust record originating the transaction,

- (iv) the amount of the transaction,
- (v) the resulting current balance of account arising from the transaction.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

28 Trust account ledger trial balance

- (1) For the purposes of the Act, section 172(2)(d), within 21 days after the end of each named month, a licensee must prepare a trial balance statement of all ledger accounts current as at the end of the named month.
- (2) The trial balance statement must—
 - (a) specify the month to which it refers, and
 - (b) specify the date of its preparation, and
 - (c) list each ledger account that does not have a zero balance at the end of that month by stating the following—
 - (i) the name of the client,
 - (ii) the reference number or other identifier,
 - (iii) the balance of the account at the end of the month, and
 - (d) show the total of the ledger account balances at the end of the month, and
 - (e) show a comparison between the total and the balance in the cash book reconciled with the balance in the trust account required under section 25(6).

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

29 Signing of cheques or effecting electronic funds transfers—trust account—the Act, s 172

- (1) A licensee that is a corporation, or who is a sole proprietor or a partner, has authority to—
 - (a) sign a cheque (a **trust cheque**) drawn on the licensee's trust account, or
 - (b) to effect an electronic funds transfer (a **trust EFT**) from the licensee's trust account.
- (2) A licensee in charge of a place of business has authority to—
 - (a) sign a trust cheque, or
 - (b) effect a trust EFT.

- (3) A licensee who has authority, other than under a delegation, to sign trust cheques or effect trust EFTs may delegate the licensee's authority—
- (a) if the licensee is a corporation—
 - (i) to 1 or more persons who are directors of the corporation and who are licensees, and
 - (ii) to not more than 2 employees at each place of business of the corporation, or
 - (b) if the licensee is a sole proprietor or a partner—to not more than 2 employees at each place of business of the sole proprietor or partnership, or
 - (c) if the licensee is a person in charge of a place of business—to not more than 2 employees at the place of business.
- (4) The delegation must be—
- (a) in writing, and
 - (b) signed by the licensee and the delegate.
- (5) The delegation may be revoked by the delegator by giving written notice to the delegate.
- (6) A delegation in force authorises the delegate to sign trust cheques or effect trust EFTs to which the delegation relates—
- (a) for a delegation by a licensee other than a corporation—only if the licensee is unable to sign the cheque or effect the transfer with due expedition because the licensee is sick, injured or absent for good reason, and
 - (b) subject to any terms and conditions, whether relating to the value of the cheques or transfers or the number of signatories, stated in the instrument of delegation.
- (7) This section does not affect any additional prohibition or restriction on the signing of trust cheques or the effecting of trust EFTs imposed by—
- (a) the constitution of any relevant company, or
 - (b) the partnership agreement of any relevant partnership.
- (8) A licensee who purports to delegate the licensee's authority to sign a trust cheque or effect a trust EFT other than in accordance with this section is guilty of an offence.
- Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.
- (9) A person who signs a trust cheque or effects a trust EFT purporting to do so as the delegate of a licensee but who has not been authorised to do so in accordance with

this section is guilty of an offence.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

30 Account in the name of a licensee—the Act, s 172

- (1) A licensee may maintain in the licensee's trust account ledger an account in the licensee's name—
 - (a) for the purpose of aggregating in the account, by transfer from other accounts in the trust account ledger, money properly due to the licensee for costs and disbursements, and
 - (b) for money in which the licensee has a personal and beneficial interest as a vendor, purchaser, mortgagor, mortgagee, lessor, lessee or other like capacity.
- (2) The licensee must withdraw money held in an account under subsection (1)(a) not later than 21 days after the day on which the money is transferred to the account.
- (3) The licensee must withdraw money held in an account under subsection (1)(b)—
 - (a) at the conclusion of the matter to which the money relates, or
 - (b) if the money comprises rent, interest, instalments of principal or other periodic payments—not later than 6 months after the date on which the money was credited to the account.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

Part 6 Records

31 Records that licensees must keep

- (1) For the purposes of the Act, section 172(2)(d), a licensee must keep the following records relating to a transaction carried out by the licensee or the licensee's employees in connection with conveyancing work carried out by the licensee or employees—
 - (a) originals or copies of all documents evidencing the transaction, including, for example, agreements, conveyances, transfers, leases and mortgages,
 - (b) all associated documents, including, for example, documents required by law to be attached to contracts for the sale of land, inspection reports, requisitions on title and responses to the requisitions,
 - (c) originals or copies of all other documents and records maintained, issued or received by the licensee or the licensee's employees, including, for example, letters, file notes, invoices and settlement sheets.

- (2) The licensee must ensure the records are kept in a separate file relating only to the transaction for the relevant client.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

32 Period for which records must be kept

- (1) For the purposes of the Act, section 172(2)(d), a licensee must keep a record for at least 7 years after it is made and provide for its safe keeping throughout that time.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

- (2) However, subsection (1) does not apply to the licensee if the record has passed to the lawful possession of another licensee or a solicitor as a consequence of the transfer of the licensee's conveyancing business.

- (3) In this section—

record—

- (a) means a record required to be kept under section 31 or Part 5, and
- (b) includes a record of which the licensee has lawfully acquired possession as a result of the transfer of a conveyancing business to the licensee.

33 Records and book entries to be in English language

For the purposes of the Act, section 172(2)(d), a licensee must ensure that all written records required to be made or produced by the licensee under the Act or this Regulation are in the English language.

Maximum penalty—40 penalty units for a corporation or 20 penalty units for an individual.

Part 7 General

34 The Register—the Act, s 162

- (1) The Secretary must enter and keep in the Register required to be maintained under the Act, section 162, the following details for each licence issued under the Act—
 - (a) the name and business address of the person to whom the licence is issued,
 - (b) the number of the licence,
 - (c) date of issue and expiry,
 - (d) for a licence issued to a member of a partnership—the name and business address of each licensed member of the partnership,
 - (e) for a corporation licence—the name and business address of each director of the

corporation,

- (f) the cancellation or any current suspension of the licence,
 - (g) the conditions of the licence under the Act, section 14(a)-(d),
 - (h) any action taken under the Act, Part 9 against the licensee that resulted in an adverse finding against the licensee and details of any disciplinary action taken against the licensee as a result of the adverse finding,
 - (i) proceedings for any offence under the Act or this Regulation taken against the licensee that resulted in a conviction for the offence and details of any penalty imposed for the offence,
 - (j) any current undertakings given under the Act by the licensee,
 - (k) the appointment of a manager or receiver under the Act for the licensee,
 - (l) the number of payments made from the Compensation Fund under the *Property and Stock Agents Act 2002*, Part 10, for any failure to account of the licensee,
 - (m) the suspension of the licence under the *Fair Trading Act 1987*, section 79A,
 - (n) action in the nature of disciplinary action taken under other legislation administered by the Minister against the licensee that resulted in an adverse finding against the licensee and details of any action taken against the licensee as a result of that adverse finding.
- (2) Also, the Secretary must enter and keep in the Register details of any application for a licence that is refused on the ground that the applicant is not a fit and proper person to hold a licence.
- (3) Details entered in the Register under subsection (2) for a person whose application is refused are to be removed from the Register on the subsequent grant of a licence to the person.
- (4) Details entered in the Register under subsection (1)(h) or (i) are to be removed from the Register on the expiration of the period of 10 years after the action or conviction to which they relate.

35 Complaints and discipline—the Act, s 133(3)

The following provisions of the Act are prescribed as provisions that remain applicable to a suspended licence—

- (a) section 66,
- (b) section 72,

- (c) sections 75 and 77, unless a receiver or manager has been appointed,
- (d) section 88 to the extent that it applies the *Property and Stock Agents Act 2002* section 179,
- (e) section 95,
- (f) section 152,
- (g) section 153.

36 Corporate licensees—the Act, s 172

A licensee that is a corporation must lodge a notification made under section 77 by—

- (a) if the corporation has only 1 director—the director, or
- (b) if the corporation has more than 1 director—any 2 of the directors.

37 Secretary's power to waive, reduce, postpone or refund fees

For the purposes of the Act, section 172(2)(g), the Secretary may waive, reduce, postpone or refund, in whole or part, a fee payable or paid under the Act or this Regulation if the Secretary is satisfied it is appropriate because—

- (a) the person who is to pay or has paid the fee is suffering financial hardship, or
- (b) special circumstances exist.

Example of special circumstances—

circumstances involving a natural disaster or recovery from a natural disaster

38 Partial refund of application fees for certain licences

- (1) For the purposes of the Act, section 172(2)(g), this section applies to an application fee for a licence with a term of 3 years or 5 years, paid by or on behalf of a person who—
 - (a) has requested the licence be cancelled under the Act, or
 - (b) if the fee was paid by or on behalf of an individual—has died.
- (2) A person may apply to the Secretary for a refund of the application fee if the person—
 - (a) paid the application fee, or
 - (b) is applying for or on behalf of the person who paid the application fee, or
 - (c) is the legal representative of a deceased individual who paid the application fee.
- (3) A person is not entitled to make an application under this section if the licence was suspended or cancelled as a result of disciplinary action.

- (4) A person who makes an application under subsection (2) is—
- (a) for a licence with a term of 3 years—entitled to a refund of one-third of the fixed component of the application fee paid for each complete year remaining for the licence, or
 - (b) for a licence with a term of 5 years—entitled to a refund of one-fifth of the fixed component of the application fee paid for each complete year remaining for the licence.

(5) In this section—

application fee means the following—

- (a) an application fee for the grant of a licence,
- (b) an application fee for the renewal of a licence,
- (c) an application fee for the restoration of a licence.

fixed component, of an application fee, is the amount set out in Schedule 1, Part 1, Column 2 for the fee.

39 Repeal and savings

- (1) The *Conveyancers Licensing Regulation 2015* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Conveyancers Licensing Regulation 2015*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Fees

section 5

Part 1 Fees payable

Item	Column 1	Column 2	Column 3	Column 4
	Type of fee	Fixed component (in fee units)	Processing component (in fee units)	Total (in fee units)
1	Application for grant of licence—			
	(a) for 1 year	2.33	2.13	4.46
	(b) for 3 years	6.99	2.13	9.12
	(c) for 5 years	11.65	2.13	13.78

2	Application for renewal of licence—			
	(a) for 1 year	2.33	0.69	3.02
	(b) for 3 years	6.99	0.69	7.68
	(c) for 5 years	11.65	0.69	12.34
3	Application for restoration of licence—			
	(a) for 1 year	2.33	1.42	3.75
	(b) for 3 years	6.99	1.42	8.41
	(c) for 5 years	11.65	1.42	13.07
4	Application for replacement of licence	Nil	0.46	0.46

Note—

In addition to the application fee prescribed by this Regulation, the *Conveyancers Licensing Act 2003*, section 89 provides that an applicant for a licence is liable to pay the contribution to, and any levy for, the Compensation Fund required under the *Property and Stock Agents Act 2002*, section 168 or 169. See this Regulation, section 5(4) and (5) for the contribution to, and any levy for, the Compensation Fund payable by an applicant for a licence.

Part 2 Adjustment of fees for inflation

1 Definitions

In this Part—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for purposes of Regulation

(1) For the purposes of this Regulation, a **fee unit** is—

- (a) in the financial year 2021-22—\$106.47 and
- (b) in each subsequent financial year—the amount calculated as follows—

$$\$100 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit is to be rounded to the nearest cent, and an amount of 0.5 cent is to be rounded down.
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

Editorial note—

Fee unit amount calculated under this section—

Financial year	Fee unit amount
2022-23	\$111.14
2023-24	\$119.23
2024-25	\$123.72

3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit, including the amount of a component of a fee, is to be rounded to the nearest dollar, and an amount of 50 cents is to be rounded down.

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to—
 - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.
- (2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this section.

Schedule 2 Rules of conduct

section 8

1 To know the Act and this Regulation

A licensee must know and understand the Act and this Regulation, and other laws as may be necessary to enable the licensee to exercise the licensee's functions as a conveyancer

lawfully.

2 Honesty, fairness and professionalism

- (1) A licensee must act honestly, fairly and professionally with all parties in a transaction.
- (2) A licensee must not misinform or otherwise mislead or deceive any parties in negotiations or a transaction.

3 Skill, care and diligence

A licensee must exercise reasonable skill, care and diligence.

4 Fiduciary obligations

A licensee must comply with the fiduciary obligations arising from the licensee's activities as a conveyancer.

5 To undertake only work within competence

A licensee must not accept instructions to act as a conveyancer unless the licensee is competent to perform the conveyancing work concerned.

6 To perform work promptly

A licensee must only accept instructions to act as a conveyancer if the licensee reasonably expects to be able to carry out the conveyancing work reasonably promptly.

7 To act in client's best interests

A licensee must act in the client's best interests at all times unless it would be contrary to the Act or this Regulation or otherwise unlawful to do so.

8 To communicate regularly with client

A licensee must communicate regularly with a client to ensure the client is kept up to date with the progress of the client's matter.

9 To act in accordance with client's instructions

A licensee must act in accordance with a client's instructions unless it would be contrary to the Act or this Regulation or otherwise unlawful to do so.

10 To confirm client's oral instructions in writing

A licensee must ensure that oral instructions, other than those of a trivial nature, received from a client are confirmed with the client in writing as soon as possible after the instructions are received.

11 Conflicts of interest

- (1) A licensee must not accept instructions to act, or continue to act, as a conveyancer for a client if doing so would place the licensee's interests in conflict with the client's interests.
- (2) A licensee must avoid conflicts between duties owed to current and former clients, except as permitted by subrule (3).
- (3) A licensee who is in possession of information which is confidential to a former client where that information, if disclosed, might reasonably be concluded to be material to the matter of a current or prospective client and detrimental to the interests of the former client, must not act for the current or prospective client in the matter unless the former client has given written informed consent to the licensee.
- (4) Nothing in this rule affects a licensee's obligation under rule 13.

12 Acting for more than 1 party to a transaction

- (1) A licensee may only act for more than 1 party to a transaction if—
 - (a) the licensee discloses in writing to each party that the licensee is intending to act for the others, and
 - (b) each party consents in writing to the licensee so acting.
- (2) If a licensee who is acting for more than 1 party cannot continue to act for all of the parties without acting in a manner contrary to the interests of 1 or more of them, the licensee must cease to act for all of the parties.
- (3) The disclosure referred to in subrule (1) must indicate that, as a consequence of acting for more than 1 party to the transaction—
 - (a) the licensee may be prevented from—
 - (i) disclosing to each party all information within the licensee's knowledge that is relevant to the transaction, and
 - (ii) giving advice to 1 party that is contrary to the interests of the other, and
 - (b) the licensee will cease to act for all parties if the licensee would otherwise be obliged to act in a manner contrary to the interests of 1 or more of them.

13 Confidentiality

A licensee must not, at any time, use or disclose any confidential information obtained while acting on behalf of a client unless—

- (a) the client authorises disclosure, or

(b) the licensee is permitted or compelled by law to disclose the information.

14 Noting of instructions, enquiries and telephone conversations

- (1) A licensee must make a written record of the following communications, other than those of a trivial nature—
 - (a) all instructions received from the licensee's clients and advice given,
 - (b) all telephone conversations made or received in connection with conveyancing work,
 - (c) all enquiries made in connection with conveyancing work and responses given.
- (2) The record must be—
 - (a) in the form of a file note, and
 - (b) kept on the file of the client to whom the conveyancing work relates.
- (3) The record must be kept for at least 7 years after it is made.
- (4) A record required to be kept under this rule may be maintained in electronic form, provided the record can be produced in a permanent legible form in the English language.

15 Referral to service provider

- (1) A licensee who refers a client or prospective client to a service provider must not falsely represent to the client or prospective client that the service provider is independent of the licensee.
- (2) A service provider is considered to be **independent** of a licensee if—
 - (a) the licensee receives no rebate, discount, commission or benefit for referring a client or customer to the service provider, and
 - (b) the licensee does not have a personal or commercial relationship with the service provider.
- (3) The following are examples of a personal or commercial relationship—
 - (a) a family relationship,
 - (b) a business relationship,
 - (c) a fiduciary relationship,
 - (d) a relationship in which one person is accustomed, or obliged, to act in accordance with the directions, instructions or wishes of the other person.

- (4) If the service provider is not independent of the licensee, the licensee must disclose to the client or prospective client—
- (a) the nature of any relationship, whether personal or commercial, the licensee has with the service provider, and
 - (b) the nature and value of any rebate, discount, commission or benefit the licensee may receive, or expects to receive, by referring the client or prospective client to the service provider.

- (5) In this rule—

service provider means a person who provides a service in relation to a conveyancing transaction, including, for example, a building inspector, pest inspector, valuer, surveyor, insurer, mortgage originator, mortgage broker or another licensee.

16 Inducements

A licensee must not offer to provide to any other person any gift, favour or benefit, whether monetary or otherwise, to induce any third person to engage the services of the licensee as conveyancer for any matter.

17 Termination of licensee's services

- (1) A licensee must complete the conveyancing work for which the licensee has accepted instructions to act for a client unless—
- (a) the licensee and the client have otherwise agreed, or
 - (b) the client terminates the services of the licensee, or
 - (c) the licensee terminates the provision of services to the client by giving 14 days written notice to the client, or
 - (d) the licensee's access to the Electronic Lodgement Network under the [Electronic Conveyancing \(Adoption of National Law\) Act 2012](#) has been restricted, suspended or terminated.
- (2) If subrule (1)(d) applies, the licensee must take all reasonable steps to ensure the client, another licensee or solicitor can complete the conveyancing work.

18 Transfer of conveyancing work

- (1) If—
- (a) a licensee ceases to act for a client before completing the conveyancing work for which the licensee has accepted instructions to act for a client, and
 - (b) the client instructs another licensee or a solicitor to take over the conduct of the client's conveyancing work,

the first-mentioned licensee must, within 14 days after receipt of a direction in writing from the client, deliver to the second-mentioned licensee or the solicitor all relevant documents to which the client is entitled and any information that is necessary for the proper conduct of the client's conveyancing work.

- (2) Subrule (1) does not prevent a licensee from exercising a general retaining lien over documents.

19 Transfer of conveyancing business

- (1) If a licensee intends to transfer the whole or part of the licensee's conveyancing business, including clients' work in progress, to another licensee or a solicitor, the first-mentioned licensee must give each client 14 days written notice of the following—
- (a) the intended transfer of documents to the licensee or solicitor acquiring the business, unless a contrary direction is received from the client,
 - (b) the client's right to give to the first-mentioned licensee a contrary direction about the conduct of the client's affairs and the delivery of the client's documents.
- (2) If the licensee holds money on behalf of the client in trust, the notice referred to in subrule (1) must also advise the client of the following—
- (a) the balance of money held on the client's behalf,
 - (b) the licensee's intention to transfer the relevant account to the licensee or solicitor acquiring the business, unless advised by the client to the contrary,
 - (c) the client's right to give to the first-mentioned licensee a contrary direction as to the manner in which the licensee should deal with the account on the client's behalf.
- (3) Nothing in this rule limits the operation of any other legislative provisions applicable to the trust money held by the licensee.

20 Conducting another business

- (1) A licensee who engages in the conduct of another business concurrently with the conduct of the licensee's conveyancing business must ensure the following—
- (a) that the other business is not of a nature that the licensee's involvement in it would be likely to impair, or conflict with, the licensee's duties to clients in the conduct of the conveyancing business,
 - (b) that separate and independent files, records and accounts are maintained for the conveyancing business and the other business,
 - (c) that the licensee ceases to act for a client of the conveyancing business if the

licensee's interest in the other business is likely to conflict with the client's interests.

- (2) A licensee is taken to be engaged in the conduct of another business if the licensee or an associate—
 - (a) is entitled, at law or in equity, to an interest in the assets of the business which is significant or of relatively substantial value, or
 - (b) exercises any material control over the conduct and operation of the business, or
 - (c) has an entitlement to a share of the income of the business which is substantial, having regard to the total income which is derived from the business.

21 Independence of licensee advising on loan or security documents

- (1) A licensee must provide competent, independent and disinterested advice in advising a proposed signatory to documents creating a loan or a security interest (***loan or security documents***).
- (2) The licensee must not act for the lender in the transaction to which the loan or security documents relate.
- (3) The licensee must not advise a proposed signatory to loan or security documents in any circumstances where the interests of any signatory or proposed signatory to the documents conflict with those of the licensee or with those of any other client of the licensee.

22 Advising proposed signatories on loan or security documents

- (1) A licensee must advise a proposed signatory to loan or security documents of the matters the licensee, in exercising the professional skill and judgment expected in the circumstances, considers appropriate.
- (2) Without limiting the generality of subrule (1), when advising a proposed signatory who is to be a borrower or a security provider referred to as a borrower in loan or security documents (the ***borrower***), the licensee must, where applicable, advise the borrower of the following—
 - (a) by signing the documents the borrower will be liable for regular payments of interest and repayment of the amount of the loan at the due date,
 - (b) if the borrower fails to make any payment on time, the lender can charge a higher rate of interest, and the lender's costs of rectifying that failure,
 - (c) if the borrower fails to comply with any of the terms and conditions of the loan including the obligations to pay principal or interest—
 - (i) the lender can sue the borrower personally, and

- (ii) the lender may take possession of the borrower's property and, after notice, sell it to recover the amount owing together with interest and other costs including conveyancer's costs, the costs of selling the property and the costs of maintaining the property, and
 - (iii) if the proceeds of sale of the borrower's property are insufficient to satisfy the debt to the lender, the lender can sue the borrower for the deficit,
- (d) if the National Credit Code applies, additional obligations, rights and remedies may apply as set out in the loan documents.
- (3) A licensee giving independent advice to a borrower must obtain the borrower's written acknowledgment of the independent advice.
- (4) Without limiting the generality of subrule (1), when advising a proposed signatory who is to be a third party mortgagor, guarantor, surety mortgagor or indemnifier providing security for the borrower (the **guarantor**), the licensee must, where applicable, advise the guarantor of the following—
 - (a) if the borrower fails to make any payment on time, the guarantor will be liable to remedy that failure, and that could involve the guarantor in payment to the lender of all amounts owed by the borrower to the lender including principal, interest, default interest and the lender's costs of rectifying the default,
 - (b) if the guarantor fails to remedy any failure by the borrower to comply with the terms and conditions of the loan in any way, including the obligation to pay principal, interest, default interest, or other charges—
 - (i) the lender can sue the guarantor personally, and
 - (ii) the lender can take possession of the guarantor's property secured to the lender and, after notice, sell it to recover the amount owing together with interest and other costs including conveyancer's costs, the costs of selling the property and the costs of maintaining the property, and
 - (iii) if the proceeds of sale of the guarantor's property are insufficient to satisfy the debt to the lender, the lender can sue the guarantor for the deficit,
 - (c) if the guarantor is a proposed signatory to documents under which the guarantor's liability can be increased, of that fact and the extent of the possible increase, and of any restriction or limitation of the guarantor's rights or obligations about the security and any other party to the documents,
 - (d) the lender can exercise the lender's rights against the guarantor even if the lender has not pursued the borrower,
 - (e) the liability of the guarantor is limited to a specified sum, or is unlimited,

whichever is the case, and may be affected by cross guarantees,

- (f) if the National Credit Code applies, additional obligations, rights and remedies may apply as set out in the loan documents.
- (5) A licensee giving independent advice to a proposed guarantor must obtain the guarantor's written acknowledgment of the independent advice.
- (6) In any case, a licensee advising a proposed signatory, whether a borrower or a guarantor, must advise the proposed signatory of the following—
 - (a) that the licensee does not profess any qualification to give financial advice,
 - (b) that if the proposed signatory has any questions about any financial aspect of the transaction or the loan or security documents, the proposed signatory should consult an accountant or other financial counsellor of the proposed signatory's choice before signing the documents.
- (7) In this rule—

loan or security documents means documents creating a loan or security interest.

National Credit Code means the National Credit Code as set out in the [National Consumer Credit Protection Act 2009](#) of the Commonwealth, Schedule 1.

23 Honouring undertakings

- (1) A licensee who gives an undertaking during conveyancing work must, unless released by the recipient or by the Secretary—
 - (a) honour that undertaking, and
 - (b) ensure timely and effective performance of the undertaking.
- (2) A licensee must not seek from another licensee or solicitor, or the other licensee's or solicitor's employee, associate or agent, an undertaking for a matter that would require the co-operation of a third party who is not party to the undertaking.

Schedule 3 Penalty notice offences

1 Application of Schedule—the Act, s 158

- (1) For the purposes of the Act, section 158—
 - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is—
 - (i) the amount specified opposite the provision in Column 2, or

(ii) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified opposite the provision in Column 3, the amount specified in Column 3.

(2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—

(a) the limited kind of offence, or

(b) an offence committed in the limited circumstances.

Column 1	Column 2	Column 3
Provision	Penalty	Penalty
Offences under the Act		
Section 6(1)	\$1,100	
Section 19(3)	\$550	
Section 20(1)	\$1,100	\$2,200
Section 20(2)	\$1,100	\$2,200
Section 20(3)	\$1,100	\$2,200
Section 20(4)	\$1,100	\$2,200
Section 21(1)	\$1,100	\$2,200
Section 24(1)	\$550	
Section 25	\$1,100	
Section 26(1)	\$1,100	\$2,200
Section 27(1)	\$1,100	\$2,200
Section 28(2)	\$1,100	\$2,200
Section 29(5)	\$550	
Section 31(1)	\$550	
Section 31(3)	\$550	
Section 32	\$550	
Section 33	\$550	
Section 35	\$1,100	
Section 36(1)	\$1,100	\$2,200
Section 53(1)	\$1,100	

Section 53(2)	\$1,100	
Section 53(5)	\$1,100	
Section 53(6)	\$1,100	
Section 53(7)	\$1,100	
Section 56	\$1,100	
Section 58	\$1,100	
Section 59	\$1,100	
Section 60	\$1,100	
Section 64(6)	\$550	
Section 68(1)	\$1,100	
Section 68(2)	\$1,100	
Section 74(1)(a)	\$1,100	
Section 74(1)(b)	\$1,100	
Section 74(1)(c)	\$1,100	
Section 74(1)(d)	\$1,100	
Section 74(3)	\$110	
Section 75(1)	\$550	\$1,100
Section 75(3)	\$550	\$1,100
Section 77(1)	\$550	
Section 80(4)	\$550	
Section 83(1)	\$5,500	
Section 83(3)	\$1,100	\$1,100
Section 84	\$1,100	
Section 104	\$1,100	
Section 110(1)	\$1,100	
Section 112(a)	\$1,100	
Section 112(b)	\$1,100	
Section 112(c)	\$1,100	
Section 112(d)	\$1,100	
Section 112(e)	\$1,100	
Section 130(2)	\$550	

Section 131	\$1,100	
Section 143	\$1,100	\$2,200
Section 144	\$220	\$440
Section 148	\$1,100	
Section 161(1)	\$220	

Offences under this Regulation

Section 8(2)	\$550	\$1,100
Section 16(1)	\$550	\$1,100
Section 16(2)	\$550	\$1,100
Section 16(4)	\$550	\$1,100
Section 18(1)	\$550	\$1,100
Section 19(1)	\$550	\$1,100
Section 19(2)	\$550	\$1,100
Section 19(3)	\$550	\$1,100
Section 19(6)	\$550	\$1,100
Section 21	\$550	\$1,100
Section 22	\$550	\$1,100
Section 23	\$550	\$1,100
Section 24(1)	\$550	\$1,100
Section 25	\$550	\$1,100
Section 26	\$550	\$1,100
Section 27	\$550	\$1,100
Section 28	\$550	\$1,100
Section 29(8)	\$550	\$1,100
Section 29(9)	\$550	\$1,100
Section 30(2)	\$550	\$1,100
Section 30(3)	\$550	\$1,100
Section 31(1)	\$550	\$1,100
Section 31(2)	\$550	\$1,100
Section 32(1)	\$550	\$1,100
Section 33	\$550	\$1,100