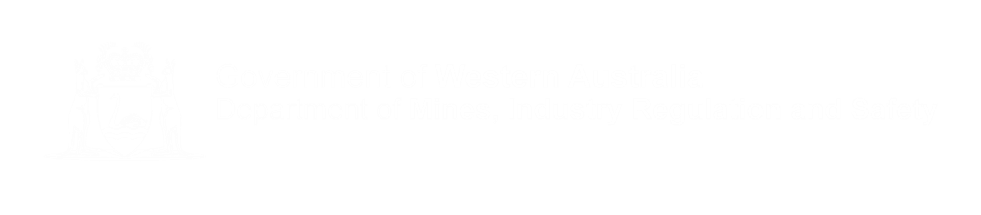


# Settlement Agents Compliance Self-Assessment Checklist



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|  | **DESCRIPTION** | **LEGISLATION** | **🗹** |
|  | **Licensing / Records** | | |
| **1** | Is the agency licence and triennial certificate displayed? | SA Act s.42(1)(a) |  |
| **2** | For branch office, is the name of manager and address of registered office of the licensee displayed? | SA Act s.42(1)(b) |  |
| **3** | For branch office, is the branch manager identified as a settlement agent and the branch address shown on all correspondence and documents? | SA Act s.42(2)(b) |  |
| **4** | Is the business name registration current? | SA Act s.41 |  |
| **5** | Do you have a current certificate of fidelity and professional indemnity insurance (PII) together with a current triennial certificate? | SA Act s.35 |  |
| **6** | Is the PII cover adequate taking into account the value of settlements undertaken? | SA Act s.35(3) |  |
| **7** | Does correspondence and documentation identify the licensee and the registered office and that you are a settlement or business settlement agent or both? | SA Act s.42(2)(a) |  |
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|  | **Costs Disclosure** | | |
| **8** | Is a written costs disclosure provided to clients prior to appointment? | SA Code of Conduct (Code) r.23 |  |
| **9** | Does the service amount disclosed include general office disbursements? | Code r.23(3) |  |
| **10** | Are clients informed in writing of unforeseen significant change and did they agree to the change? | Code r.24 |  |
| **11** | Is the amount reasonable? | Code r.24(2)(b) |  |
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|  | **E-Conveyancing** | | |
| **12** | Have you subscribed to Property Exchange Australia (PEXA)? | SA Act Schedule 2 cl.1(2A) |  |
| **13** | Have you considered appropriately who has ‘Subscriber Manager’ and ‘Signer’ rights? | SA Act s.46(8)m  Schedule 2 cl.1, cl.2A  Code r.15, r.16 |  |
| **14** | Do you have processes in place to that ensure that only authorised personnel have access? | Code r.15, r.16 |  |
| **15** | Has a ‘Client Authorisation Form’ been completed, signed and retained for each transaction? | SA Act s.46(8),   s.46(9) Schedule 2 cl.1(2A) |  |
| **16** | Has the settlement completion record been printed and retained for each transaction? | SA Act Schedule 2  cl.1(2A)  Best Practice (BP) |  |

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|  | **DESCRIPTION** | **LEGISLATION** | **🗹** |
|  | **Trust Accounting** | | |
| **17** | Are trust accounts, cheques and bank statement(s) designated in accordance with the SA Regulations | SA Act s.49(1)  SA Regs r.6B(1),r.6B(2) |  |
| **18** | Are interest bearing trust accounts (IBTAs) correctly designated? | SA Act s.49A(1)  SA Regs r.6B(3) |  |
| **19** | Are client’s written requests held on file? | SA Act s.49A(2) |  |
| **20** | Do trust account receipts comply with the Regulations? | SA Act s.50(1), s.50(2)  SA Regs r.6E |  |
| **21** | Is banking being done by the next business day and can this be verified? | SA Act s.49(1),   s.49(6)(b) |  |
| **22** | Are trust account(s), including IBTAs, reconciled on a monthly basis (to the last day of the month)? | SA Act s.49(6)(d)  BP |  |
| **23** | Do you review and certify them within 10 working days? | SA Act s.49(6)(d)  BP |  |
| **24** | Are you proficient in performing bank reconciliations and able to understand the information available in the EOM trust accounting reports? | Code r.5, r.7, r.32 |  |
| **26** | Are there valid reasons for any amounts being held beyond settlement date? | Code r.7, r.10, r.32, r.33 |  |
| **27** | Do you have procedures to follow up on unpresented cheques and take appropriate action to deal with those monies? | Code r.7, r.10, r.32, r.33 |  |
| **28** | Do you have an adequate accounting system that is fit-for-purpose? | Code r.7, r.10, r.32 |  |
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|  | **Settled Sales Files: Acting for the Seller** | | |
| **29** | Do you have a valid appointment to act, Form 1? | SA Act s.43(1), s.43(2)  SA Regs r.6AA  Code r.26 |  |
| **30** | Are the appointments to act endorsed with your acceptance (when signed) and a true copy provided to the client?  (You should not wait until file is unconditional to do this.) | SA Act s.43(2), s.47 |  |
| **31** | Are you using a Form 2 for conflict of interest disclosures, where applicable | SA Act s.46(3), s.47(3)  Code r.17, r.18, r.19,   r.20, r.22,  SA Regs Schedule 1 Form 2 |  |
| **32** | Is all work completed in a timely and efficient manner e.g. when is first letter issued to client? | Code r.7, r.10, r.29 |  |
| **33** | Do you have adequate systems in place for the control and supervision of staff? | Code r.15, r.16 |  |
| **34** | Do you review files? | Code r.15, r.16 |  |
| **35** | Is Verification of Identity (VOI) completed? | Code r.15, r.16, r.29 |  |
| **36** | Are ASIC searches completed to ascertain appropriate signing parties for corporate entities; Power of Attorney obtained and retained on file, etc.? | Code r.15, r.16, r.29 |  |
| **37** | Is the agency’s VOI procedure documented for staff/new employees to refer to? | Code r.15, r.16, r.29 |  |
| **38** | Are searches obtained as soon as practicable after receiving instructions to act e.g. CT; ASIC; encumbrances; enquiries to government offices? | Code r.7,r.10, r.29 |  |
| **39** | If the foreign resident capital gains withholding ($750k and over) is applicable was a clearance certificate obtained from seller and provided to buyer’s settlement agent? | Code r.7, r.11, r.29 |  |

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|  | **DESCRIPTION** | **LEGISLATION** | **🗹** |
|  | **Off-the-Plan Sales** | | |
| **40** | Do you have valid appointments to act?  (Registered Proprietor as per Certificate of Title) | SA Act s.43(1), s.43(2)(a)  Code r.29 |  |
| **41** | Is the vendor/developer the proprietor? | Sale of Land Act s.13 |  |
| **42** | Is the deposit paid into a settlement agent, real estate agent or a solicitor’s trust account? | Strata Titles Act s.70 |  |
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|  | **Business Settlements** | | |
| **43** | Were necessary searches and inquiries made e.g. ASIC (company check and business name transfers), licences, permits, inspections etc.? | SA Act s.47  Code r.29 |  |
| **44** | Do you search the Personal Property Securities Register? ([www.ppsr.gov.au](file:///C:\Users\pmaher\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\BTLK9E33\www.ppsr.gov.au)) | Code r.6, r.11 |  |
| **45** | Were sellers’ disclosure statements and deed of restraint obtained/provided? | Code r.6, r.11 |  |
| **46** | Were lease reassignments obtained from lessor’s agent, if relevant? | Code r.6, r.11 |  |
| **47** | Were stocktakes completed, if relevant, and any required adjustments agreed and made? | Code r.6, r.11 |  |
| **48** | Are post-settlement retentions addressed (paid out) within the time specified in the contract | Code r.7, r.10 |  |
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|  | **Settled Files: Acting for the Buyer** | | |
| **49** | Do you have a valid appointment to act? (Form 1) | SA Act s.43(1), s.43(2)  Code r.23, r.26  SA Regs Schedule 1 Form 1 |  |
| **50** | Are you using a Form 2 for conflict of interest disclosures where applicable? | SA Act s.46(3), s.47(3)  Code r.17, r.18, r.19, r.20   r.22  SA Regs Schedule 1 Form 2 |  |
| **51** | Do you undertake searches in a timely manner? | Code r.10, r.11, r.29 |  |
| **52** | Were initial/check searches undertaken prior to settlement | Code r.10, r.11, r.29 |  |
| **53** | Was a post settlement search undertaken? | Code r.10, r.11, r.29 |  |
| **54** | If applicable was an Electronic Advice of Settlement (EAS) and s.43 strata certificate issued and on what date/s? | Code r.10, r.11, r.29 |  |
| **55** | Was a copy of the title; s.43 Certificate; sewer plan and Land Purchase Enquiry provided to the buyer? | Code r.11, r.29 |  |
| **56** | If a foreign resident capital gains withholding ($750k and over) Clearance Certificate was not provided by a seller, did you enter information into a Form 1 (Payment Notification) and provide the document to the buyer? | Code r.11, r.29 |  |
| **57** | Did you obtain documents to confirm the signing party for contracts related to sub-purchasers, trustees and superannuation funds? | Code r.11, r.29 |  |
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|  | **DESCRIPTION** | **LEGISLATION** | **🗹** |
|  | **Settled Files: Acting for Both Parties** | | |
| **58** | Are you ensuring correct election by is being made by your client and that correct disclosure is being made? | SA Act s.46(3)  Code r.17, r.18, r.19,   r.20, r.22  SA Regs Schedule 1 |  |
| **59** | Are the disclosures clearly shown on appointment to act (Form 1)? | SA Act s.46(3)  Code r.20, r.22(1)  SA Regs Schedule 1 |  |
| **60** | Are you obtaining a Disclosure Notice (Form 2) signed by the seller and the buyer? | SA Act s.46(3)  Code r.17, r.18, r.19, r.20   r.22 SA Regs Schedule 1 Form 2 |  |
| **61** | Have you identified any conflict of interest issues? | Code r.18, r.19, r.22 |  |
| **62** | Do you obtain written consent to continue to act or cease to act for both parties? | Code r.18, r.19, r.20 |  |
| **63** | Are both client’s interests protected? | Code r.18, r.19 |  |
| **64** | Are copies of searches made retained on file i.e. initial check / post settlement? | Code r.29 |  |

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|  | **TO DO LIST: TASKS AND FOLLOW UPS** | |
|  | **As a result of your compliance self-assessment, you may have questions to ask, tasks to undertake or other follow-up actions that are now necessary to ensure your current and future compliance with regulatory requirements. Use the space below to record these items and check them off the list as you complete them.** | |
|  | **Item** | **🗹** |
| **1.** | Click or tap here to enter text. |  |
| **2.** | Click or tap here to enter text. |  |
| **3.** | Click or tap here to enter text. |  |
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