



## **Notification Requirements and Frequently Asked Questions**

**It is the responsibility of all licensed agents<sup>1</sup> to notify Consumer Protection of the following events:**

### **Licensing**

#### **Change of surname**

Proof of name change must be provided to the Commissioner for Consumer Protection (the Commissioner). Licence and triennial certificate must be returned for amendment.

#### **Change of residential address**

Notification must be made in writing to the Commissioner. Triennial certificate must be returned for amendment if still trading.

#### **Commencement or cessation of business**

A licensed agent, firm or body corporate is required to provide written notice to the Commissioner within 21 days of commencing or ceasing to carry on business as an agent.

#### **Change of partners**

A change of partners results in the cessation of the old partnership and the creation of a new one. Any new partnership must have its own licence and triennial certificate in order to operate. A new application must be made for a licence and triennial certificate.

#### **Change of Directors**

Notification must be made in writing to the Commissioner and Form 304 (list of directors) must be produced. The Australian Securities and Investment Commission (ASIC) provides Form 304. New directors must comply with the criteria stated in section 29 of the *Real Estate and Business Agents Act 1978* (the Act) and provide a National Police Certificate.

#### **Operating of branch office or change of Branch Manager**

A licensed agent must register each branch office by giving written notice of the location of the office to the Commissioner on or before the day on which business commences. Notification must be given to the Commissioner of a change in Branch Manager. The business name and location of each branch owned by a licensee, and the names of the licensed agents who are managers of each branch, must be endorsed on the business licensee's and the branch manager's triennial certificates.

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<sup>1</sup> Unless indicated otherwise, reference to agents throughout this document should be read to mean a person who is a real estate agent or a business agent, or both a real estate agent and a business agent. 'Sales representatives' describes persons who, on behalf of an agent, negotiate real estate or business broking transactions.



### **Change of business name**

A licensed agent may carry on business as an agent under only one business name. A licensed agent who changes a business name is required within 14 days of the change to give notice in writing to the Commissioner and provide an extract from Business Names Registration.

### **Change of business address**

A licensed agent must have the place of business endorsed on their triennial certificate. The business address is also to be endorsed on the triennial certificate of the person/licensee who is the manager of that business.

### **Change of company name**

Notification of a change of company name must be made in writing to the Commissioner. A certificate of change in name must be provided and the licence and triennial certificate must be returned to Consumer Protection for amendment.

### **Change of person in *bona fide* control**

Permission must be obtained from the Commissioner before the person in *bona fide* control of a real estate business can be changed.

## **Trust Accounts**

### **Change to trust account details**

Agents need to inform the Commissioner before the end of the next business day when they open, close or amend a trust account. The attached trust account information form can be faxed or mailed to the Commissioner.

### **An overdrawn trust account**

If agents overdraw their trust accounts they are required to notify Consumer Protection's Principal Financial Compliance Officer before the end of the next business day.

### **A change of auditor**

Agents require prior approval from Consumer Protection before changing their statutory approved auditor. Agents who wish to change their auditor must apply to Consumer Protection at least one month prior to engaging a new auditor. Contact Consumer Protection's Financial Compliance section (9282 0872) for more information.



## FREQUENTLY ASKED QUESTIONS

### TRUST ACCOUNTS

**Are agents required to take a copy of their triennial certificates to financial institutions when opening or changing bank account details?**

Yes, this will assist financial institution staff and ensure accounts are correctly titled. The titling of the trust account is important in ensuring interest is paid to Consumer Protection.

**Is an agent required to open a Tenancy Bond Trust Account?**

No, an agent has the choice of lodging security bonds with the Bond Administrator at the Department of Commerce in individual accounts held in the name of the owner(s)/agent and the tenant(s) or opening a Tenancy Bond Trust Account with a financial institution. An agent cannot open individual accounts with a financial institution.

**Is an agent required to deposit strata title monies (reserved funds) into a prescribed financial institution?**

Yes, an agent depositing strata title monies (reserve funds) into a separate interest bearing account is required to deposit it with an authorised financial institution (bank, building society or credit union). Monies cannot be deposited with a subsidiary of a bank or with other authorised trustee investments.

**Does an agent have to deposit a received tenancy bond straight into the REBA Tenancy Bond Trust Account?**

No, the bond can be passed through another trust account. However, the *Residential Tenancies Act 1987* requires the agent to pay the money as soon as is practicable into the account. To simplify office procedures and to maintain adequate control of bond trust money, the agent should process bond payments through their rent trust account and then transfer it within five working days of receipt of the money to the Tenancy Bond Trust Account or the Bond Administrator.

**If a cheque paid for a tenancy bond is dishonoured, can the entry be reversed without the need for a signed disposal form (Form 4) or a Court Order?**

Yes, the original payment is null and void and the agent can reverse the entry.

**Is an agent required to disperse a tenancy bond directly from the Tenancy Bond Trust Account?**

No, the bond can be passed through another trust account (such as a rent trust account) and a cheque issued to the parties from that account. This procedure would mean that an agent would only require cheques for one trust account.

**Can a financial institution charge account fees on a Tenancy Bond Trust Account?**

Yes, this account is not exempt from fees. No deductions can be made from a Tenancy Bond Trust Account, however the financial institution can pass these charges on to the agent's general account if the agent agrees. If the agent does not agree to pay these charges, the financial institution may decline the bond account.



**Can an agent pass on account fees to the tenant?**

No, an agent cannot pass these costs on to the tenant. By arrangement they can be charged to the owner.

**When does an agent open a separate interest bearing account?**

An agent is required to obtain a written request from the person paying the money before opening a separate interest bearing trust account.

For a sales transaction the following criteria must also be met:

- The deposit exceeds \$20,000; or
- The transaction will not be settled within 60 days

**Can an agent charge the person requesting a separate interest bearing account a fee?**

Yes, an agent can charge an appropriate fee under the remuneration notice to open and close the account. The request has to be in writing and the agent must obtain an authority for any fee agreed to. These accounts can also be charged account costs.

**What happens if a separate interest bearing account is opened on the expectation that settlement will be in excess of 60 days and settlement takes place in a shorter period?**

An agent can only make a decision on opening the account on his or her best knowledge at the time. The agent must be able to substantiate that at the time of the request the criteria were met.

## **LICENSING**

**Do I need to display my licence or triennial certificate?**

Yes, it is a requirement of the Act that a current licence, triennial certificate and Business Name Registration certificate is exhibited in a prominent place at the licensee's registered office, and at every branch of his/her business.

**Can I use more than one business name?**

No, the Act now requires that a licensee may carry on business as an agent under only one business name, which is endorsed on his or her triennial certificate.

**What information should I include on business correspondence?**

All correspondence and documents should identify the licensee as a real estate agent or business agent, or both, and the registered office of the business should be shown.

## **HOME BUYERS ASSISTANCE ACCOUNT (HBAA)**

**How does my client apply for the HBAA grant?**

Application forms can be obtained from Consumer Protection, and lending institutions. Lending institutions are required to fill out part of the application form and provide it to Consumer Protection.



Government of **Western Australia**  
Department of **Commerce**

**Can my client apply for a grant from the HBAA as well as the First Home Owner Grant Scheme?**

Yes, some people may be eligible for grants from both schemes.

**If my clients are successful, when will they be paid the money?**

Grants approved by Consumer Protection will be paid to the lending institution to meet incidental expenses. If such expenses have already been paid, the grant may be used to offset borrowings or to reimburse them through the lending institution.

*For more information contact Consumer Protection on 1300 30 40 54*