

**Reprint
as at 1 April 2014**



**Real Estate Agents (Audit)
Regulations 2009**
(SR 2009/279)

Rt Hon Sir Peter Blanchard, Administrator of the Government

Order in Council

At Wellington this 28th day of September 2009

Present:

His Excellency the Administrator of the Government in Council

Pursuant to sections 125 and 156 of the Real Estate Agents Act 2008, His Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

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Regulations

1 Title

These regulations are the Real Estate Agents (Audit) Regulations 2009.

2 Commencement

These regulations come into force on 17 November 2009.

3 Purpose

The purpose of these regulations is to provide for the audit of all trust accounts operated by agents by, amongst other things,—

- (a) providing for the appointment of auditors; and
- (b) facilitating audits by ensuring that all trust accounts operated by agents are easily identifiable and operated in a manner that generates appropriate and auditable trust account records; and
- (c) prescribing the manner and times of audits; and
- (d) prescribing the duties of agents in relation to the audit of their trust accounts; and
- (e) prescribing the powers and duties of auditors.

4 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Real Estate Agents Act 2008

agency means—

- (a) in the case of an agent who is an individual who carries out real estate agency work on his or her own account, that individual; and
- (b) in the case of 2 or more individual agents who carry out real estate agency work in partnership with each other, that partnership; and
- (c) in the case of an agent that is a company, that company

audit period means a period specified in regulation 21(1)

audit report means a report under regulation 22(1)

auditor means a person who, or a partnership that, is appointed by an agency under regulation 9 to audit the agency's trust accounts

notice means a notice given or served in accordance with regulation 29

qualified auditor has the same meaning as in section 35 of the Financial Reporting Act 2013

trust account means a general or separate account kept by an agency at any bank carrying on business in New Zealand—

- (a) that is designated as a trust account; or
- (b) into which trust account money is deposited

trust account money means all money that, when received by an agency, is subject to section 122 of the Act

trust account records, in relation to an agency, means—

- (a) all records (including all books, papers, files, accounts, statements, invoices or copies of invoices, documents, receipts and evidence of authority for payments, cheques, securities, and trust receipt forms used and unused) relating to the agency's trust accounts or to trust account money received by the agency, whether kept in writing or on computer or machine or in any other manner; and
- (b) if any of those records are kept on computer, includes the relevant computer equipment and software

year means a year ending with 31 March.

- (2) Unless the context otherwise requires, terms used in these regulations have the same meaning as in the Act.

Regulation 4(1) **chartered accountant**: revoked, on 1 April 2014, by regulation 4(1) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 4(1) **qualified auditor**: inserted, on 1 April 2014, by regulation 4(2) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Duties of agencies in relation to trust accounts

5 Operation of trust accounts

- (1) Every agency must ensure that—

- (a) each bank account into which trust account money received by the agency is deposited is designated a “trust account”; and
 - (b) the bank receives written notice that—
 - (i) all money standing to the credit of a trust account kept at the bank by the agency is held as trust account money; and
 - (ii) the bank is not entitled to combine the trust account with any other account, or to exercise any right to set-off or counterclaim against money in that trust account in respect of any sum owed to it on any other account; and
 - (iii) any interest payable in respect of the account balance must be credited to that trust account.
- (2) Every agency must request from every bank at which a trust account is held written confirmation that the bank accepts the terms of the notice provided under subclause (1)(b).

6 Trust account records

- (1) Every agency must—
- (a) keep trust account records in a manner that enables those records to be conveniently and properly audited; and
 - (b) ensure that those trust account records—
 - (i) are up to date; and
 - (ii) clearly show the amount of trust account money held for each client; and
 - (iii) are, as far as practicable, secure against retrospective alteration or deletion.
- (2) All entries in the client ledger accounts, and in other records that are the source of those entries, must—
- (a) be dated; and
 - (b) include references that identify their source or destination and enable them to be traced backward and forward.
- (3) All entries in the journal must include sufficient detail to make their purpose evident.

- (4) Trust account records relating to a client must be retained for a period of at least 7 years from the date of the last transaction recorded in them, but—
- (a) may be retained after the first 3 years, in the form of imaging, or other similar technology; or
 - (b) in the case of computer-generated trust account records originated by the agency, may be retained in the form of electronic storage, imaging, or similar technology.

7 Receipt and payment of trust account money

- (1) Every receipt, payment, transfer, and balance of trust account money must be recorded in a trust account ledger with a separate ledger account for each client and no ledger account may contain money of more than 1 client, but a client's account may be subdivided into various matters.
- (2) For the purposes of subclause (1), a joint client must be treated as a single client.
- (3) Any trust account money received by an agency must be recorded promptly and accurately in that agency's trust account receipt records and the relevant client ledger account.
- (4) For the purposes of subclause (3), each entry of the receipt of trust account money must state—
- (a) the amount, date, purpose, and source of the receipt; and
 - (b) the client for whom the trust account money is to be held.
- (5) Where trust account money is paid in cash to an agency, or the payer of the trust account money so requests, a receipt must be issued to the payer (**trust receipt**) and a copy of the trust receipt must be retained by the agency in electronic or paper form.

8 Form of trust receipts

- (1) All trust receipts issued under regulation 7(5) must be numbered sequentially and must include the following:
- (a) the name of the agency;
 - (b) the person from whom the trust account money is received;
 - (c) the person to be credited with the trust account money;

- (d) a brief description of the purpose for which the trust account money is received:
 - (e) the amount, in words and figures, of trust account money received:
 - (f) the date of issue of the trust receipt:
 - (g) the signature of the agent, cashier, or other person authorised by the agency to sign trust receipts:
 - (h) the words “official receipt form for trust money”:
 - (i) how the trust account money has been received by the agency, for example, by cheque, cash, or bank transfer.
- (2) If an agency produces its trust receipts by computer, every issue of a trust receipt must be recorded electronically.

Appointment of auditor

9 Agencies must appoint auditor

- (1) Every agency must appoint an auditor to audit the agency’s trust accounts.
- (2) Every agency must, without delay, appoint another auditor if the auditor engaged under subclause (1)—
 - (a) is or becomes disqualified from being an auditor under these regulations:
 - (b) does not, for any reason, commence his or her role as auditor:
 - (c) dies, retires, or otherwise ceases to be engaged as an auditor for the agency.

10 Who may be appointed as auditor

- (1) A person may be appointed as the auditor of an agency’s trust accounts if that person—
 - (a) is a qualified auditor; and
 - (b) is not disqualified from auditing the agency’s trust accounts under regulation 11.
- (2) *See sections 37 to 39 of the Financial Reporting Act 2013 (which provide for the appointment of a partnership and access to information in relation to an agency).*
- (3) *[Revoked]*
- (4) An auditor who is appointed to audit an agency’s trust accounts must promptly give notice to the agency and the Authority if,

for any reason, the auditor ceases to meet the requirements of subclause (1).

Regulation 10(1): replaced, on 1 April 2014, by regulation 5(1) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 10(2): replaced, on 1 April 2014, by regulation 5(1) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 10(3): revoked, on 1 April 2014, by regulation 5(1) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 10(4): amended, on 1 April 2014, by regulation 5(2) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

11 Disqualification from auditing trust accounts of an agency

- (1) An auditor is disqualified from auditing the trust accounts of an agency if, at any time, either or both of the following apply:
 - (a) the auditor is one of the persons listed in section 36(4) of the Financial Reporting Act 2013:
 - (b) the auditor has a conflict of interest under subclause (2).
- (2) A conflict of interest exists if—
 - (a) the auditor is in business as an agent:
 - (b) the auditor is, or at any time within the immediately preceding 12 months has been, employed or engaged by the agency (other than as the agency's auditor):
 - (c) the auditor is, or at any time within the immediately preceding 12 months has been, a partner of the agency or in business with the agency:
 - (d) the auditor is, or at any time within the immediately preceding 12 months has been, an officer of the company that is the agency:
 - (e) the auditor, or any employee of the auditor, is, or at any time within the immediately preceding 12 months has been, engaged in processing or recording transactions relating to the agency:
 - (f) the relationship between the auditor and the agency is of a kind described in section 137 of the Act.
- (3) Nothing in subclause (1) or (2) prevents an auditor or employee of an auditor from completing for an agency—
 - (a) the closing entries at the end of a year or other period;or

- (b) the preparation of a statement of financial position, a statement of financial performance, or taxation returns of the agency.
- (4) If the Authority becomes aware, other than by means of a notice from the agency under regulation 13(1), that the auditor is disqualified from auditing the accounts of the agency, the Authority must give notice to the agency and to the auditor that the auditor is disqualified from auditing the agency's accounts.
- (5) To avoid doubt, an auditor is disqualified under subclause (1) regardless of whether notice is given under subclause (4).

Regulation 11 heading: replaced, on 1 April 2014, by regulation 6(1) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 11(1): replaced, on 1 April 2014, by regulation 6(2) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 11(4): amended, on 1 April 2014, by regulation 6(3) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 11(5): inserted, on 1 April 2014, by regulation 6(4) of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

12 New agency must notify appointment of auditor before receiving money

- (1) Every agency that is an individual who, or a company that, is granted a new licence under section 43 of the Act must notify the Authority of the auditor who is appointed to audit the agency's trust accounts, before that agency receives any money in respect of their first transaction pursuant to that licence.
- (2) Every agency that is a partnership formed on or after 17 November 2009, must notify the Authority of the auditor who is appointed to audit that agency's trust accounts, before any agent who is a member of that partnership receives any money in respect of a transaction undertaken as a member of that partnership.
- (3) Every notice given under this regulation must—
 - (a) specify the name and address of the auditor; and
 - (b) specify the name and identifying bank account number of each trust account that the auditor will audit; and
 - (c) be accompanied by written confirmation from the auditor that he or she—

- (i) is a qualified auditor;
 - (ii) *[Revoked]*
 - (iii) agrees to audit the trust accounts mentioned in paragraph (b);
 - (iv) is not disqualified under these regulations from acting as an auditor.
- (4) Every notice given under this regulation must be in writing and signed,—
- (a) if the agency is an individual, by that individual; or
 - (b) if the agency is a partnership, by a member of that partnership; or
 - (c) if the agency is a company, by an officer of the company.

Regulation 12(3)(c)(i): replaced, on 1 April 2014, by regulation 7 of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 12(3)(c)(ii): revoked, on 1 April 2014, by regulation 7 of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

13 Agency must notify Authority of replacement if auditor disqualified or no longer engaged

- (1) Every agency must give notice to the Authority, within the time set out in subclause (2), if the auditor appointed to audit the agency's trust accounts—
- (a) ceases to be engaged by the agency; or
 - (b) does not, for any reason, commence his or her role as auditor; or
 - (c) is disqualified under these regulations from auditing the agency's trust accounts.
- (2) The notice must be given to the Authority at any time before the auditor ceases to be engaged, or within 20 working days of the agency becoming aware of the matter specified in subclause (1)(a), (b), or (c), whichever is the later.
- (3) Every notice given under this regulation must—
- (a) specify the name and address of the auditor who is to be replaced; and
 - (b) specify the name and address of a replacement auditor who is appointed to audit the agency's trust accounts; and

- (c) specify the name and identifying bank account number of each trust account that the replacement auditor will audit; and
 - (d) be accompanied by written confirmation from the replacement auditor that he or she—
 - (i) is a qualified auditor;
 - (ii) *[Revoked]*
 - (iii) agrees to audit the trust accounts mentioned in paragraph (c);
 - (iv) is not disqualified under these regulations from acting as an auditor.
- (4) Every notice given under this regulation must be in writing and signed,—
- (a) if the agency is an individual, by that individual; or
 - (b) if the agency is a partnership, by a member of that partnership; or
 - (c) if the agency is a company, by an officer of the company.

Regulation 13(3)(d)(i): replaced, on 1 April 2014, by regulation 8 of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 13(3)(d)(ii): revoked, on 1 April 2014, by regulation 8 of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Duties of agencies in relation to audits

14 General duty to provide access, information, and records

- (1) For the purpose of every audit and audit report every agency must, as and when required,—
- (a) permit the auditor to perform an examination of the agency's trust accounts; and
 - (b) produce to the auditor—
 - (i) a signed copy of the most recent audit report for those trust accounts;
 - (ii) all trust account records, all bank statements, and any information relating to the trust account and trust account records that the auditor requires for the audit and audit report;
 - (iii) all other accounting records and documents that relate to the agency's business as an agent; and

- (c) provide any further information and explanations that the auditor thinks necessary for the performance of his or her duties as an auditor; and
 - (d) take all practicable steps to obtain from a client any information relating to trust account money required from that client by the auditor.
- (2) Every agency must, within 10 working days of opening any new trust account, supply particulars of that trust account to the auditor and to the Authority.

15 Duty to provide monthly list of balances and reconciliation statement

- (1) Every agency must, at the end of each month, reconcile the balance of the agency's trust accounts to—
 - (a) the balance of the agency's cash book; and
 - (b) the total of the balances in the list required under subclause (3)(a).
- (2) Every agency must keep the reconciliation statements prepared in accordance with subclause (1) in the agency's cash book, or in any other appropriate manner.
- (3) Unless subclause (4) applies, every agency must, by 27 January and the 20th day of every other month, give to the agency's auditor—
 - (a) a list of the balances in each client ledger account, and of the amount of money (if any) in each trust account, as at the end of the last preceding month or balance period; and
 - (b) the reconciliation statement referred to in subclause (1) for that month.
- (4) If there is no money in any of the agency's trust accounts at the end of any month, the agency must give to the auditor a "nil" return.

16 Duty to report in respect of each audit period

- (1) Every agency must, on notification by the auditor of the last day of any audit period to which an examination relates, prepare a statement that includes the following information:

- (a) all money held on the last day of the audit period by the agency, in that agency's capacity as an agent, for or in trust for any other person:
 - (b) the names of the bank accounts where the money has been deposited:
 - (c) the balances of those accounts on the last day of the audit period and, if the bank balances differ from the cashbook balances, a statement reconciling those balances.
- (2) Every statement given under subclause (1) must be accompanied by a statutory declaration that the information contained in the statement is true and correct and that the auditor has been provided with all information necessary to undertake the examination.
- (3) The statutory declaration referred to in subclause (2) must be made by—
- (a) the agency; or
 - (b) a person authorised to act on behalf of the agency who has knowledge of the matters in subclause (1).

17 Duty to provide information for annual audit report

Every agency must provide to the auditor at the time of the final examination in each year a list of the trust accounts operated by the agency during that year.

18 Duty of agency ceasing to carry on business

- (1) This regulation applies if—
- (a) an agency who is an individual ceases to carry on business; or
 - (b) an agency that is a partnership is dissolved; or
 - (c) an agency that is a company has been wound up.
- (2) If this regulation applies, the person or persons specified in subclause (3) must, within 20 working days after the event mentioned in subclause (1), ensure that the agency's auditor performs a final audit of the trust accounts kept in connection with the business and prepares a final audit report as if the closing date for the report were 31 March.

- (3) The persons who must ensure that the final audit is performed are—
- (a) if the agency was an individual who is not deceased, that individual; or
 - (b) if the agency was an individual who is deceased, the executors or administrators of the estate of that individual; or
 - (c) if the agency was a partnership that has been dissolved, each member of that dissolved partnership; or
 - (d) if the agency was a company that has been wound up, every person who was an officer of that company at the time it commenced winding up.

19 Auditor's fees

- (1) The fees payable by an agency to an auditor in respect of the auditor's audit and report are the fees agreed upon between the agency and the auditor.
- (2) Subject to any written agreement to the contrary between an agency and a person from whom the agency has received money, or for whom the agency is holding money, the cost of auditing that person's trust account must be borne by the agency.

Duties of auditors

20 General duty

- (1) Every auditor engaged to audit an agency's trust accounts must conduct that audit in the manner prescribed by these regulations.
- (2) During every examination made under regulation 21, an auditor must be satisfied that all trust account money is properly accounted for, based on the information available and that an auditor could reasonably be expected to request.
- (3) On every examination of a trust account, the auditor must acknowledge receipt of the statement provided by the agency under regulation 16 and return it to the agency.

21 Duty to perform at least 3 examinations each year

- (1) An auditor of any trust account must examine that account at least 3 times each year by undertaking,—
 - (a) between 1 July and 31 August, the first examination of the trust account for the period from the start of 1 April to the close of 31 May;
 - (b) between 1 December and the last day of February, the second examination of the trust account for the period from the start of 1 June to the close of 31 October;
 - (c) between 1 April and 30 June, the last examination of the trust account for the period from the start of 1 November to the close of 31 March.
- (2) If an agency is not in business on the 1st day of April in any year, the auditor must examine each trust account for the periods specified in subclause (1) subsequent to the auditor's appointment.
- (3) The auditor may make other or further examinations at any time, either by arrangement with the agency or of the auditor's own motion.

22 Duty to provide annual audit report

- (1) An auditor must, within 10 working days after the date on which the examination that completes the final audit for the year is completed,—
 - (a) give to the Authority, in a form acceptable to the Authority, a signed copy of an audit report completed in accordance with subclause (2); and
 - (b) give to the agency a signed copy of that audit report.
- (2) Every audit report given under subclause (1) must include the following information:
 - (a) the name of the agency;
 - (b) the name and identifying bank account number of each trust account that has been audited;
 - (c) whether the agency has forwarded each month to the auditor a list of trust account balances for the previous month as required by regulation 15;
 - (d) whether the trust account records and other records have been ready for examination at the appointed periods:

- (e) whether the agency has produced all unused receipt forms and, if receipts are generated electronically, taken appropriate steps to ensure no further trust account receipts are generated for that year:
 - (f) whether the auditor has obtained all information and explanations required from the agency to carry out the auditor's examination and audit:
 - (g) whether the agency has, in the opinion of the auditor, complied with the requirements in the Act and in these regulations that relate to trust accounts:
 - (h) any other matter or thing which, in relation to the trust account, should in the opinion of the auditor be communicated to the Authority.
- (3) The Authority must acknowledge receipt of an audit report within 10 working days of its receipt.

23 Duty to report defaults and irregularities

- (1) Every auditor must promptly report to the Authority—
- (a) any of the matters listed in subclause (2); and
 - (b) any other matter or thing, such as an error, misstatement, or irregularity in a trust account, that the auditor believes should be reported.
- (2) The matters that an auditor must promptly report to the Authority are—
- (a) trust account records that do not clearly show the trust account money balances of each client or that are not kept in a manner that enables them to be properly audited; or
 - (b) a matter involving dishonesty or a breach of law on the part of the agency whose accounts are being audited; or
 - (c) a loss or deficiency of trust account money, or a failure by the agency to account for any trust account money; or
 - (d) a failure to comply with the provisions of the Act or these regulations relating to the agency's trust accounts (including a failure to provide the auditor with a statement under regulation 16).

Inactive trust accounts

24 Agency's duties in respect of inactive trust accounts

- (1) This regulation applies to any agency that has an inactive trust account because—
 - (a) the agency is an individual who previously operated a trust account, but who is now—
 - (i) employed by another agency; or
 - (ii) an officer of a company that is an agent; or
 - (iii) a member of a partnership that operates a partnership trust account; or
 - (b) the agency is no longer actively engaged in carrying on the business of an agent.
- (2) If this subclause applies, the agency must give notice to the agency's auditor in writing that the trust account is inactive and all money in the account has been paid to the persons entitled to it or in accordance with those persons' directions.
- (3) Where an agency has given notice under subclause (2), the agency must—
 - (a) give the auditor all unaudited trust account records, including unused trust receipts, forms, and cheques; and
 - (b) where receipts are generated electronically, take appropriate steps to ensure no further trust receipts are generated.

25 Auditor's duties when notified of inactive trust account

- (1) If an auditor receives notice of an inactive trust account, the auditor must, if satisfied that all the trust account records for that inactive trust account are in his or her possession, advise the Authority in writing that—
 - (a) notice has been received under regulation 24 that the agency's trust account is inactive; and
 - (b) all relevant trust account records required to be audited under these regulations have been received, including all unused receipts and cheques, and an assurance has been provided by the agency that no further trust receipts are to be generated electronically; and
 - (c) except for the reports that are required to be given to the Authority up to the date of the notice, the audit reports

required under regulation 22 will not be given to the Authority until further notice.

- (2) While an auditor has possession of the items referred to in regulation 24(3)(a) in relation to an inactive trust account, the following regulations do not apply:
 - (a) regulation 21, except in respect of any unaudited period prior to the date on which notice is given under regulation 24(2); and
 - (b) regulations 9, 13, 15, 16, 17, and 22.

26 Reactivation of inactive trust account

- (1) Before recommencing the operation of any inactive trust account, an agency must give notice to the appointed auditor in writing of the agency's intention to reactivate the account.
- (2) On receipt of a notice under subclause (1), the auditor must return to the agency all trust account records, unused receipts, and cheques, and must promptly advise the Authority in writing that regulation 25(2) no longer applies in respect of that agency.

Disclosure of information to and by auditor

27 Disclosure of information by bank to auditor

- (1) Every bank referred to in section 122(3) of the Act, and every manager for the time being of any branch of that bank, must, on the request of an auditor appointed under these regulations to audit an agency's trust accounts, supply to that auditor—
 - (a) a list of the trust accounts operated by the agency; and
 - (b) all information as to the trust account or trust accounts of the agency as may reasonably be required for the purposes of that audit.
- (2) The information referred to in subclause (1) must be supplied to the auditor without reference to the agency.
- (3) Every auditor who is appointed to audit the trust accounts of an agency is the agent of that agency for the purposes of—
 - (a) obtaining from any bank any cheques drawn upon a trust account of the agency; and
 - (b) giving the bank sufficient receipts and acknowledgments for the cheques obtained.

- (4) A certificate given by an agency is sufficient evidence to the bank and the manager of the appointment of an auditor.

28 Disclosure of information by auditor

Despite section 125(2) of the Act, an auditor may disclose information that was obtained in the course of an audit of an agency's trust account if—

- (a) the disclosure is made in a report to the Authority; or
- (b) the information is required for the purpose of proceedings that may arise out of any such report or otherwise in relation to the trust accounts of the agency concerned; or
- (c) the information disclosed relates to money in which a person has a legal or beneficial interest and the disclosure is made to that person; or
- (d) the information is required for the purpose of any investigation conducted by a Complaints Assessment Committee; or
- (e) the disclosure is made with the consent of the agency; or
- (f) the disclosure is otherwise permitted or required by the Act, these regulations, or any other enactment.

Miscellaneous

29 Service of notices

- (1) A notice that is required or authorised by these regulations to be given to or served on any person by the Authority is sufficiently given or served if it is given or served—
- (a) in accordance with section 154 of the Act; or
 - (b) by electronic transmission (whether by way of fax, email, or other similar means of communication) to an address nominated by that person.
- (2) A notice that is required or authorised by these regulations to be given to or served on the Authority is sufficiently given or served if it is given or served—
- (a) in accordance with section 154 of the Act; or
 - (b) by electronic transmission (whether by way of fax, email, or other similar means of communication); or

- (c) by any other method agreed by the Authority.

30 Offences

Every agency, auditor, banker, or other person who fails, without reasonable excuse, to comply with these regulations commits an offence and is liable on conviction to a fine not exceeding \$15,000.

Regulation 30: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

31 Revocation

The Real Estate Agents Audit Regulations 1977 (SR 1977/249) are revoked.

Transitional provisions

32 Initial notification of auditors

- (1) This regulation applies to—
- (a) every agency that is an individual or a company that is deemed by section 166 of the Act to hold an agent's licence; and
 - (b) every agency that is a partnership that was formed before 17 November 2009.
- (2) Every agency to whom this regulation applies must notify the Authority, before 17 December 2009, of the person who is appointed to audit the agency's trust accounts.
- (3) Every notice given under subclause (2) must include—
- (a) the name and address of the person; and
 - (b) the name and identifying bank account number of each trust account that the person will audit.
- (4) The notice given under subclause (2) must also, if the person appointed to audit the agency's accounts meets the requirements of regulation 10, be accompanied by written confirmation from the person that he or she—
- (a) is a qualified auditor;
 - (b) *[Revoked]*
 - (c) agrees to audit the trust accounts mentioned in subclause (3)(b):

- (d) is not disqualified under these regulations from acting as an auditor.
- (5) If the person appointed to audit the agency's accounts does not meet the requirements of regulation 10, that person may complete the audit of the agency's accounts for the year ended 31 March 2010 but the agency must, before 1 April 2010,—
 - (a) appoint a replacement auditor to audit the agency's accounts for the year beginning 1 April 2010; and
 - (b) notify the Authority of the replacement auditor in accordance with regulation 13.

Regulation 32(4)(a): replaced, on 1 April 2014, by regulation 9 of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

Regulation 32(4)(b): revoked, on 1 April 2014, by regulation 9 of the Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28).

33 Inactive trust accounts

If an agency has complied with regulation 7A of the Real Estate Agents Audit Regulations 1977, the agency is deemed to have given notice to the agency's auditor in accordance with regulation 24(2), and the agency's auditor is deemed to have given notice to the Authority in accordance with regulation 25(1).

Michael Webster,
for Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Real Estate Agents (Audit) Regulations 2009 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Real Estate Agents (Audit) Amendment Regulations 2014 (LI 2014/28)
Criminal Procedure Act 2011 (2011 No 81): section 413
