property agents board

STATUTORY TRUST ACCOUNTING

Trust Accounting Guide

Your statutory trust-account obligations — explained in plain language for property agents and their auditors in Tasmania.

Real estate agents
Property managers
General auctioneers
Auditors

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PART 01

Introduction

The purpose of this guide is to demystify the legislative obligations of property agents in Tasmania and their auditors regarding statutory trust accounting obligations. It is deliberately written in an easy to understand, non-legalistic and user-friendly fashion.

Staff with responsibilities for operational trust account management should also find this guide helpful for their work.

For the purposes of this guide a “property agent” is a “real estate agent”, “property manager” or “general auctioneer”.

This guide provides a summary of your statutory trust account obligations. It does not cover all the:

- Trust account provisions of *the Act* and *Regulations* in every detail
- Exceptions or qualifications that may apply.

A sound working knowledge of *the Act*, *Regulations* and Code of Conduct is still required.

THIS GUIDE APPLIES UNDER

This guide applies to businesses, property agents and auditors licensed or operating under the relevant Tasmanian legislation:

- ***Property Agents and Land Transactions Act 2016*** (No. 58 of 2016), and
- ***Property Agents and Land Transactions Regulations 2017*** (S.R. 2017, No. 16).

Monies held in trust bring with them special responsibility as the funds belong to someone else and the property agent authorised to manage the real estate business, that is, the managing agent, is ‘trusted’ to protect them.

In Tasmania, there are laws to protect how property agents handle money they receive or control on behalf of their clients.

Property agents must have a trust account if they receive trust money or are likely to receive trust money on behalf of others, for example sales deposits and rental payments.

Property agents must set up and maintain their trust account(s) in accordance with the *Act* and *Regulations*.

These laws exist to help ensure money held by property agents is properly dealt with and can be accurately accounted for at all times. This reduces the risk of fraud or theft of trust money and increases public confidence in the protection of trust money and the services of property agents.

⚠ PENALTIES APPLY

The Property Agents Board can inspect property agent's trust account records at any time. Breaches of *the Act* or *Regulations* are taken seriously by the Property Agents Board and **penalties, fines and sanctions for the mismanagement or misuse of trust funds can be applied.**

✓ AT A GLANCE

1. Trust money belongs to someone else — you are trusted to protect it and account for it accurately at all times.
2. Hold a trust account if you receive, or are likely to receive, trust money on behalf of others.
3. Records can be inspected at any time; mismanagement or misuse carries penalties, fines and sanctions.

PART 02

Trust accounting

What counts as trust money, where it must be held, and the duties that come with holding money that belongs to someone else.

What is trust money?

Trust money is money received by a property agent or is under the control of a property agent on behalf of another person, who has appointed them to receive or control that money. It includes:

- a deposit for a property sale
- the payment of rent or a bond payment.

Trust money is held by the property agent upon trust for the person who is entitled to it.

A property agent may receive trust money on behalf of a party to negotiations in which the property agent is involved or as stakeholder or on behalf of another person as rent for property that is leased or let.

> WHAT IS *NOT* TRUST MONEY
>
> Trust money is **not** money received which is incidental to the transaction, for example advertising charges. These should be transacted through the property agent's general account, not the property agent's trust account.
>
> Similarly, a refund made by a solicitor or conveyancer which represents the balance due on a sales settlement paid to a property agent is **not** trust money and should be transacted through the property agent's general account, not the property agent's trust account.

Trust accounting is a general term used to cover the accounting records and practices required under *the Act* and *Regulations* to properly account for trust money in the possession of a property agent or under their control.

> ⚠ A CRIMINAL OFFENCE
>
> Property agents have important legal and fiduciary responsibilities in relation to the management of trust accounts. **The removal of money from a trust account for reasons other than a lawful purpose is a criminal offence.**

It is the property agent authorised to manage the business, that is, the managing agent, who must supervise keeping the trust account records and ensure the reconciliation records and schedule of ledger accounts are accurate.

Opening and naming of a trust account

The Act requires property agents to open a trust account with an approved financial institution in the name of the person who is named in the Register of property agents. The words 'trust account' must appear in the title.

Approved financial institutions

- Australian and New Zealand Banking Corporation
- Bendigo Bank
- Commonwealth Bank of Australia
- Police Bank (previously Heritage Isle Credit Union)
- Macquarie Bank Limited
- National Australia Bank
- Westpac Banking Corporation

A real estate agent named in Part 1(1) of the Register, a property manager named in Part 2(1) of the Register or a general auctioneer named in Part 3 of the Register must not maintain a trust account with an authorised deposit-taking institution that is not an approved institution.

Within 7 days after opening a trust account, a property agent must give the Property Agents Board written notice of:

- the name and branch of the approved institution where the trust account was opened
- the name and number of the trust account.

There is no provision under *the Act* for trust accounts to be opened in the name of unit trusts or family trusts.

Under *the Act* companies (body corporate wherever incorporated), and individuals can be licenced. There is no ability to licence trusts under *the Act*.

WHOSE NAME?

A property agent's trust account and trust account records **must** be in the name of the licensed property agent or the business name under which the property agent carries on business. It is the name(s) displayed in the Board's Register for that property agent who is conducting business.

Trust accounts cannot be held in the name of a unit trust.

Part 9 of *the Act* discusses trust money, trust account and trust records, noting that trust money is that which is received by a property agent appearing on the Board's Register in the division that allows the property agent to conduct business, and that trust money is to be paid into a trust account.

Under *the Act*, companies (body corporate wherever incorporated) and individuals can be licensed however there is no ability to license trusts under *the Act*. Unit trusts must not be linked to the trust account. The legislation is very specific that the trust account must be in the licensed name. A trustee of a unit trust has obligations to the unit holders of the trust which will inexorably conflict with the statutory obligations of a property agent under *the Act*.

For example, if Balesworthy Real Estate Purveyors (Tas) Pty Ltd with a business name Balesworthy Real Estate had a family trust associated with the entity, a trust account under the name Balesworthy Family Unit Trust as trustee for Balesworthy Real Estate Purveyors (Tas) Pty Ltd using the Family Unit Trust's ABN does not comply with *the Act*.

It is, therefore, not legally permissible to keep a trust account in the name of the unit trust, because it is not kept personally by the property agent.

Invested funds

If a property agent has invested trust money with an approved financial institution, in addition to any monies held in trust bank accounts, at the written request of the person paying the money — for example a deposit for a long-term property settlement or commercial bonds — the same provisions apply to the investment trust account as a trust bank account.

SEE ALSO

Invested monies is further expanded upon at **page 26** of this guide — *Schedule of invested trust monies*.

Residential tenancy bonds

Under the *Residential Tenancy Act 1997*, residential tenancy bonds received by a property agent are trust funds and must be paid to the Rental Deposit Authority *(RDA)* within 10 working days of the monies being received.

LEGAL REQUIREMENT

Remit residential tenancy bonds to the **Rental Deposit Authority *(RDA)* within 10 working days** of receipt.

Control of trust money

A property agent who has trust money in a trust account must retain the money in the account until the money is paid:

- to the person entitled to it; or
- to the legal practitioner or licensed conveyancer of the person entitled to it; or
- in accordance with the written directions of the person entitled to the money, or his or her legal practitioner or licensed conveyancer.

PART 03

Trust documents and records

The records you must keep, how to keep them, and the systems and timeframes that keep a trust account accurate and auditable at any time.

Record keeping

Property agents must keep complete and accurate accounting records that show the true position of all trust money received or under their control and enable their trust accounts to be properly inspected or audited at any time.

They must be kept at the authorised place of business of the property agent conducting the business, that is, the address entered on the Property Agents Board Register of property agents.

The Property Agents Board may approve trust account records to be kept at a place other than the authorised place of business, but approval must be received in writing from the Property Agents Board before the records are relocated, via submission of an 'Application for Trust Account Records to be kept at a Place Other than the Authorised Place of Business' form.

Property agents must be able to provide these records to their auditor or the Property Agents Board on request.

USE THE FORM

To keep records off-site, apply in writing first — see the application at **page 48**.

Records must include

- a register of trust account receipts
- consecutively numbered trust account receipt forms in duplicate
- trust account bank deposit forms in duplicate
- a trust account cashbook
- a trust account ledger
- a trust account journal with journal entries consecutively numbered
- complete and accurate accounts of amounts paid or received for a property sale or payment of rent.

Records must show

- who is entitled to the trust money
- details of each trust money transaction
- the dates on which each transaction took place.

TWO BUSINESS DAYS

Update your cashbook within **two business days** of receipt or payment — or, for EFT, on the date you become aware of the receipt.

Property agents must archive all trust account records in a secure, orderly and accessible way for six years.

If held electronically, the records should be kept on a records management system separate to the trust accounting software system being used to ensure the records can be accessed for the required time and that access is not lost through system changes or upgrades.

Documentation of trust account policies and procedures

It is important that property agents ensure that policies and procedures applying to the proper management of their trust account(s) are fully documented and kept up to date. This ensures consistency of practice and assists in the training and work of staff holding trust account management responsibilities.

The Property Agents Board may request copies of policies and procedures applying to trust accounts to be produced at inspection or sent to the Board office on request.

Computerised trust accounting systems

There are many computerised property management software systems available which facilitate property sales and property management. These systems usually have a trust accounting module to manage trust monies received by property managers. Examples are Property Me, Property Tree, Reapit and Vault RE.

Some agents use dedicated accounting software programs such as Xero or MYOB for this purpose.

Regardless of the system used, property managers must ensure it:

- does not allow for the deletion of a trust ledger account unless the balance is zero and a record of the account is kept immediately before it is deleted
- records amendments to a transaction recorded on the system as a separate transaction (i.e. the original transaction and the amendment will both be recorded on the system)
- produces records in chronological order.

The system must also be capable of keeping, in chronological sequence, a record of changes to:

- the name or address of a person for whom trust money is held
- any description of a matter being conducted by the property agent
- an amount of trust money held for a person by the property agent
- the financial institution account number of a trust account.

BACKUPS

When using a computerised accounting system, property agents must ensure the:

- system has enough backup capability to record the information required by *the Act* and *Regulations*
- system is backed up at least once a month
- backed-up information is not stored at the property agent's business address.

Whichever system a property agent uses, it is their responsibility to ensure the system is kept up-to-date and that all aspects of their record keeping comply with *the Act* and *Regulations*.

Whilst many property agents delegate the day-to-day maintenance of trust account records to office staff, it is important for the licensed person authorised to manage the agency (the managing agent) to be fully conversant with the computer system being used. Full use should be made of any checks and controls that are integrated into the system and daily reports should be produced for checking by the person in bona fide control. Discrepancies and errors should be noted and checked, and any irregularities immediately addressed, with the relevant records then kept for review by the auditor or inspector.

IMPORTANT – PLEASE READ

Please also refer to the important **Advice Note — Usage of Trustless Accounting Platforms** set out below and Appendix D.

Usage of trustless accounting platforms

The Property Agents Board (the Board) considers that the operation and use of statutory trust accounts by property agents in Tasmania is a foundational concept of the property agents industry. This is because property agents are dealing with significant amounts of other people's money, and their use strengthens and safeguards transactions held on behalf of clients and customers, and protects those funds from uncertainty or improper interference.

THE BOARD'S POSITION

The Board's current position and preference is that property agents **control all rent, bond and sales monies via a statutory trust account** until it is required to be appropriately disbursed.

The Board is aware of a variety of electronic platform products marketed to the property agents industry that can be used by clients and customers to transact rent or sales deposit money which bypasses these monies from being deposited into a property agent's statutory trust account.

The Board is particularly interested in how the use of these platform products will affect the Board's ability for oversight of statutory trust accounts, which is a key regulatory function under the *Property Agents and Land Transactions Act 2016*. As such, any business model or systems and platforms which circumvents or reduces the Board's capacity for oversight of trust money transactions is of concern to the Board.

The Board is focussed on how systems and platforms which bypass deposits of monies into statutory trust accounts will impact consumers in their redress for compensation if there is fraudulent and criminal activity in relation to the distribution of these monies, as currently occurs under *the Act*.

LOOKING AHEAD

The Board is exploring all the above issues through legislative amendments. It is anticipated that any such amendments will confirm the Board's position that **any monies relating to rent or sales deposit money must be deposited into a statutory trust account**, as property agents should control all rent, bond and sales monies via a statutory trust account.

Receiving trust money (cash)

Property agents must ensure safe custody facilities are available for the holding of trust money and deposit trust money they receive to their trust account by the end of the next business day.

Trust receipts

A property agent must be able to provide a trust account receipt to a person paying trust money, on request from that person.

Property agents may complete trust account receipts manually or electronically.

When completing a receipt, include

- the property agent's name or name under which the property agent carries on business
- the ABN or ACN for the property agent or business named
- the receipt number
- the words "trust account".

The receipt form must specify

- the date on which the money was received
- the name of the person on whose behalf the money was paid
- the transaction to which the money relates
- the form in which the money was received
- the amount of money received.

Numbering & interim receipts

Trust account receipts should be sequentially numbered by machine and issued at least in duplicate.

The use of interim receipts is not encouraged. However, there are certain circumstances when an interim receipt may need to be issued (e.g. when a property agent's printer is out of order). In these situations, a duplicate of the interim receipt should be retained in the records, and the interim receipt should be immediately followed by a formal trust receipt cross-referenced to the interim receipt.

When using a manual system to issue trust account receipts, cross-referencing information should be included when recording the receipt in the trust ledger and issuing the formal receipt.

WORKED EXAMPLE – a trust account receipt

Rhys West Property Pty Ltd

accounts@rhywestproperty.com.au
ABN 123 456 789

TRUST ACCOUNT

Receipt No.
20563

TRUST ACCOUNT RECEIPT

FOR PROPERTY
123 West Street, Sunny Day TAS 7000

DATE RECEIVED
25/11/2025

ON BEHALF OF
James Lee · TEN0010271

OWNER
Muddy Franklin · OWN002657

DESCRIPTION	INCLUDED TAX	AMOUNT
Rent — paid to 1/01/2026 with part payment of $110.33 (from 25/11/2025)	$0.00	$710.00
Total	$0.00	**$710.00**

PAYMENT METHOD
EFT

PRINCIPAL
Rhys West Property Pty Ltd

RENTAL POSITION
Paid up to date

RECEIPTED BY
Ted Bear

DATE PROCESSED
27/11/2025

FIGURE 1 EXAMPLE OF A TRUST ACCOUNT RECEIPT. SAMPLE DATA SHOWN FOR ILLUSTRATION ONLY.

Trust account deposits

Property agents must keep a record of all cash or cheque (not EFT) deposits of trust money into a trust account.

Each trust account deposit must have printed on it the property agent's name or name under which the property agent carries on business and the words "trust account".

Each deposit record should include the date the money was paid into the trust account, the account number of the trust account and, if the deposit was in the form of a cheque, the name of the drawer of the cheque.

Deposit records should be signed by the property agent or person approved by the property agent, and deposit records should be in duplicate.

A copy of the deposit record which includes the date stamp of the deposit-taking institution, or a copy of the bank receipt, must be retained by the property agent.

TWO BUSINESS DAYS

Update your trust account cash book with all deposits within **two business days** after the trust money is received.

Trust account payments

THE RULE

Trust money must remain in an agent's trust account until the relevant transaction is finalised.

A 'finalised transaction' is one where the entitlement to trust money shifts from the payer to the payee (recipient). In most cases, the transfer date or event is specified in the contract between the two parties.

The following examples illustrate when a transaction typically finalises:

- a deposit for a property sale finalises on the date when the settlement occurs or the date when the contract falls through, whether the sale is by auction or through a contract
- a rental payment finalises on the date when that rental payment is due to be paid, under the residential tenancy agreement between the tenant and landlord, to the landlord
- a rental bond usually finalises when the residential tenancy agreement between the tenant and landlord is signed and comes into law.

Once a transaction is finalised, the agent may draw money from their trust account to pay the person entitled to the money, less any authorised commission or management fees or expenses, or to another person nominated in writing by the person entitled to it. Authorised fees and expenses are those specified in the signed agency or management agreement.

⚠ ORDER OF PAYMENT

Only after the money has been paid to the person entitled to it may the property agent draw their commission or management fee.

Trust money may only be paid out by cheque, EFT or through a bill payment platform.

The property agent, or a person acting on behalf of the person in charge of the business with the approval of the person in charge, must sign the cheques and authorise the EFT payments and bill payment platform transactions.

✓ BOARD EXPECTATION

It is a matter of good accounting practice and a Board expectation that **payments require two signatures** whereever possible to ensure tight controls exist in approving payments from trust accounts.

Property agents must ensure that the full and complete details of all trust account payments are recorded and kept in accordance with regulation.

Property agents must update their trust account cash book with all withdrawals from the trust account within two business days following each payment.

Cash books

Property agents must keep a cash book to record all trust account transactions. Non-trust money transactions must not be recorded in the cash book as it is contrary to the legislation and interferes with the reconciliation of the cash book with the bank statement and ledger.

Trust money received

Record all trust money received in your cash book within two business days after receiving the money. For money received by EFT, update the cash book on the day you become aware of it. Records must include the:

- date the trust money was received, and if different, the date the receipt was completed
- name of person from whom the money was received
- name of, or other means of identifying, the person on whose behalf the money was received
- reason the money was received
- amount of money received
- receipt number
- date the money was deposited into the trust account
- ledger account to be credited.

Trust money paid

Record all payments from your trust account in your cash book within two business days after paying the money. Records must include the:

- date and amount of the cheque or EFT
- cheque or EFT number
- name of person to whom the payment was made
- name of, or other means of identifying, the person on whose behalf the payment is being made
- reason the money is being paid
- ledger account to be debited.

Trust account ledgers

Property agents must keep a trust account ledger with a separate identifiable ledger account for each person or entity on whose behalf they receive trust money.

Each ledger account must include the

- name of the person for whom the trust money is received or paid
- reason the trust money was received or paid.

Each entry must contain the

- the date the trust money is received or paid
- the name of the person from whom the money was received or to whom it was paid
- the reason why the money was received, paid or transferred
- the amount
- for trust money received, the receipt number
- for trust money paid, the cheque, EFT or bill payment platform transaction number
- for trust money transferred from one ledger account to another, the journal or folio reference number
- the new ledger account balance.

property agents must ensure that each entry in the trust account cash book is recorded in the relevant trust ledger account within two business days after the money is received or paid.

> ⇆ IN ORDER, ALWAYS
>
> Transactions relating to trust money must appear in the trust ledger account **in the order in which they occur.**

Transferring trust money by journal entry

Property agents may transfer money from one ledger account to another by journal entry. This must only be done when the property agent is entitled to do so.

The property agent must keep a trust account journal which includes the following:

- the date of the transfer
- the names of, or other means of identifying, all ledger accounts to be debited or credited
- the reason for the transfer
- the amount transferred.

Property agent's drawing of entitlement

A property agent's entitlement should be drawn from the trust account in a timely manner and not left to interfere with the true reconciliation of the cash book, bank statement and ledger each calendar month.

Monthly balancing of a trust account

Property agents must complete and keep a trust account cash book reconciliation for each calendar month. Ideally, they should complete this within five business days after the end of month.

A month-end reconciliation record must include

- a “summary sheet” that identifies the balance of the cash books, the bank statement and the ledgers, and which contains the endorsement and physical signature of the property agent that the record is complete and accurate
- the schedule of cash books
- the bank statement
- the schedule of ledger accounts, and
- if the property agent holds invested trust money, the schedule of invested money.

Additional cash book reconciliations can also be made at any time for any purpose. Regular monitoring of trust account transactions and account balances may help prevent the successful fraudulent transfer of money from the trust account.

⚠ DON’T JUST TICK THE BOX

Do not sign off on reconciliations etc. that appear ‘alright’. Managing agents are responsible and accountable for the integrity of their trust accounts.

SEE ALSO

Also refer to the **Advice Note — Trust Account Reconciliation Records** at **page 51** (Appendix E).

Before signing the monthly reconciliation documentation, some aspects to consider are:

- [ ] Does this month's opening balance agree with (is the same as) last month's closing balance?
- [ ] Has the bank statement been sighted?
- [ ] Are there any unpresented cheques — and if so, why?
- [ ] Are there any unpresented deposits — and if so, why?
- [ ] What are the adjustments?
- [ ] Are there any reversals — payments or receipts?

Month-end reconciliation record

The record may be held electronically but must be accessible and in a format that can be printed at the authorised place of business on request. It may be kept in one of two forms.

CONDENSED

An abbreviated version — the full record is still required to be kept.

- the “summary sheet” with the three-way matching of bank balance, cash book and ledgers, containing the certification of the property agent that the record is complete and accurate
- the financial institution statement identifying the month-end balance
- the cash book balance
- the trial balance report indicating the balance in each ledger account
- the schedule of invested money, if appropriate.

FULL

Accessible and printable regardless of the proprietary system used.

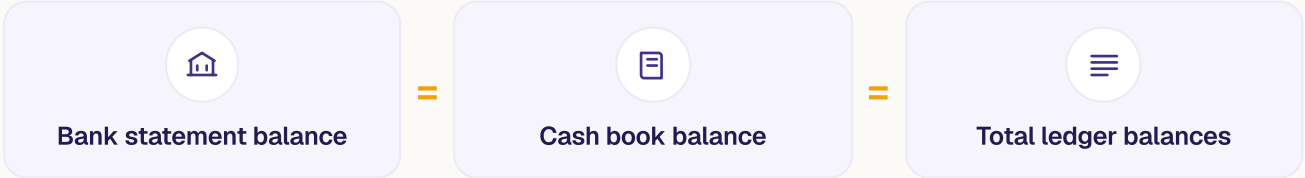
- the “summary sheet” with the three-way matching of bank balance, cash book and ledgers, containing the certification of the property agent that the record is complete and accurate
- the financial institution statement for the entire month
- the cash book for the entire month
- the ledgers identifying the name of each client, property or transaction for whom trust money is held, and the amount in each ledger account for the entire month
- the schedule of invested money, if appropriate.

The month-end reconciliation record can be stored electronically or in hard copy.

THE HEART OF THE RECONCILIATION

Three-way matching

The reconciliation should ensure the three-way matching of bank account to cash book balance and total ledger balances.



⚠ IF THE THREE BALANCES DO NOT AGREE

The reconciliation is not complete and accurate and **should not be signed.** Investigate the variance and redo the reconciliation if possible, or prepare a comprehensive file note detailing the reason for the variance and corrective action taken. This file note should be signed and dated by the preparer and property agent and attached to the relevant monthly reconciliation for audit and inspection purposes.

Sections of the summary sheet

Bank statement — this section should include:

- the actual bank balance at balance date, substantiated by the bank statement from the property agent's financial institution or a screen dump of the account balance printed on balance date
- the total of any outstanding deposits (e.g. monies receipted to the cash book but not yet banked), added to the bank balance
- the total of any outstanding payments (e.g. unpresented cheques), deducted from the bank balance
- any adjustments to the bank balance
- the final adjusted bank balance at balance date.

Full details of any outstanding deposits, payments or adjustments made — including the amounts and dates of those transactions — must be fully documented in a written report and a copy of the report must be attached to the monthly reconciliation pack.

⊘ ADJUSTMENTS

Adjustments should not be used as a substitute for investigating and resolving issues that have caused a reconciliation to fail.

Cash book — this section must include:

- the opening balance of the cash book for the month (this must agree with the previous month's closing balance)
- total income for the month
- total payments for the month
- the closing balance of the cash book for the month.

The **ledgers** section should include the total of all ledger account balances, substantiated by a copy of the trial balance report which details each trust account creditor's name and the amount held on their behalf at balance date.

Certifying the reconciliation

CANNOT BE DELEGATED

The property agent or licensed person authorised to manage the business (managing agent) must certify that the reconciliation statement is complete and accurate within **two business days** of the reconciliation being made. The reconciliation statement must be signed and dated by the property agent. **This responsibility cannot be delegated.**

The preparer of the monthly reconciliation statement should also sign and date the reconciliation, as a matter of good accounting practice.

KEEP FOR A MINIMUM OF 6 YEARS

Property agents must keep copies of the trust account ledger and certified monthly reconciliation statements for a period of at least **6 years.**

SEE ALSO

For the full requirements for month-end reconciliation records — including the condensed and full record formats — refer to the **Advice Note — Trust Account Reconciliation Records** at **page 51** (Appendix E).

WORKED EXAMPLE — a month-end reconciliation report

Reconciliation Report

December 2025 · Trust Acc (087-111) 100000000

SAMPLE

BANK ACCOUNT

Bank statement balance, 31 Dec 2025	$116,964.99
Add: unreconciled deposits	$0.00
Less: unreconciled withdrawals	$0.00
Add: adjustments	$0.00
Add: cash not banked	$0.00
Less: withdrawals not processed	$0.00
Reconciled bank balance	**$116,964.99**

CASH BOOK

Balance brought forward, 1 Dec 2025	$71,297.01
Add: new receipts	$706,779.45
Less: new withdrawals	$661,111.47
Balance as at 31 Dec 2025	**$116,964.99**

LEDGER BALANCES

Owner	$115,996.83
Supplier	$958.16
Tenant	$10.00
Ledger balances, 31 Dec 2025	**$116,964.99**

EXAMPLE ONLY

BANK		CASH BOOK		LEDGERS	THE BANK IS IN BALANCE
$116,964.99	=	$116,964.99	=	$116,964.99	$0.00

FIGURE 2 EXAMPLE OF A MONTH-END RECONCILIATION, SHOWING THE THREE-WAY BALANCE. SAMPLE DATA ONLY.

PRACTICAL TOOL — a month-end review checklist

Review of Month-End Reconciliations

	YES	NO
REPORTS ATTACHED		
EOM trust account reconciliation	☐	☐
Trust account bank statement	☐	☐
Unreconciled items — list of unpresented deposits	☐	☐
Unreconciled items — list of all unpresented payments	☐	☐
Adjustments — list of all adjustments	☐	☐
Trial balance report / ledger summary report	☐	☐
Trial balance report — breakdown of suspense ledger balance	☐	☐
Trial balance report — breakdown of bonds ledger balance	☐	☐
Last page of receipts journal report / cash book report	☐	☐
Last page of payments journal report / cash book report	☐	☐
INVESTIGATION COMPLETE?		
Does the cash book balance brought forward reconcile with the closing cash book balance from the previous period?	☐	☐
Are there any unpresented deposits outstanding beyond 2 working days?	☐	☐
Are there any unpresented cheques outstanding beyond 90 days?	☐	☐
Are there any outstanding suspense balances from previous periods?	☐	☐
Are all owners listed in the 'owners' trial balance still active?	☐	☐
Have all bonds been remitted to the RDA within 10 days of receipt?	☐	☐
Confirm that there are no debit / negative balances in all trial balance reports.	☐	☐
Are receipt numbers sequential & registered?	☐	☐

EXAMPLE ONLY

ENDORSEMENT

We endorse that the records and schedule of ledger accounts are 'complete' and 'accurate' in accordance with Regulation 6 of the Property Agents and Land Transactions Regulations 2017, and as such, demonstrate 'real and effective' control.

NAME OF PREPARER	NAME OF MANAGING AGENT
POSITION TITLE	POSITION TITLE
SIGNED & DATED	SIGNED & DATED

FIGURE 3 REVIEW OF MONTH-END RECONCILIATIONS — CHECKLIST FOR THE PREPARER AND MANAGING AGENT.

Schedule of invested trust monies

If a property agent has trust monies invested — for example for a sales deposit with a longer period of settlement, or for a commercial bond held — a schedule of invested funds must be prepared each time a monthly trust account reconciliation is performed. This schedule must be attached to the relevant monthly trust account reconciliation statement.

The schedule of invested funds must include

- the names in which the trust money has been invested
- how the trust money has been invested for and on behalf of the parties to the transaction
- the amount of trust money that has been invested.

SUPPORTING EVIDENCE

The schedule of invested trust money must be supported by an **investment certificate / statement issued by the deposit-taking institution.**

PART 04

Drawing of commission and management fees

When — and only when — a property agent may take their fee from money held in trust.

A property agent is not entitled to receive any commission, reward or valuable consideration in respect of his/her services in that capacity unless he/she has a valid appointment to act in that capacity, which is in writing, signed before the services are rendered, by the client for whom the services are to be provided.

Monies received by a property agent for or on behalf of another person in respect of a transaction shall not be withdrawn from a trust account except for the purposes of the transaction or as otherwise authorised by *the Act* or by the persons lawfully entitled to the money.

> NEVER PAY EXPENSES FROM TRUST
>
> A property agent is required to transfer any entitlement gained from a real estate transaction, from the trust account to the agency's general account before using any of that entitlement to meet general operating expenses. **A property agent must not pay general operating expenses or personal expenses direct from the trust account.**

A property agent is entitled to draw remuneration from an amount held in trust provided the following three conditions are satisfied:

1. the property agent has performed the activity entitling them to remuneration
2. the transaction for which the money is held is finalised in their client's favour or in accordance with their direction, and
3. the client, under the terms of their appointment of the property agent or other direction, permits the property agent to draw their remuneration.

PART 05

Other relevant compliance matters

Money you can't place, money in dispute, and the steps for closing a trust account properly.

Unclaimed or unidentified money

Unclaimed money

Unclaimed monies are funds that are due to a person, company or organisation that have not been received or claimed and, after a statutory period of time, become unclaimed.

Amounts greater than $50.00 which have been held for longer than 12 months are deemed to be general unclaimed money.

Unclaimed monies are administered by the Department of Treasury and Finance (Treasury), under the *Unclaimed Money Act 2015*.

When you lodge unclaimed money with Treasury, you must provide a return containing as much information as possible relating to that money, including:

- the name of the money's rightful owner (if known)
- their last known address (if known)
- date of birth (if known)
- the amount
- the reason that the money is being held (e.g. deposit in dispute, rental payment).

More information on the handling of unclaimed monies is available from the Department of Treasury and Finance website.

Unidentified money

Property agents should not accept money unless they are authorised to receive it and know who is entitled to it. A well-run business will have procedures and staff training in place to ensure unauthorised and unidentified money is not accepted.

Sometimes, money may be deposited in a property agent's trust account without being clear what it's for or who is entitled to it. For example, the description provided by the bank for an EFT deposit may not be sufficient to identify the person paying the money or the transaction to which it relates. In such cases the amount should be credited to a suspense account in the trust account cash book and ledgers while the issue is being investigated, and appropriate action then taken to transfer the money from the suspense account to the appropriate ledger account. In this way the reconciliation of the trust account cash book and ledgers to the trust bank account is not affected.

In some cases, the money may need to be returned to the payer or treated as unclaimed monies at the appropriate time.

Disputes about trust money

SEEK ADVICE FIRST

If an agent becomes aware of a dispute, or believes that a dispute may arise, regarding ownership of trust money, they should **seek their own legal advice before paying out the trust money.**

Remember — you must retain money in the trust account until it is paid to the person entitled to it (Regulation 8).

Closing a trust account

Prior to closure of a trust account, all trust monies must be disbursed in accordance with Regulation 8 of the *Property Agents and Land Transactions Regulations 1997*.

NOTIFY WITHIN 7 DAYS

Property agents must give written notice to the Property Agents Board within **7 days** of closing a trust account, by reference to the name and number of the account.

If ceasing business, the property agent must also arrange for the trust account to be audited and for lodgement of the final audit report to the Property Agents Board within 3 months of the date the business ceased activity.

The 'Special Purpose Audit Report — Final' is accessible on the Property Agents Board website.

⚠ A LICENCE IS REQUIRED

A trust account cannot be held by a business that is unlicensed.

PART 06

Agent responsibilities

The managing agent carries the ultimate responsibility — for the records, the systems, the staff and the governance of the business.

The licensed property agent authorised to manage the business (the managing agent) has overall and ultimate responsibility for their trust account(s), record keeping, business practices and governance of their business. They must know how their record keeping system works and ensure it is sound and up to date.

All staff members should be adequately trained, supervised and, if required by the legislation, licensed or registered.

A breach of legislation or the criminal code by a staff member can also indicate the property agent has failed to meet their fiduciary duty or legislative responsibilities, and penalties may apply.

Accounting to clients

Property agents must provide a written account to their clients for all money received for a transaction, how the money was or is to be paid out, and the remuneration paid to the property agent and other expenses.

Circumstances beyond your control

Should a property agent find themselves in circumstances beyond their control — for example a flood, fire, illness or some other restriction that contributes to non-compliance — they should:

1. make their ‘best endeavours’ to comply as soon as possible
2. document what they have done, have tried to do, and haven’t been able to do
3. inform their auditor of the above and the Property Agents Board in writing.

PART 07

Inspections and audits

Two layers of assurance: the Board's own inspections, and the annual external audit by a qualified accountant.

Property Agents Board inspections

The Property Agents Board may authorise a person or persons to inspect the records of a property agent at any time, and expects full cooperation to be provided to the Inspector by the property agent and staff to carry out the inspection.

The Property Agents Board has had the inspection regime in place for many years, which is essentially an internal audit commissioned by the Property Agents Board, undertaken on a cyclical or risk-based basis. It is separate to the annual external audit commissioned by property agents by a qualified accountant.

This process is designed to provide the Property Agents Board with on-going assurance that trust accounts are being managed appropriately and in accordance with the law.

Inspections are also a valuable quality assurance exercise for managing agents and staff responsible for the day-to-day trust account operations, providing surety that trust accounts are appropriately managed, safeguarding the managing agent and the business from exposure to fraud or mishandling of funds, and so preserving consumer confidence in both the business and the broader real estate industry.

Findings from inspections are generally shared with property agents on the day of the inspection visit. The Inspector provides a draft written report to the managing agent for information, and a written report to the Property Agents Board outlining the findings of the inspection including regulatory breaches and recommendations to address those breaches.

Property agents are expected to address any breaches or shortcomings identified in the inspection as a matter of urgency. Property agents are advised of any follow-up issues, in writing, following consideration of the inspection report by the Board.

⚠ PENALTIES APPLY

Penalties may apply for significant legislative breaches identified through inspections.

External annual financial-year trust account audit

A property agent should engage the services of a qualified accountant who holds the designation CPA, CAANZ or IPA well in advance of a trust account audit being required. Engaging a qualified auditor as soon as the trust account is opened is recommended. This will ensure that the auditor is familiar with the regulatory requirements, engages with the property agent regarding the auditor's requirements to complete the audit — particularly in regard to documentation required or access to system records — and enables completion of the audit within the required timeframe without any undue delays.

A property agent must ensure that the trust account records kept in an audit year are audited by a qualified auditor within 3 months after the end of the audit year.

LODGE BY 30 SEPTEMBER

Provide your records to the auditor with sufficient time for the audit to be completed and the Special Purpose Audit and Checklist lodged with the Board **by 30 September.** A separate report and checklist is required for each trust account held. **A late fee applies after the third business day following the 30 September due date.**

The Special Purpose Audit Report and Checklist is accessible on the Property Agents Board website.

A person who ceases to carry on the business of a property agent must cause the trust account records kept in respect to the prescribed period to be audited by a qualified auditor within three months after the end of the prescribed period.

An auditor performing an audit must complete the audit within 3 months of the end of the audit year to which the audit relates and provide the special purpose audit report to the managing agent in the prescribed format.

LODGEMENT IS THE AGENT'S DUTY

The managing agent must provide the completed audit report to the Property Agents Board within 7 days after receiving it from the auditor. The auditor is not responsible for submitting the audit report on behalf of the managing agent.

The audit report states, in the auditor's opinion, whether

- the trust account records being audited were correctly drawn up and kept in accordance with *the Act* and *Regulations*
- there is any defect or irregularity in the trust account records
- the amount in each trust account was sufficient to meet all trust account liabilities at the end of the period being audited
- the auditor obtained all the necessary information and documentation required to complete the audit
- the requirements of *the Act* and *Regulations* in respect of trust money and the keeping of trust accounts have been complied with.

Property agents are expected to address any breaches or shortcomings identified in the audit as a matter of urgency. Property agents are advised of any follow-up issues, in writing, following consideration of the audit report by the Property Agents Board.

> ⚠ PENALTIES & DISCIPLINARY ACTION
>
> Penalties and disciplinary action may apply for significant legislative breaches identified through the annual audit, and for failure to lodge an audit report late or at all.

Audit exemption

If a property agent conducting business does not hold money in trust, Regulation 32 provides for an exemption for the property agent from having to lodge an audit report, if they lodge an Exemption Declaration.

The Audit Exemption Declaration is accessible on the Property Agents Board website.

PART 08

Reporting to the Property Agents Board

From deficiencies and irregularities that must be reported as soon as they arise, to your cyclical, calendar-driven reporting obligations.

Reporting of irregularities or suspected irregularities in a trust account

As soon as practicable after a property agent becomes aware of an irregularity or suspected irregularity in a trust account maintained by the property agent, the Property Agents Board is to be advised, and consideration should also be given to reporting the issue to their auditor, depending on the significance of the irregularity.

⚠ UTMOST URGENCY

Any cases of suspected fraudulent activity involving trust monies must be reported to the Property Agents Board as a matter of utmost urgency. Advice to the property agent's auditor is also advised.

Explanation of terms

Irregularity — refers to discrepancies, differences, inconsistencies, or mismatches between two or more sets of information, records or documents. Irregularities can pose significant risks if they are not addressed promptly as they could indicate problems such as accounting errors, operational ineffectiveness or, at worst, fraudulent activities.

ⓘ SCENARIOS

- A trust account balance is $150,000, but the trust account ledger shows a total trust account balance of $148,000. The unexpected $2,000 difference suggests that a transaction may not have been recorded correctly, or there might be unauthorised withdrawals. This discrepancy warrants an investigation to identify why there is an inconsistency.
- Funds being incorrectly deposited into the Sales Trust Account that should have been deposited to the Rental Trust Account.

Deficiencies in a trust account

A deficiency in a trust account is a significant breach of legislation. A property agent becoming aware of a deficiency in a trust account maintained by the property agent must take immediate steps to correct the error and report the deficiency to the Property Agents Board.

A 'deficiency' is defined in *the Act* as: *"... the non-inclusion or exclusion of the whole or any part of an amount that is required to be included in the account."*

A deficiency exists in a trust account if the full disbursement of trust funds cannot be made to all the owners of the funds at any time.

Practically speaking, a deficiency refers to a shortfall or lack of sufficient funds in a trust account which causes, or would cause, the trust account to be overdrawn or technically overdrawn.

EXAMPLE – AND HOW TO FIX IT

The duplicate payment of a sales deposit held in trust to a solicitor or conveyancer will cause a deficiency in the trust account which must be rectified immediately, as the trust account is technically overdrawn until the error is rectified. The deficiency should be immediately made good by the immediate transfer of the amount of the deficiency from the property agent's general trading account. The amount can be returned to the property agent's general trading account when the monies are recovered to the trust account from the solicitor or conveyancer.

USE THE DIGITAL FORM

All irregularities on trust accounts are reported via the Property Agents Board's digital Trust Account Irregularity Form, which **is to be completed by the managing agent** of the real estate business — see forms.propertyagentsboard.com.au.

Cyclical reporting obligations

In addition to reporting any deficiencies or irregularities as soon as they arise, property agents who hold trust money have a number of cyclical, calendar-driven obligations to report to the Property Agents Board.

ANNUAL CYCLICAL REPORTING

Calendar of reporting obligations

During the course of every year there are cyclical reporting obligations which are the responsibility of the managing agent to fulfil. These are outlined below.

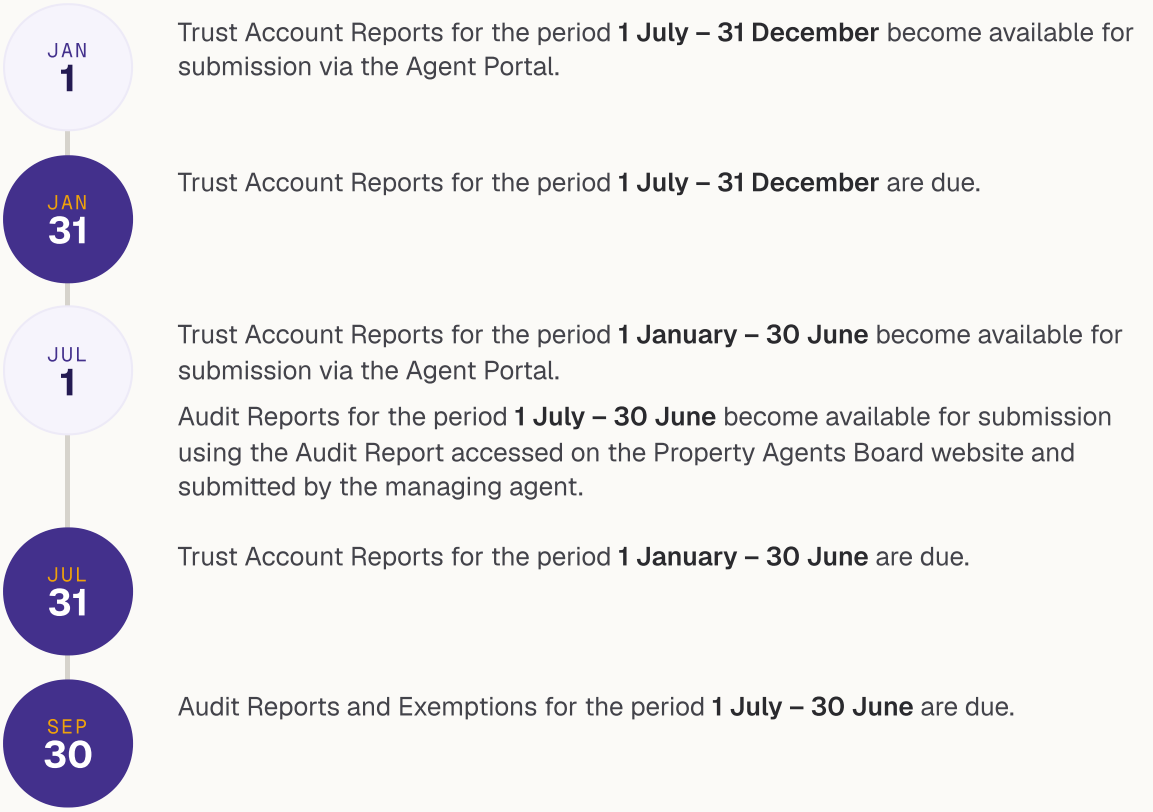


Figure 4 Calendar of reporting obligations across the year.

Six-monthly Trust Account Report

Property agents who conduct business and have held money in trust are obliged by legislation to lodge a Trust Account Report with the Property Agents Board within one month after the end of the 6-monthly reporting period.

KEY DATES

For the reporting period **1 January – 30 June**, the Trust Account Report is due by **31 July.**

For the reporting period **1 July – 31 December**, the Trust Account Report is due by **31 January.**

As timely trust account reporting is both legislatively determined and an important statutory responsibility of the Board, a late fee applies for late lodgement (46 fee units as prescribed by Part 1 — General Fees within the *Property Agents and Land Transactions Regulations 2017*).

The Property Agents Board has transitioned to online trust account reporting via the Agent Portal. This change in reporting is designed to streamline the statutory reporting obligations to be less burdensome and more accessible.

STEP BY STEP

Trust Account Report guide

All trust account reporting must be completed by the managing agent and submitted through the online Agent Portal.

1 Log into the Portal under the **business licence** — please note these details are different to the ones used to log into your individual licence.

2 Click **'Trust Accounts'** to view all active trust accounts linked to the business.

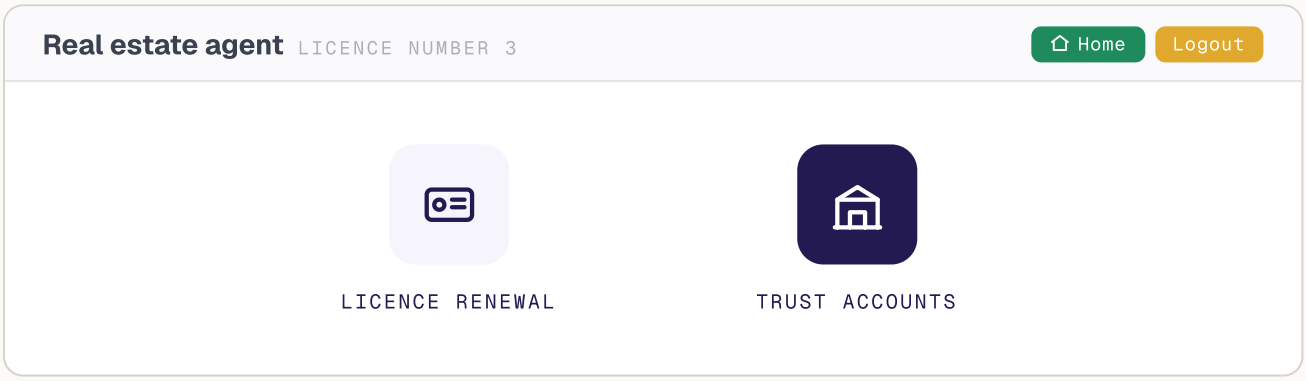


FIGURE 5 THE AGENT PORTAL HOME SCREEN — SELECT *TRUST ACCOUNTS* TO VIEW THE BUSINESS'S TRUST ACCOUNTS.

3 You will be brought to a screen showing all trust accounts linked to the business and their relevant reports (past, present and upcoming).

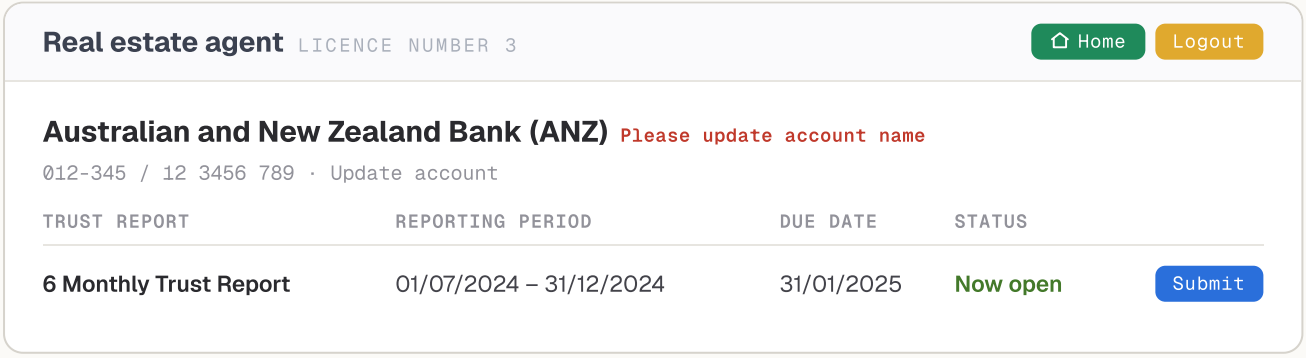


FIGURE 6 TRUST ACCOUNTS LINKED TO THE BUSINESS, WITH THE OPEN REPORT READY TO SUBMIT.

4 The first time you visit this screen you will be required to update the details of linked trust accounts. Click **'Update Account'** and enter the required information. **Note:** as these details need to be reviewed and approved by Board staff, the changes will not be updated immediately.

4a You can revisit this page and update trust account details at any time — please ensure this is done as soon as possible if there are any changes to a trust account.

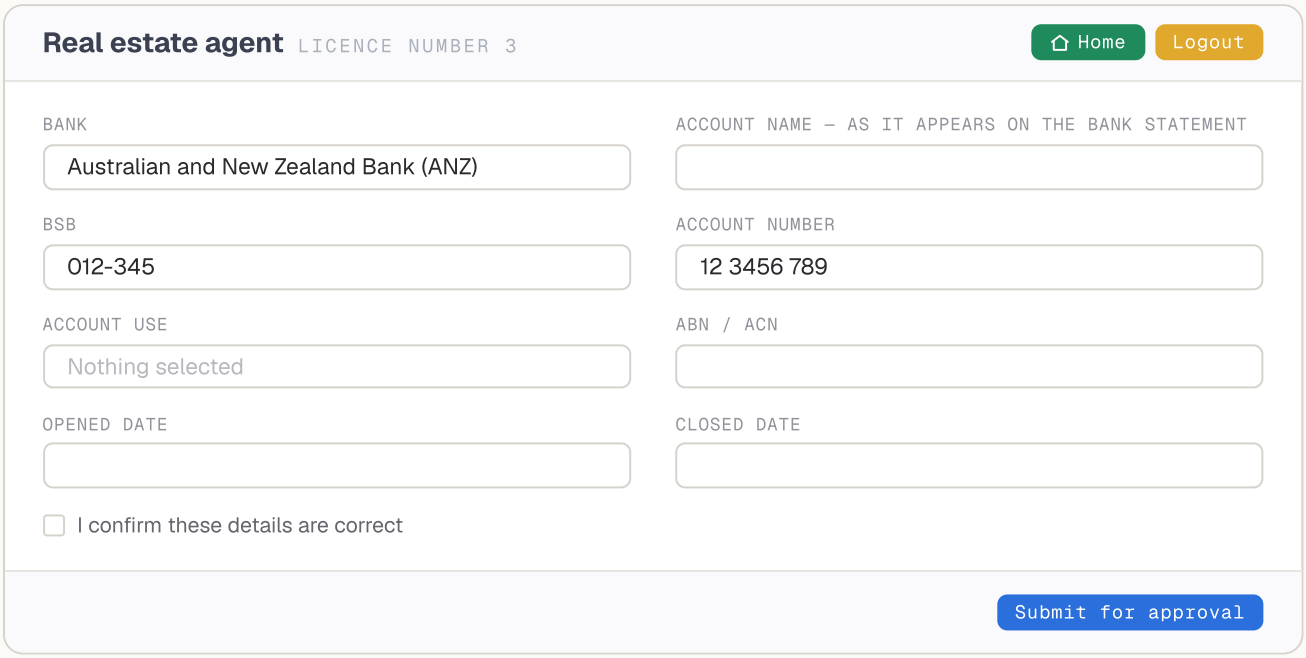


FIGURE 7 UPDATING A LINKED TRUST ACCOUNT'S DETAILS FOR BOARD APPROVAL.

5 To begin the Trust Account Report, click the blue **submit** button which appears next to each trust account once the relevant report opens.

6 Read the declaration and each of the questions carefully.

7 Answer each of the questions either **'yes'** or **'no'**. **Note:** if funds were not held in a trust account during the relevant reporting period, tick the box labelled "No trust money held in this account during the period". You are still required to fill out your name and submit the report.

7a Where an answer of 'no' is selected, provide further information in the box below the question.

8 Enter your full name as managing agent of the business. This trust account report declaration **must** be submitted by the managing agent of the entity conducting business.

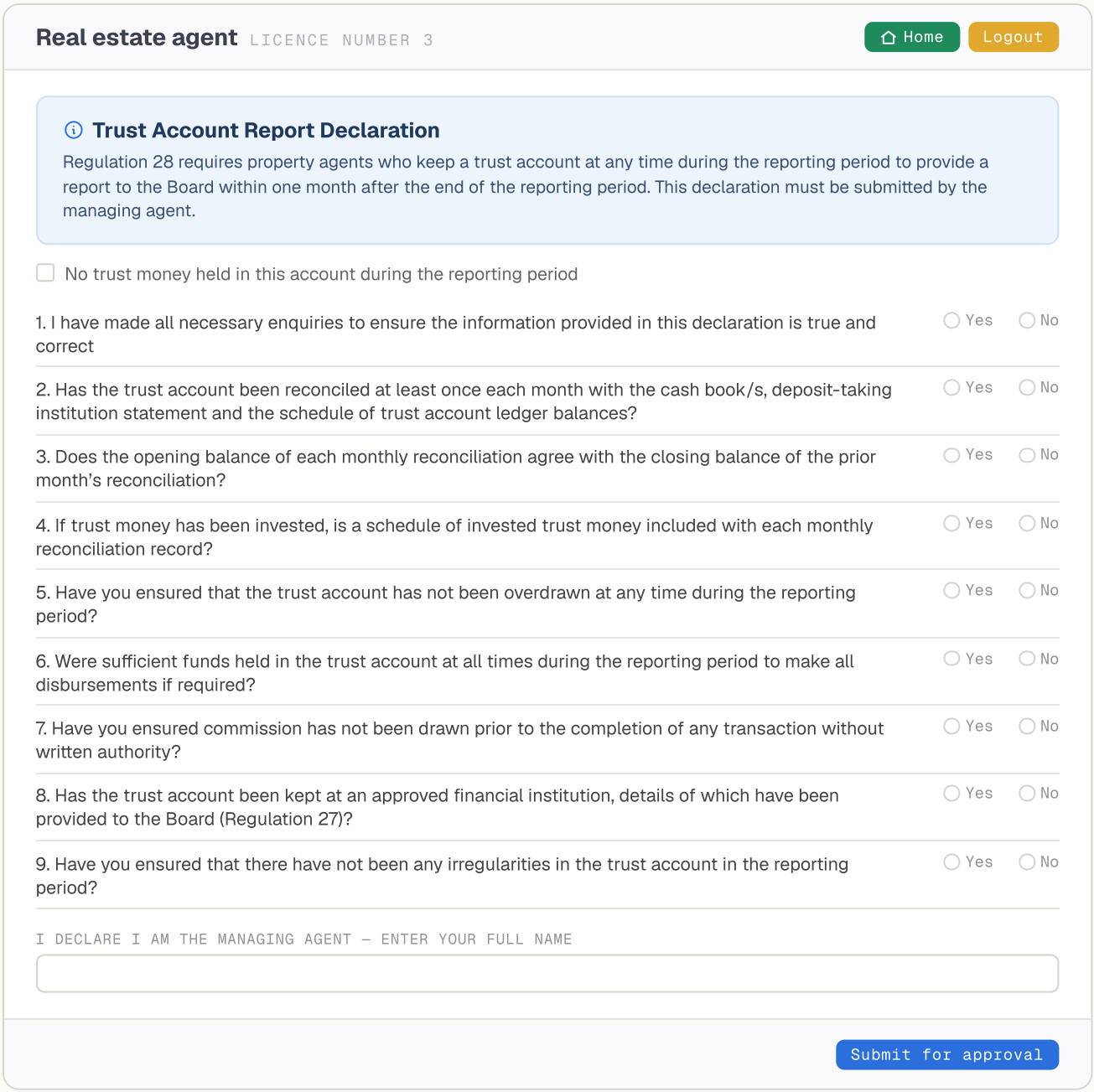


FIGURE 8 THE TRUST ACCOUNT REPORT DECLARATION — ANSWER EACH QUESTION, THEN SUBMIT FOR APPROVAL.

9 Click **'Submit for Approval'** at the bottom of the page.

10 Your Trust Account Report is now complete. If you have additional trust accounts, repeat from **Step 5** to complete all open reports.

BEFORE YOU SUBMIT

The declaration must be submitted by the managing agent — and a separate report is required for every trust account the business holds.

PART 09

Guarding against cyber-fraud

Agents handle money constantly — which makes them a target. A few mandatory habits stop most attacks.

Cyber-fraud is becoming prevalent in modern society. Property agents, solicitors, conveyancers and financial institutions are particularly vulnerable to cyber-fraud attacks because they are frequently receiving funds from clients. There have been instances in Australia where cyber-fraudsters have intercepted e-mails and induced clients of these organisations to deposit money into the cyber-fraudster's accounts with devastating consequences. In these instances, clients genuinely believed they were dealing directly with the organisation concerned.

To guard against cyber-fraud attacks, property agents should ensure that they have appropriate policies and procedures in place to manage this risk. Staff need to be appropriately trained on an on-going basis.

Staff opening unauthorised attachments to emails is a particular risk for property agents to manage.

MAKE IT MANDATORY

Checking and confirming the correct bank accounts of clients, solicitors and conveyancers **by telephone** should be a mandatory practice.

APPENDIX A · CASE STUDY

Failure to supervise trust accounts

Property Agents Tribunal decision

$125,191
Stolen by an employee — funds owed to the RDA

$40,000
Fine ($25,000 suspended for 5 years) + $10,000 costs

3 years
Prohibited from conducting an agency business

OVERVIEW	
ISSUE	Conduct of a property agent.
FINDING	The Tribunal found that the property agent was guilty of the conduct alleged in each complaint, and that the conduct was properly characterised as professional misconduct as defined in section 83 (1) (a) of *the Act*.
CONSEQUENCES	◆ The Agent was formally reprimanded. ◆ The Agent was prohibited from conducting all or any part of a real estate agency business, property management business or general auctioneering business for 3 years, except that they are entitled to apply to be a property representative as defined under Section 3 *the Act* with a condition that they not be responsible directly or indirectly for the administration of a trust account as defined in *the Act*. ◆ The Agent was fined the sum of $40,000, of which $25,000 was suspended for a period of 5 years on the basis that the property agent committed no breaches of *the Act* or associated Regulations. ◆ The Agent was ordered to pay the sum of $10,000 towards the Board's costs.
ORIGIN	A complaint of the Board's own initiative.

Relevant legislation

As this matter occurred before 1 April 2017, the relevant legislation in relation to the conduct is the *Property Agents and Land Transactions Act 2005* (the repealed Act) and the Code of Conduct (the repealed Code) appearing in schedule 2 of that Act. However, the orders and actions taken were imposed under Section 110 of the *Property Agents and Land Transactions Act 2016* (*the Act*).

It should be noted that the legislative requirements relating to trust money have not changed between the repealed Act, Regulations and Code of Conduct and the current legislation. The current legislative provisions are identified below:

Property Agents and Land Transactions Act 2005 **(repealed)**	Section 134 & 135
Property Agents and Land Transactions Regulations 2017	Regulation 6, 8, 10, 12, 14, 16, 28
Code of Conduct (repealed)	Clause 6
Residential Tenancy Act 1997	

Background

This matter was referred by the Property Agents Board (the Board) to the Property Agents Tribunal (the Tribunal) as it was considered that the conduct amounted to more than minor misconduct.

Nature of complaint

A Real Estate Agency Business (the Agency) was registered as a real estate agent at the commencement of *the Repealed Act* and was named in Part 1 Division 1 of the Register. There was a qualified director and real estate agent authorised to manage the Agency (the property agent).

In June 2007, a person (the Employee) was employed as a casual accounts officer with the Agency and after a period the employee qualified as an assistant property manager.

The Employee's role required them to, among other things, be responsible for the bookkeeping of the Agency. The Employee was responsible for all data entry relating to the Agency's finances, invoicing, payments of accounts and administration of bonds from tenants of properties managed by the Agency. The Employee was also responsible for opening the mail sent to the Agency.

In May 2013, while the Employee was on leave, the property agent received correspondence from the Department of Justice noting that some security deposits had not been paid by the Agency to the Rental Deposit Authority (RDA).

The Employee at the same time confessed to stealing money from the Agency.

The property agent engaged accountants to undertake a forensic audit, the result of which indicated that the Employee had stolen approximately $125,191 in funds that should have been paid to the RDA.

Grounds of referral

The Board in the referral to the Tribunal alleged that the property agent's conduct from 1 July 2008 to 17 July 2015 identified:

- The failure to diligently supervise an employee contrary to clause 5(1) of Schedule 2 to the *Property Agents and Land Transactions Regulations 2006* (*the Repealed Regulations*) (Code of Conduct);
- The failure to adequately supervise the keeping of trust account records relating to trust money received and ensure the reconciliation records and schedule of ledger accounts were accurate, contrary to Regulation 6 of *the Repealed Regulations*;
- The failure to implement proper and appropriate trust accounting systems to ensure the requirements of *the Repealed Act* and *Regulations* relating to trust money were complied with.

Clause 6(b) of the Code of Conduct contained in *the Repealed Regulations* authorised an agent to delegate tasks to other persons employed or engaged to work at the authorised place of business, but also stipulated that the property agent must not delegate responsibility for any aspect of the work.

Findings

The Board and the property agent agreed in writing supplied to the Tribunal that the property agent was guilty of the conduct alleged in the following Complaints:

Complaint 1 — Failure to diligently supervise an employee

The property agent was guilty of professional misconduct as defined in section 83 of *the Act* in that they failed to diligently supervise an employee and failed to ensure that the Employee understood and complied with the relevant Act, Regulations and the Code of Conduct in contravention of clause 6(a) of *the Repealed Regulations*.

Complaint 2 — Failure to implement proper and appropriate Trust Account Recording procedures

The material before the Tribunal included the results of the Board's investigation and supporting documents, and the submissions and responses of the Board and property agent, together with the agreement in writing between the parties that the property agent was guilty of the conduct alleged in each complaint.

Having considered the material before it, the Tribunal was satisfied and found that the property agent was guilty of the conduct alleged in each complaint, and that conduct was properly characterised as professional misconduct as defined in section 83 (1) (a) of *the Act*:

> *"unsatisfactory professional conduct of a property agent, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence;"*

The Tribunal took into consideration the protection of the public, general deterrence, and appropriate punishment. In particular the Tribunal took into account:

- The seriousness of the matter and the financial ramifications of the misconduct;
- That the property agent had no criminal culpability in relation to the theft of the monies from their Agency;
- The financial losses incurred by the property agent including loss of business as a result of the Employee's fraud, audit costs to review all business and trust records and determine the quantum of the Employee's fraud and to assist Tasmania Police and associated legal costs (failing which the property agent would have been fined a higher amount), and the financial losses incurred by the Agency as a result of the criminal conduct of the Employee;
- That the property agent was the first to alert Tasmania Police and the Property Agents Board to the Employee's misconduct;
- That the property agent did not contest the Board's complaint;
- That the property agent has not been practising as a real estate agent for a period of time;
- That the property agent had been a longstanding real estate agent working in the Real Estate industry and serving the community of Tasmania.

The Tribunal also noted that the parties agreed that part of that fine should be suspended. For the above reasons, which were particular to this case and should not be seen as in any way setting a precedent for resolution of future cases, the Tribunal considered that a suspension would be appropriate.

Decision

Pursuant to section 110 of *the Act* the Tribunal took the following action:

- The property agent was reprimanded;
- The property agent was prohibited from conducting all or any part of a real estate agency business, property management business or general auctioneering business for 3 years, except that they are entitled to apply to be a property representative as defined under Section 3 *the Act* with a condition that they not be responsible directly or indirectly for the administration of a trust account as defined in *the Act*;
- The property agent was fined the sum of $40,000, of which $25,000 was suspended for a period of 5 years on the basis that the property agent commits no breaches of *the Act* or associated Regulations;
- The property agent was to pay the sum of $10,000 towards the Board's costs.

Relevant legislation explained

The property agent was guilty of professional misconduct as defined in section 83 of *the Act* in that between at least 2 June 2011 and 1 April 2013 they failed to implement proper and appropriate procedures to ensure compliance with legislative requirements outlined in *the Repealed Act* and *the Repealed Regulations* in relation to trust monies, including:

1. The property agent failed to:

- hold trust money in the trust account for the person entitled;
- pay trust money into a trust account;
- supervise the keeping of trust account records relating to trust money received;
- ensure that the reconciliation records and schedule of ledger accounts were accurate in relation to trust money received;
- retain trust money in a trust account until the money was paid to a person entitled to it;
- issue trust account receipts that had printed on them the ABN or ACN;
- make a payment of trust money in accordance with the regulatory provisions;
- record details of trust account receipts in a trust account cash book;
- record details of trust account payments in a trust account cash book.

2. The property agent submitted trust account reports to the Board that were false in that they declared that all residential bonds received had been paid to the Residential Deposit Authority within the required timeframe pursuant to the *Residential Tenancy Act 1997* when this was not the case, contrary to the provisions of Regulation 28(5) of *the Repealed Regulations*.

3. The property agent breached the *Residential Tenancy Act 1997* in that residential bonds were required to be lodged with the RDA within three working days of receipt and the property agent failed to do so.

WHAT COULD THE PROPERTY AGENT HAVE DONE?

Property agents have important legal and fiduciary responsibilities in relation to the management of trust accounts. Monies held in trust bring with them special responsibility as the funds belong to someone else and the property agent authorised to manage the real estate business, that is, the managing agent, is 'trusted' to protect them.

The managing agent must personally supervise, manage, and control the conduct of the business and must take reasonable steps to ensure each employee is properly supervised and complies with the legislation.

It is the managing agent who must supervise keeping the trust account records and ensure the reconciliation records and schedule of ledger accounts are accurate.

The property agent failed in their statutory obligations in the keeping of trust money and in diligently supervising an employee, as well as failure to lodge residential bonds within the prescribed timeframe.

APPENDIX B

Legislation references

Key provisions referred to in this guide. This table is a quick reference only — a sound working knowledge of *the Act*, *Regulations* and Code of Conduct is still required.

ACT — *Property Agents and Land Transactions Act 2016*

REGULATIONS — *Property Agents and Land Transactions Regulations 2017*

TOPIC	LEGISLATION REFERENCE
What is trust money?	Section 133 · *Act*
Control of trust money	Regulation 8 · *Regulations*
Notice of opening a trust account	Section 134 · *Act* Regulation 27(1) · *Regulations*
Supervision of trust accounts	Regulation 6 · *Regulations*
Trust account records to be kept	Regulation 5 · *Regulations*
Records may be prepared and stored electronically	Regulation 24 · *Regulations*
Trust money to be paid into trust account · Trust account receipts to be issued	Section 135 · *Act* Regulation 9 · *Regulations*
Trust account payments	Regulation 12 · *Regulations*
Trust ledger accounts	Regulation 20 · *Regulations*
Trust account general journals	Regulation 18 · *Regulations*
Monthly trust account reconciliations	Regulation 21 · *Regulations*
Invested trust monies	Regulations 22 & 29 · *Regulations*
Reporting certain irregularities and suspected irregularities in a trust account	Section 137 · *Act*
Deficiency in a trust account	Section 136 · *Act*
Inspection of records	Regulation 40 · *Regulations*
Unclaimed money	*Unclaimed Money Act 2015*
Notice of closing a trust account	Regulation 27(2) · *Regulations*
Trust account records to be audited	Regulation 31 · *Regulations*

APPENDIX C · APPLICATION FORM

Records kept at a place other than the authorised place of business

I request that the Board provide approval in writing for the trust account records to be kept at a place other than the authorised place of business.

I provide the following information for the Board's consideration:

LICENSEE DETAILS

NAME ON LICENCE

BUSINESS NAME ON LICENCE

AUTHORISED PLACE OF BUSINESS

ADDRESS

SUBURB | STATE | POSTCODE

TELEPHONE | EMAIL

NUMBER OF TRUST ACCOUNTS PART OF THIS REQUEST

TRUST ACCOUNT DETAILS — ACCOUNT 1

BSB | ACCOUNT NUMBER

TRUST ACCOUNT TYPE (TRANSACTION TYPE)

☐ Sales ☐ Property management ☐ Both ☐ Auction

IS THE TRUST ACCOUNT OPEN?

☐ Yes ☐ No

Figure 9 Application for trust account records to be kept off-site (page 1 of 2).

TRUST ACCOUNT DETAILS — ACCOUNT 2

BSB

ACCOUNT NUMBER

TRUST ACCOUNT TYPE (TRANSACTION TYPE)

☐ Sales ☐ Property management ☐ Both ☐ Auction

IS THE TRUST ACCOUNT OPEN?

☐ Yes ☐ No

WHERE THE TRUST ACCOUNT RECORDS WILL BE KEPT

ADDRESS

SUBURB

STATE

POSTCODE

ACCESS INFORMATION

WHO DOES THE BOARD CONTACT TO RETRIEVE A TRUST ACCOUNT RECORD?

TELEPHONE

EMAIL

HOW ARE THE TRUST ACCOUNT RECORDS BEING KEPT? (E.G. BOXES, FILING CABINET)

WHO HAS ACCESS TO THE TRUST ACCOUNT RECORDS? (SECURITY)

ARE THE TRUST ACCOUNT RECORDS ALSO BEING STORED ELECTRONICALLY?

EFFECTIVE DATE & PERSON MAKING THE REQUEST

AS SOON AS PRACTICABLE

☐ Yes

OR — DATE

NAME

TELEPHONE

EMAIL

FORM TERMINOLOGY

Name on licence means the name of the property agent conducting business, e.g. ABC Pty Ltd, as shown on the licence.

Business name means the name under which the business is advertised, e.g. ABC Real Estate.

APPENDIX D · ADVICE NOTE

Usage of trustless accounting platforms

Property Agents Board advice note · issued May 2026

The Property Agents Board (the Board) considers that the operation and use of statutory trust accounts by property agents in Tasmania is a foundational concept of the property agents industry. This is because property agents are dealing with significant amounts of other people's money and their use strengthens, and safeguards transactions held on behalf of clients and customers, and protects those funds from uncertainty, or improper interference.

The Board's current position and preference is that property agents control all rent, bond and sales monies via a statutory trust account until it is required to be appropriately disbursed.

The Board is aware of a variety of electronic platform products marketed to the property agents industry that can be used by clients and customers to transact rent or sales deposit money which bypasses these monies from being deposited into a property agent's statutory trust accounts.

The Board is particularly interested in how the use of these platform products will affect the Board's ability for oversight of statutory trust accounts which is a key regulatory function under the *Property Agents and Land Transactions Act 2016*. As such, any business model or systems and platforms which circumvents or reduces the Board's capacity for oversight of trust money transactions is of concern to the Board.

The Board is focussed on how systems and platforms which bypass deposits of monies into statutory trust accounts will impact consumers in their redress for compensation if there is fraudulent and criminal activity in relation to the distribution of these monies as currently occurs under *the Act*.

The Board is exploring all the above issues through legislative amendments. It is anticipated that any such amendments will confirm the Board's position that any monies relating to rent or sales deposit money must be deposited into a statutory trust account as property agents should control all rent, bond and sales monies via a statutory trust account.

APPENDIX E · ADVICE NOTE

Trust account reconciliation records

The Property Agents Board (the Board) acts as the regulatory authority for property agents in Tasmania. This advice note is provided to assist property agents to understand the requirements relating to trust account reconciliation records.

> PLEASE NOTE
>
> The following information is intended only to provide a general overview and may be subject to change.

Trust account and statutory records

The *Property Agents and Land Transactions Act 2016* (*the Act*) and the *Property Agents and Land Transactions Regulations 2017* (*the Regulations*) outline the specific legislative requirements in relation to holding trust money and trust account records.

Trust account reconciliation

Regulation 21 provides that a property agent must reconcile the property agent's trust account at least once in each calendar month.

The Regulation then states that the account is reconciled when the totals of the trust account cash books, the bank statement, and the ledger accounts all match — separate advice notes are available to discuss these terms.

Proprietary systems

There are many different proprietary systems that provide trust accounting solutions, and any direction provided by the Board must be robust enough to encompass various circumstances.

All property agents that hold a trust account must comply with Regulation 21 of *the Regulations* regardless of how the trust accounting records are created.

Keeping of trust accounting records

The Regulations provide for where trust account records are to be kept (Regulation 23); that records may be prepared and stored electronically (Regulation 24); as well as retention and disposal of trust account records (Regulation 25).

Month-end reconciliation records

A month-end reconciliation record should be a “point in time” document. The record should contain detail of all the information that makes up the reconciliation figures and be held in month order. It is not appropriate for the components of a month-end reconciliation record to be separated at any time.

There is a requirement for the month-end reconciliation record to provide certain information. The Board has formulated this advice note to ensure that property agents comply with the requirements for month-end reconciliation records.

A month-end reconciliation record must include:

- a “summary sheet” that identifies the balance of the cash books, the bank statement and the ledgers, and which contains the endorsement and physical signature of the managing agent that the record is complete and accurate;
- the schedule of the cash books;
- the bank statement;
- the schedule of ledger accounts; and
- if the property agent holds invested trust money, the schedule of invested money.

Depending on the size of the business and the type of business being undertaken will determine the size of the month-end reconciliation record. To assist property agents, the Board will authorise property agents to create a condensed month-end reconciliation record which is printed and kept at the authorised place of business, and permit the full month-end reconciliation record to be stored electronically.

Month-end reconciliation record: condensed

The condensed record is an abbreviated version of the full month-end reconciliation record (which is still required to be kept). It must be printed and held as a hard copy at the authorised place of business for a full financial year after audit.

The condensed month-end reconciliation record consists of:

- the “summary sheet” which has the three-way match of bank balance, cashbook and ledgers. The reconciliation record is physically signed with the endorsement by the property agent that the record is “complete and accurate”. For good practice, the preparer of the reconciliation should also sign the reconciliation record;
- a copy of the financial institution statement identifying the month-end balance;
- the cashbook balance;
- the trial balance indicating the balance in each ledger account; and
- the schedule of invested money, if appropriate.

Month-end reconciliation record: full

The month-end reconciliation record is the grouping of the following documentation, which may be stored electronically but must be accessible and in a format that can be printed regardless of the proprietary system used:

- the “summary sheet” which has the three-way match of bank balance, cashbook and ledgers. The reconciliation record is physically signed with the endorsement by the property agent that the record is “complete and accurate”. For good practice, the preparer of the reconciliation should also sign the reconciliation record;
- the financial institution statement for the entire month;
- the cashbook for the entire month (to be available online and printed if requested);
- the ledgers identifying the name of each client, property or transaction for whom the property agent holds trust money and the amount of money held in each ledger account for the entire month; and
- the schedule of invested money, if appropriate.

The month-end reconciliation record can be stored as a hard copy or stored electronically. If it is stored electronically, there must be a written process identifying how that information can be retrieved.

> ⚠ ACCESSIBILITY
>
> **The month-end reconciliation record must be accessible without the use of any specific proprietary software (i.e. it should be held as a PDF).**

GET IN TOUCH

We're here to help you get it right.

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QUICK LINKS

- → Trust Account Irregularity Form
- → Audit reports, checklists & declarations
- → Fees & charges
- → Department of Treasury and Finance — unclaimed money

This guide provides a summary of your statutory trust account obligations. It does not cover all the trust account provisions of *the Act* and *Regulations*, or every exception or qualification that may apply. A sound working knowledge of *the Act*, *Regulations* and Code of Conduct is still required.

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