

1977/249

THE REAL ESTATE AGENTS AUDIT REGULATIONS 1977

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 26th day of September 1977

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 122 of the Real Estate Agents Act 1976, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Real Estate Agents Audit Regulations 1977.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Approved accountant” means an accountant for the time being approved for the audit of trust accounts pursuant to regulation 3 of these regulations:

“Auditor” means an approved accountant for the time being engaged by any real estate agent to audit his trust accounts:

“Council” means the Council of the Real Estate Institute of New Zealand Incorporated:

“Institute” means the Real Estate Institute of New Zealand Incorporated:

“Real estate agent” means the holder of a licence under the Real Estate Agents Act 1976:

“Secretary of the Institute” means the National Secretary or Secretary-Manager of the Institute; and includes any officer of the Institute authorised from time to time to carry out the duties of the National Secretary:

“Trust account” means a general or separate trust account kept pursuant to section 56 of the Real Estate Agents Act 1976:

“Trust account money” means all money that, when received by a real estate agent, is subject to the provisions of section 56 of the Real Estate Agents Act 1976:

“Year” means a year ending with the 31st day of March.

3. Qualifications of auditor—(1) Subject to this regulation, every member of the New Zealand Society of Accountants classified as a public accountant and approved by the Council as the auditor of the trust accounts of any particular real estate agent shall be competent to make audits of the trust accounts of that real estate agent.

(2) Subject to this regulation, any registered accountant nominated by a real estate agent and approved by the Council for that purpose, the Council being satisfied that no approved public accountant is reasonably available, shall be competent to make audits of trust accounts of that particular real estate agent.

(3) Any approval of an accountant under subclause (1) or subclause (2) of this regulation may at any time be withdrawn by the Council by notice in writing given to that accountant and to every real estate agent of whose trust accounts that accountant is the auditor, but failure to give notice to any real estate agent shall not affect the validity of any withdrawal of approval.

(4) If an accountant nominated by a real estate agent as his auditor is so closely related by blood or marriage to the real estate agent as in the opinion of the Council to render his engagement or the continuation of his engagement as auditor of that real estate agent undesirable, the Council may notify the real estate agent in writing to that effect, and thereupon that accountant shall no longer be qualified to audit any trust account of that real estate agent.

(5) No auditor shall be qualified to audit any trust account of a real estate agent if he is or at any time within one year of his engagement by the real estate agent has been a clerk, employee, or partner of or in business with that real estate agent, or if he is a clerk or employee of any other real estate agent, or if he is himself in business as a real estate agent, or if he or a member of his firm or staff is or at any time within that period has been engaged or concerned in keeping the books of that real estate agent otherwise than in the completion of the closing entries at the end of a financial year or other period, or the preparation of the profit and loss account, balance sheet, or returns for taxation.

(6) Nothing in subclause (5) of this regulation shall disqualify a public accountant who has acted or is acting in his professional capacity as secretary of a limited company holding a real estate agents' licence from acting as auditor of—

- (a) The trust account of any other real estate agent; or
- (b) After the termination of his duties as secretary, the trust account of the company of which he was formerly the secretary, provided he does not audit his own work.

4. Notifications—(1) Every notice required by this regulation or by regulation 5 of these regulations shall be a notice in writing signed by the real estate agent and given to the Secretary of the Institute within 14 days after the occurrence of the matter in respect of which notice is required to be given:

Provided that notice given and signed by a partnership firm or signed on behalf of the firm by any member thereof or signed on behalf of a company by an officer thereof shall be deemed sufficient notice by all the members of that firm or by the company.

(2) Every real estate agent who at any place, whether by himself or in partnership, and every company that is a real estate agent which, whether or not he or it has previously been or remains in business in any other place—

- (a) Applies for a real estate agent's licence; or
 - (b) Recommences business; or
 - (c) Opens a branch of his or its business as a real estate agent,—
- shall give notice thereof as provided in subclause (1) of this regulation.

(3) Every real estate agent who amalgamates his business or a branch of his business with the business or a branch of the business of any other real estate agent shall give notice thereof as provided in subclause (1) of this regulation.

(4) Every real estate agent in partnership shall on the dissolution of the partnership or on the death or retirement of any partner or on the assumption of a new partner give notice thereof as provided in subclause (1) of this regulation.

(5) Every company carrying on the business of a real estate agent shall, on the commencement of the winding up of the company or on the death or retirement of an officer of the company, or on the appointment of an officer, give notice thereof as provided in subclause (1) of this regulation.

(6) Every real estate agent who ceases to carry on business as a real estate agent or a branch of the business (whether or not the real estate agent continues to carry on any other branch thereof) shall give notice thereof as provided in subclause (1) of this regulation.

5. Appointment and notification of auditors—(1) Whenever a real estate agent gives the notice prescribed by subclause (2) of regulation 4 of these regulations, he shall give further notice in the manner prescribed by subclause (1) of that regulation and in the same document of the name and address of an accountant who has consented to be the auditor of his trust accounts, or, as the case may require, of the trust

accounts specified in the further notice or of his trust accounts kept or to be kept at a branch of his business specified in that notice.

(2) Every real estate agent who amalgamates his business or a branch of his business with the business or a branch of the business of any other real estate agent shall give the further notice prescribed by subclause (1) of this regulation.

(3) Every real estate agent in partnership and every person who is an officer of a company carrying on business as a real estate agent who on the dissolution of the partnership or the winding up of the company continues in business shall give the further notice prescribed by subclause (1) of this regulation.

(4) Any auditor who for any reason ceases to be engaged or qualified to audit any trust account of a real estate agent shall give notice of that fact to the Secretary of the Institute as provided in regulation 4 (1) of these regulations.

(5) When an auditor dies or retires from business, or if notice is received by a real estate agent that the auditor is no longer approved or qualified under these regulations to audit the trust accounts of that real estate agent, or if the engagement of the auditor has in any way been lawfully terminated, the real estate agent shall within 14 days thereafter give in respect of some other approved accountant the further notice prescribed by subclause (1) of this regulation.

(6) Notwithstanding the foregoing provisions of this regulation, no real estate agent shall cease to employ or terminate the engagement of an auditor notified under this regulation with a view to engaging or employing another auditor, save with the consent of the Council.

(7) Upon receipt of any notification of the nomination of an auditor, the Secretary of the Institute, shall, if he is not in possession of written evidence of the auditor's acceptance of the nomination, apply in writing to the auditor for confirmation of his willingness to accept engagement, and shall in every case, apply to the Council to approve the appointment.

6. Requirement of audit—(1) It shall be the duty of every auditor engaged to audit any trust account of a real estate agent to conduct that audit in the manner prescribed by this regulation.

(2) Except as provided in subclause (3) of this regulation, an auditor of any trust account shall examine the account on at least 3 occasions in every year, as follows:

- (a) The first such examination shall be made between the 1st day of July and the 31st day of August (both days included) and shall at least cover the period from the 1st day of April to the 31st day of May (both days included):
- (b) The second such examination shall be made between the 1st day of December and the last day of February (both days included), and shall at least cover the period from the 1st day of June to the 31st day of October (both days included):
- (c) The third such examination shall complete the audit for the year, and shall be made between the 1st day of April and the 30th day of June (both days included).

(3) The auditor of any trust account of a real estate agent who is not in business on the 1st day of April in any year shall in respect of that year examine the accounts during the periods prescribed by subclause (2) of this regulation subsequent to his appointment.

(4) Upon every examination made under subclause (2) or subclause (3) of this regulation, the auditor shall satisfy himself that all trust account money has been duly and promptly carried into the real estate agent's trust accounts and that all money received into those trust accounts is properly accounted for, and shall require the production of such documents as he considers necessary for the purpose of his examination.

(5) The auditor shall after any examination promptly report to the Secretary of the Institute any matter or thing in relation to the trust accounts which should, in his opinion, be communicated to the Secretary.

(6) Forthwith after conducting the examination that completes the audit for the year, the auditor shall send with a covering letter signed by himself a report in accordance with subclause (7) of this regulation to the Secretary of the Institute verified by the declaration of the auditor in the form set out in the Schedule to these regulations, and shall at the same time deliver a signed copy of his report to the real estate agent to whose accounts it relates.

(7) Every report furnished pursuant to subclause (6) of this regulation shall include a statement as to the following matters:

- (a) Whether the trust account of the real estate agent has, in the opinion of the auditor, been kept regularly and properly written up:
- (b) Whether the real estate agent has forwarded each month to the auditor a certified list of the balances of his trust account for the previous month, as provided by these regulations:
- (c) Whether the trust account of the real estate agent has been ready for examination at the appointed periods:
- (d) Whether the real estate agent has complied with the auditor's requirements:
- (e) Whether the real estate agent's trust account is, in the opinion of the auditor, in order or otherwise:
- (f) Whether the real estate agent has produced all unused receipt forms:
- (g) Any matter or thing in relation to the trust account which should, in the opinion of the auditor, be communicated to the Secretary of the Institute.

(8) The report of an auditor in respect of any year shall be available in the hands of the Secretary of the Institute for inspection by the auditor appointed to audit the trust accounts of the same real estate agent for the next succeeding year.

(9) Upon making any examination of a trust account under subclause (2) or subclause (3) of this regulation, the auditor shall certify under his hand and return to the real estate agent the statement delivered to him by the real estate agent pursuant to regulation 7 (5) of these regulations.

(10) Within one month after any real estate agent ceases to carry on business or a branch of his business, or within one month of the

dissolution of any partnership or the commencement of the winding up of any company carrying on business as a real estate agent, it shall be the duty of that real estate agent or, as the case may be, the executors or administrators of a deceased real estate agent or of each member of the dissolved firm or of each officer of the company being wound up to cause the trust accounts kept in connection with the business (or, as the case may be, the branch of the business) to be finally audited and reported upon pursuant to this regulation as if the date of ceasing to carry on the business or branch of the business or the date of dissolution or winding up were the 31st day of March.

7. Special duties of real estate agents—(1) Except as provided by subclause (2) of this regulation, no real estate agent shall withdraw money from any trust account except by means of a cheque payable to the order of a person to whom payment of the amount specified in the cheque is due and crossed "Not Negotiable".

(2) Any real estate agent may cancel or omit the crossing "Not Negotiable" upon a cheque drawn upon a trust account of the real estate agent on receipt of a request in writing from the payee of that cheque to do so, but shall retain that request for perusal by the auditor.

(3) It shall be the duty of every real estate agent to keep his trust account books in such a manner as to disclose to the auditor the position of the funds therein and to enable those books to be conveniently and properly audited.

(4) For the purpose of every audit and report, every real estate agent shall, as and when required by the auditor, produce to him all books, documents, and other sources of information required by the auditor to verify payments made during the year from the trust accounts the subject of the audit or in any way relating to those accounts, and shall give to the auditor such information as he may reasonably require.

(5) Every real estate agent shall, on notification to him by the auditor of the last day of any period to which any examination proposed or entered upon by the auditor relates, prepare, certify, and sign a statement setting forth in detail the following particulars, namely:

- (a) All money held on that day by the real estate agent in his own name for or in trust for any other person:
- (b) The names of the banking accounts in which that money has been lodged with the balances on that day of those banking accounts, and, in cases where the bank balances are not in agreement with the cashbook balances of the real estate agent, a statement reconciling those balances.

(6) Every real estate agent shall on demand produce to the auditor making any examination of his trust accounts—

- (a) The signed copy of the report of the last preceding audit relating to those trust accounts:
- (b) The statement prepared pursuant to subclause (5) of this regulation and relating to the last day of the period of that examination:
- (c) The last preceding statement prepared pursuant to subclause (5) of this regulation.

(7) In the case of the first audit of any real estate agent's trust account, and in every other case in which no such certified statement as aforesaid is available for purposes of audit, the real estate agent shall in lieu thereof make out and deliver to the auditor before the making of his report a statement containing the like particulars as to money held on the first day of the period to which the audit relates. That statement shall be verified by the statutory declaration of the real estate agent or, in the case of a firm or company, by the statutory declaration of the partners or directors or officers, as the case may be, having knowledge of the respective matters.

(8) Every real estate agent, or, in the case of a firm or company, the members of the firm or the directors of the company, as the case may be, shall supply to the auditor at the time of the final examinations for each year a list (certified by the real estate agent, or, in the case of a firm or company, by one of the members or directors or officers of the firm or company, as the case may be, having knowledge of the facts) of the trust banking accounts operated on solely by the real estate agent or by his firm or any member of his firm or by his company or any director or officer of his company, together with any passbooks or bank statements relating to those accounts, and shall also supply to the auditor within seven days after the opening of the account particulars certified as aforesaid of any new trust banking account opened by the real estate agent or his firm or company at any time during the year. In this subclause the term "banking account" includes any account in the Post Office Savings Bank, or any trustee savings bank established under the Trustee Savings Banks Act 1948, or any private savings bank carried on under the Private Savings Banks Act 1964.

(9) In each month, not later than the 20th day of that month, or, in the case of the month of January, not later than the 27th day of that month, every real estate agent shall forward to the auditor, and to the Secretary of the Institute, a list certified by the real estate agent, or in the case of a firm, by one of the members of the firm, or in the case of a company, by one of the directors or officers of the company, of the balances appearing in the trust accounts of every client or principal and of the amount of money (if any) of himself or his firm or his company in each trust banking account as at the end of the last preceding month or balance period, and shall also supply a copy of the reconciliation statement referred to in subclause (10) of this regulation:

Provided that should there for any reason be no money in those accounts or any of them at the end of any month, the real estate agent shall, instead of the said list, forward to the auditor and to the Secretary of the Institute a "nil" return certified in the manner prescribed by this subclause.

(10) Every real estate agent shall at the end of every month cause the balance of his trust banking accounts to be agreed with the balance of his cashbook relating thereto and with the total of the lists referred to in subclause (9) of this regulation, and shall keep in the cashbook or other appropriate book reconciliation statements showing such agreement.

(11) If any real estate agent is unable, through illness or absence or other cause, to comply with the requirements of subclause (9) or sub-

clause (10) of this regulation, the real estate agent shall forward to the auditor all books and records necessary to enable the auditor to comply with those requirements on his behalf, and the auditor shall, within the time prescribed by subclause (9) of this regulation, forward to the Secretary of the Institute a report on the position disclosed by the books and records.

8. Special receipt forms—(1) No real estate agent shall give a receipt for trust account money except on a form supplied to the real estate agent by the Secretary of the Institute or some form authorised by the Council in that behalf.

(2) Receipt forms shall be supplied in bound books arranged so that a carbon duplicate of each receipt issued may be retained in the book.

(3) Such charges may be made by the Institute in respect of receipt forms supplied to real estate agents as the Council of the Institute decides, being not more than twice the amount of the cost thereof to the Institute.

(4) Receipt forms shall, before being supplied as aforesaid, be consecutively numbered or lettered or both numbered and lettered, so that each form and each book of forms may be identified and so that the form of receipt and duplicate shall have the same identification mark and shall bear the name and business address of the real estate agent, as shown on his licence.

(5) The Council or the person authorised by it to supply forms of receipt shall keep a record of the identification marks of all forms supplied to any real estate agent or firm of real estate agents or company carrying on business as a real estate agent, and shall promptly notify to each auditor the particulars of every book of forms supplied to a real estate agent or firm or company whose trust account or the trust account of which he has been engaged to audit.

(6) For the purposes of this regulation, the Council shall keep a properly indexed record of the name and address of every approved accountant engaged to audit a trust account of any real estate agent and the name and address of every real estate agent or firm of real estate agents or company carrying on business as a real estate agent by whom or by which the accountant has been so engaged.

(7) Subject to subclause (8) of this regulation, every real estate agent shall for each sum received for or on behalf of any person forthwith give to the person paying that sum a receipt on one of the forms supplied to him as aforesaid, specifying briefly the subject-matter or purpose in respect of which the sum is received and the person to whose account the sum is to be credited, and shall make a legible carbon duplicate of the receipt and retain the duplicate in the book of forms into which it is bound.

(8) Where a real estate agent receives—

- (a) Any money from any Government Department, where payment is made by cheque or instrument of payment and the cheque or instrument is paid into a trust banking account of the real estate agent; or

(b) Any money drawn from any savings bank (including the Post Office Savings Bank, any trustee savings bank established under the Trustee Savings Banks Act 1948, and any private savings bank carried on under the Private Savings Banks Act 1964),—the real estate agent, instead of complying with the provisions of subclause (7) of this regulation, shall immediately cause to be made out on one of the forms supplied to him as aforesaid a receipt showing sufficiently the source and subject-matter or purpose and person as specified in that subclause, and shall retain the form with the carbon duplicate in the book of forms, except where the cheque is received from a proposed purchaser, in which case the receipt shall be given to him.

(9) Where money is credited by the use of a money transfer service directly into a trust banking account kept by a real estate agent and for which credit adequate details and identification have been entered by his banker in the same trust banking account, then the real estate agent may prepare one receipt at the end of each month or other prescribed period instead of complying with the provisions of subclause (7) of this regulation.

(10) Whenever at any examination of a trust account the auditor so requires, the real estate agent shall produce to the auditor all books of receipts used and unused supplied to the real estate agent under this regulation, including the retained duplicates of receipts issued by the real estate agent and including receipts and duplicates prepared pursuant to subclause (8) of this regulation.

(11) Upon completion of the audit of the trust accounts of any real estate agent who ceases to carry on business, or, upon the death of any real estate agent in business by himself and not in partnership, or upon the commencement of the winding up of a licensee company, or upon any substantial change in the directors or shareholders of a licensee company, the auditor shall as soon as possible take charge of the unused trust account receipt forms, and upon completion of the audit of the trust accounts the auditor shall deal with those forms as the Council directs.

9. Defaults and irregularities—(1) If within 14 days after the last day on which any audit should be completed pursuant to subclause (2), subclause (3), or subclause (10) of regulation 6 of these regulations, the Secretary of the Institute has not received the report prescribed by subclause (6) of that regulation, he shall forthwith report the fact to the Council, which shall decide what further action should be taken.

(2) If an auditor considers that any trust account of a real estate agent is not kept in such a manner as to enable it to be properly audited, or discovers any matter that appears to him to involve dishonesty or any breach of law on the part of the real estate agent whose accounts he is auditing, or discovers any loss or deficiency of trust account money or failure to comply with the provisions of these regulations (including the failure to provide him and the Secretary to the Institute with a certified return pursuant to regulation 7 (9) of these regulations) or the corresponding provisions of any former regulations, he shall fully set out the matter in a report to be delivered forthwith to the Secretary of the Institute.

(3) Upon receipt of any report setting out such irregularities as are described in subclause (2) of this regulation, the Secretary of the Institute shall refer the report to the Council for investigation. Where any such report has been referred to the Council, the Secretary for Justice, at the request of the Council, may apply to the Real Estate Agents Licensing Board for the suspension of the licence of the real estate agent whose trust accounts are or were the subject of the audit, and that Board may in its discretion make an order suspending the licence for such period as it thinks fit.

(4) For the purposes of any investigation under subclause (3) of this regulation, the Council shall have power to call before it and examine the auditor who made the report and the real estate agent or any member of the firm or director or officer of the company carrying on business as a real estate agent whose accounts are being investigated, or any member of the staff of that real estate agent or firm or company, either together or separately, and to examine all books, papers, accounts, and documents held by the real estate agent concerned relating to the matters reported on, and it shall be the duty of that real estate agent or person, if required, to produce to the Council all such books, papers, accounts, and documents and to give such information as may be reasonably required.

10. Minister or Institute may direct immediate audit—The Minister of Justice or the Institute may at any time direct an immediate audit of the trust accounts of any real estate agent. Where either of the parties has so directed, the Secretary for Justice may, at the request of the Council, apply to the Real Estate Agents Licensing Board for the suspension of the licence of the real estate agent concerned without waiting for the result of the audit, and that Board is hereby empowered to make an order suspending the licence for such period as it thinks fit.

11. Disclosure of information—(1) Save in any report to the Secretary of the Institute or on being examined in any investigation conducted by the Council or in or for the purpose of any proceedings which may arise out of any such report or otherwise in relation to the trust accounts of the real estate agent concerned or with the previous consent of the Council, no auditor shall disclose to any person any information which he has obtained in the course of his audit.

(2) Every auditor commits an offence who fails to comply with subclause (1) of this regulation, and in addition shall be liable in damages to any client of the real estate agent damaged by the disclosure of information to the same extent as the real estate agent would be if the real estate agent had disclosed the information.

(3) The Council may furnish to any person any information contained in reports of auditors in the hands of the Council in so far as it relates to money in which that person is interested, and may furnish to the New Zealand Society of Accountants any information which that Society may require for the purpose of disciplining its members.

(4) It shall be the duty of every bank referred to in section 56 (2) of the Real Estate Agents Act 1976 and of the manager for the time being of every branch of every such bank, on the request of any auditor

engaged in the audit of a real estate agent's trust account under these regulations, and without reference to the real estate agent, to supply to that auditor a list of the accounts operated on by the real estate agent and all such information as to the bank account or accounts of the real estate agent or of any account on which the real estate agent operates as may reasonably be required for the purposes of that audit.

(5) Every auditor shall at all times during the existence of his engagement to audit a trust account of any real estate agent be the agent of that real estate agent to obtain from the bank at which the banking account of the money belonging to that trust account is kept all cheques drawn upon that banking account and to give to the bank sufficient receipts and acknowledgments for cheques so obtained, and a certificate under the hand of the Secretary of the Institute shall be sufficient evidence to a bank and the manager thereof of the existence and continuance of any such engagement as aforesaid.

12. Auditor's fees—(1) The fees payable by a real estate agent to an auditor in respect of his audit and report shall be such as are agreed upon between the real estate agent and the auditor.

(2) Subject to any written agreement to the contrary between a real estate agent and any person for or in trust for whom any money is received or held by the real estate agent, the cost of auditing his trust account shall be borne by the real estate agent.

13. Minister's power to exempt certain companies—(1) Where the Minister of Justice is satisfied that the provision made for the audit of the trust accounts of a real estate agent (being a company within the meaning of the Companies Act 1955, but not being a private company or a company the sole or principal business of which is that of a real estate agent) kept under section 56 of the Real Estate Agents Act 1976 is such as to give a degree of protection to the public at least equal to that given by the audit of trust accounts in accordance with these regulations, he may, by notice published in the *Gazette*, direct that the provisions of these regulations (other than regulation 10, which relates to the power of the Minister or the Council to direct an audit at any time) shall not apply in respect of that company.

(2) Where under this regulation or under the corresponding provisions of any former regulations the Minister has given a direction in respect of any company, then, unless the Minister in that direction or subsequently otherwise directs, the direction shall apply with respect to every company (whether a private company or not, but not being a company the sole or principal business of which is that of a real estate agent) in which the first-mentioned company owns 90 percent or more of the shares.

(3) Every such direction may be given subject to such conditions as to periodic reports by the auditor of the company to the Council of the Institute as the Minister may impose, and may at any time be revoked by the Minister by notice published in the *Gazette*.

(4) Where the Minister has given a direction under subclause (1) of this regulation or the corresponding provisions of any former regulations in respect of any company, he may from time to time require the

company to satisfy him that the provisions for the audit of its trust accounts are sufficient to justify the direction continuing in force.

(5) Notwithstanding subclause (1) of this regulation, where before the commencement of these regulations the Minister of Justice directed under regulation 13 of the Real Estate Agents Audit Regulations 1967 that those regulations (except regulation 10 thereof) should not apply with respect to any specified company whose sole or principal business is that of a land agent or real estate agent, that direction shall continue in force after the commencement of these regulations, subject to the power of the Minister to revoke it under subclause (3) of this regulation.

14. Institute may vary time in which to make returns, etc.—Any time or period by which or during which any return or information is required to be made or given under these regulations may from time to time be varied by the Institute either generally or in respect of any particular case by notice given to its members affected by the variation.

15. Annual report to Minister—The Council shall, not later than the 31st day of July in each year, furnish to the Minister a report on the administration of these regulations during the preceding year, and may draw the Minister's attention to any matter affecting the regulations that it thinks fit.

16. Offences—(1) Every real estate agent, auditor, banker, or other person who fails to comply in any respect with these regulations commits an offence.

(2) If 2 or more real estate agents carrying on business in partnership or 2 or more officers of a company carrying on business as a real estate agent fail in any respect to comply with these regulations, each of them commits an offence and shall be severally liable.

(3) Every person who commits an offence against these regulations is liable accordingly to the penalty provided in section 119 of the Real Estate Agents Act 1976.

17. Revocation—The Real Estate Agents Audit Regulations 1967* are hereby revoked.

*S.R. 1967/186

Reg. 6 (6)

SCHEDULE

AUDITOR'S REPORT

In the matter of the Real Estate Agents Audit Regulations 1977 and in the matter of the Trust Account of of Real Estate Agent(s)

I,, of accountant, declare that—

1. I am registered as a member of the New Zealand Society of Accountants incorporated under the New Zealand Society of Accountants Act 1958.

2. I was not at any time during which I was conducting the audit referred to in paragraph 4 of this declaration nor at any time within one year of my engagement by the said real estate agent(s) to conduct the said audit, an employee or partner of the said real estate agent(s), and that I was not at any time during which I was conducting the said audit an employee of any other practising real estate agent(s) (except in my professional capacity as secretary of a limited company holding a real estate agent's licence) or myself in business as a real estate agent, and that neither I nor any member of my firm or staff was at any time during which I was conducting the said audit engaged or concerned in keeping the books of the said real estate agent(s) (otherwise than in the completion of the closing entries at the end of a financial year or the preparation of the profit and loss account, balance sheet, or returns for taxation).

3. In accordance with section 60 of the Real Estate Agents Act 1976, and the regulations made under that Act, I have, with the assistance of my employees, audited the trust account of real estate agent (or real estate agents) carrying on business at for the year ended with the day of 19....., and in the course of that audit I did complete interim examinations of the said account on the following dates:

(a) Date covering period from to

(b) Date covering period from to

and did complete the final audit of the said account on the day of 19.....

4. Pursuant to regulation 6 (7) of the Real Estate Audit Regulations 1977, I report as follows:

(a) The said trust account has, in my opinion, been kept regularly and properly written up.

(b) The said real estate agent(s) has (have) forwarded each month [*or specify period if varied by Institute pursuant to regulation 14 of the said Regulations*] to me a certified list of the balances of the said trust account for the previous month [*or specify period if varied by Institute pursuant to regulation 14 of the said regulations*] within the periods prescribed by the said regulations, except that the lists for the following months were received on the dates stated below—

Month

Date Received

.....

.....

(c) The said trust account has been ready for examination at the appointed periods.

(d) The said real estate agent(s) has (have) complied with my requirements.

(e) The said trust account is in my opinion in order.

(f) The said real estate agent(s) has (have) produced all unused receipt forms which, according to advice received by me, have been issued to him (them).

(g) In my opinion the following matters or things in relation to the said trust account should be communicated to the Secretary of the Real Estate Institute of New Zealand Incorporated:

[Specify matters]

Dated at this day of 19.....

.....
Auditor.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations replace the Real Estate Agents Audit Regulations 1967.

The principal changes are—

- (a) Definitions and procedures are brought into line with the Real Estate Agents Act 1976:
- (b) Provisions relating to trust account receipt forms have been extended:
- (c) Matters which previously went to a Magistrate's Court are now to be dealt with by the Real Estate Agents Licensing Board:
- (d) The Institute is given the power to vary time limits in which to make various returns:
- (e) The form of auditor's report is amended.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 29 September 1977.

These regulations are administered in the Department of Justice.