Auditors Guide

To completing the 2015 Auditors report required under the Conveyancers Licensing Act 2002 – Sections 75 & 77

Obtaining the Audit Report

In 2015, the Audit Report form for Conveyancers must be obtained from the Fair Trading website, **www.fairtrading.nsw.gov.au**.

All persons who have held a licence [natural persons and corporations] at some time during the applicable audit period (1 July 2014 – 30 June 2015) have been advised in writing, that the required report and audit guidelines are to be downloaded from the *Trust accounts and audit requirements* page of the Fair Trading website.

The report and the guidelines [including this Guide] can be viewed or downloaded from the Fair Trading website. Navigate to Businesses, Specific industries and businesses, Conveyancing and then Trust accounts and audit requirements.

Note: licensees operating under an alternative audit year are advised of their audit requirements immediately prior to their audit period.

Identify who the Audit Report is about

Under Licensee Entity Name(s) and Licensee Entity No(s), list the name/s of the sole trader, or corporation or partnership members that held trust money and carried on business, or held trust money and was inactive, during the period.

Important: it is incorrect to list a licensee-in-charge who is supervising the activities of the entity in respect of a corporation because he is an employee, not the employer entity. However, if the licensee-in-charge is a sole trader or a partner in the partnership, they would be listed.

Licence particulars can be checked on the *Conveyancers licence check* page of the Fair Trading website.

Licensee responsibility

It is important to note that the listing of a person under Licensee Entity Name(s) of an Auditor's Report, as having held trust money and the signing of a statutory declaration by that person as not having held trust money, during the audit year, are contrary statements. It is the responsibility of that Licensee not to make such a false declaration.

Obtaining the Statutory Declaration

In 2015, the Statutory Declaration form must also be obtained from the Fair Trading website.

Licensees have been advised in writing that the Statutory Declaration, required to be completed by persons who have not held trust money during the audit period (1 July 2014 – 30 June 2015), must be downloaded from the *Trust accounts and audit requirements* page of the Fair Trading website.

When the Statutory Declaration must be completed;

The Statutory Declaration would be completed by a licensee who has NOT held trust money. The licensee has an obligation to make and lodge such a declaration within the 3 months of the end of the applicable audit period.

Guide to completing the Auditor's Report

1. The Auditor's Report must list the Licensee Entity Name(s) and Licensee Entity No(s) on the front page of the report [not the business name], and the audit period that is applicable for that person. Most reports are for annual audit period ended 30 June.

2. The report provided by you pursuant to the provision of section 75 would be an engagement to examine the accounting records and internal controls and procedures of the Licensee Entity during the audit period, in relation to trust money and other matters designated by Part 7 Trust Money of the Act, and report those matters in terms of the generally accepted auditing standards and practice.

3. This Guide provides a list of trust accounting requirements to guide you through designing the scope of your audit and in respect of these requirements makes reference to the appropriate provisions that are applicable under the *Conveyancers Licensing Act 2003* and its associated Conveyancers Licensing Regulation 2006.

4. This Guide has been prepared to assist auditors in their examination of the books, records, accounts and documents maintained by licensees in respect of trust moneys and to assess the compliance of those records with the appropriate legislation.

   Any trust accounts, which held trust moneys during the audit period, form part of the examination.

   This would include the general trust accounts held at any time during the year, and all separate trust accounts ie. accounts held exclusively for the client.

5. You should obtain direct written confirmation from the financial institution(s) as to the balance(s) of the trust account(s).

6. You must use appropriate sampling techniques and make appropriate inquiries during your examination to form an opinion as to whether the accounting records have been maintained in accordance with the Act and the Regulation.

   Note: The auditor's declaration of the Auditor's Report requires the auditor to provide an opinion based on “appropriate examination” and “sampling techniques”, rather than a one hundred per cent check of transactions.

7. You must provide a summary of your findings in respect of breaches of the Act and/or Regulation of the audit of the books and records of the trust account/s:

   - Any breaches are to be listed under Schedule 2 of the report
   - Your findings would, in terms of declaration 8 of the report, be listed under Schedule 3
   - You should list “not applicable” in Schedules 2 and/or 3 when no breaches or findings are reported.

8. Where there is audit qualifications of a financial nature, the auditor must attach a copy of the trust bank reconciliation statement and the trial balance (incorporating the list of ledger accounts of the principals that moneys are held for), for the applicable accounting periods, and of the end of audit year period, as prescribed under clause 31 of the Regulation, in respect of the trust account(s) effected.

   If applicable & not provided list your explanation in Schedule 2 and/or 3 of the report.

9. You must discuss all breaches with the Licensee-in-charge for appropriate correction action to be taken.

10. Index:

    S on the following pages means Section of the Act.
    C on the following pages means Clause of the Regulation.
    The Act and the Regulation can be accessed at www.legislation.nsw.gov.au

Section/clause(s)	Item No	Guide to completing the 2015 Audit Report
	a	**TRUST RECORDS – general**
C.36	a.1	Are trust records and book entries made in English?
C.19(2)	a.2	Are trust records kept at the registered office? List all trust accounts held during the year on Schedule 1 of the report
C.19(3)	a.3	Are there any branch offices?
	a.4	Does the branch office operate a separate trust account? List all trust accounts held during the year on Schedule 1 of the report
C.19(2)-(3)(a)	a.5	If having more than one place of business, are the conveyancing trust records relating to business conducted kept at the place at which the business is conducted?
C.19(2)-(3)(a)	a.6	If having more than one place of business and the trust records are kept at one of the places of business only, has the Director-General been notified in writing of this situation?
S53(2)	a.7	Are trust accounts, if the Licensee Entity is a corporation, in the name of the corporation and, in any other case, in the name of the licensee or of the firm of licensees of which the licensee is a member?
S53(5)	a.8	Do the words “Trust Account” appear in the name of the trust account and in the description of the trust account in the books and records and also on all cheques drawn on the trust account?
S69, Reg. Parts 5 &6	a.9	Have the appropriate Licensee Entity records been provided for purposes of undertaking the audit of the trust accounts?
	b	**COMPUTER SYSTEM CONTROLS**
	b.1	Does the Licensee Entity maintain any trust records by means of a computer system?
c.21	b.2	What are the name of the Computer System Software(s) and version(s) used?
	b.3	Does the computer comply with system controls as prescribed in the Clause?

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	c	**STATEMENTS OF ACCOUNT/DISBURSEMENTS/EXPENSES**
C.22(1)-(2) & (4)-(6)	c.1	Have statements of account been furnished to each person on whose behalf money is held within the required time & a copy held on the file to which it relates? This is other than for those from whom a written notice of waiver in accordance with Form 1 under C.22(5)(a) is held [see C.3(2)] and for which notice of revocation of the waiver had not been received.
C.22(3)	c.2	Do issued statements of account contain particulars of the money received, disbursed and the balance remaining with the Licensee Entity and identify the transactions to which the particulars relate?
S53(3)-(4), C.23	c.3	Are the commissions disbursed, costs incurred and sums reimbursed in accordance with instructions?
	d	**DEPOSITS**
C.24	d.1	Is Trust Money banked in accordance with the Clause?
C.27(1)(a), C.20(b)	d.2	Is a bank deposit book or other written bank record produced to the financial institution when the deposit is made?
C.27(1)	d.3	Is the bank deposit book or other written bank record produced to the financial institution in compliance with the Clause?
	e	**TRUST ACCOUNT RECEIPTS**
C.25(1), C.20(a)	e.1	Are trust receipts prepared when the Licensee Entity receives the trust money?
C.25(2)-(6)	e.2	Do trust receipt records comply with all provisions of the Clause?
	f	**TRUST CHEQUES & ELECTRONIC PAYMENT TRANSFERS**
C.26(1)	f.1	Are all funds drawn from the trust account by way of a trust cheque and/or electronic funds transfer?
C.26(3)	f.2	Are all cheques drawn in the numerical order of the series to which they belong?

Section/clause(s)	Item No	Guide to completing the 2015 Audit Report
C.26(3)	f.3	Does the record in respect of each issued cheque list the required particulars?
C.26(2), C.32	f.4	Do cheques list the required particulars and effected in accordance with the Clause 32 authorisation?
	f.5	Are all cancelled cheques retained?
C.32	f.6	Are electronic funds payments effected in accordance with the Clause 32 authorisation?
C.26(4)	f.7	Does the record in respect of electronic funds payments list the required particulars?
	g	**DAILY RECEIPT AND PAYMENT TRANSACTIONS (CASH BOOK) - MANUAL & COMPUTER SYSTEMS**
C.28(1)-(3), C.28(5)-(6), C.20(c)	g.1	Does the Licensee Entity maintain a record of trust account transactions that records daily trust receipts and payment transactions that would constitute a cash book in accordance with the Clause?
C.28(1), (4)	g.2	Is the daily record of the particulars of money in and out of the trust account entered as soon as practicable after the receipt or payment of the money?
C.28(7)	g.3	Is the cash book balanced at the end of each month and carried forward in accordance with the Clause?
	h	**TRUST RECONCILIATIONS**
C.28(6), C.30(1),C.31(2)(d)	h.1	Does the licensee, at the end of each month, prepare a statement reconciling the balance of the Licensee Entity's trust account with the balance of the related cash book?
	h.2	Do reconciliation statements accurately reflect the reconciliation of the balance(s) of the trust account(s) with the balance(s) of the cash book(s)?

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	i	**TRUST ACCOUNT JOURNAL**
C.29(1)	i.1	For each trust account, has the Licensee Entity effected any transfers between accounts in the trust account ledger that are not effected by cheque or electronic funds transfer?
C.29(2)-(3)	i.2	If "Yes" to Item i.1. Is a journal maintained for each trust account/s that is in accordance with the requirements of the Clause?
	j	**TRUST ACCOUNT LEDGER**
C.30(1)	j.1	Does the Licensee Entity maintain a separate ledger account for each principal?
C.30(2)-(3)	j.2	Are those ledger accounts in accordance with the requirements of the Clause?
	k	**UNCLAIMED TRUST MONEY**
S96	k.1	Have unclaimed trust moneys statements been furnished by Licensee Entities in respect of trust money held in trust for more than 2 years prior to January of the audit year [usually funds are paid across at the time of the statement]?
S97	k.2	Have statements & unclaimed trust moneys statements been furnished by former Licensee Entities or the personal representative of a deceased Licensee Entity, if occurring within the audit year, within 3 months and then 12 months later in respect of trust money held [usually funds are paid across at the time of the statement]? For more information about this refer to the Trust accounts and audit requirements page of the Fair Trading website at www.fairtrading.nsw.gov.au
	L	**TRUST ACCOUNT LEDGER in the name of the licensee**
C.33(1)	l.1	Does the Licensee Entity maintain in his or her ledger an account in his or her name that holds only money allowed in accordance with the Clause?
C.33(2)-(3)	l.2	Are the funds of that account withdrawn in accordance with the requirements of the Clause?

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	m	**TRUST ACCOUNT POSITION / TRIAL BALANCES / OVERDRAFTS**
C.31	m.1	Have trust trial balances been prepared within 21 days after the end of each month and in accordance with the Clause?
S53(1) / S55	m.2	Have trust trial balances been prepared within 21 days after the end of each month and in accordance with the Clause?
	m.3	Have all of those debit balances or the indicated deficiencies been rectified as soon as practicable after the time when the deficiencies should have become apparent?
	m.4	Are details of the accounts concerned, the duration of the debit balances and the method of restoration (if applicable) outlined for the particular account(s) in the auditor's report?
S56	m.5	Have all overdrafts on trust bank statements of the general trust account(s), identified under m.2 above, been notified to NSW Fair Trading within five (5) days of the licensee becoming aware of the overdraft?
	m.6	For trust account(s) that list debit balances or otherwise indicate a deficiency of trust funds to pay trust creditors in the audit year, have a copy of the appropriate trust bank reconciliation statement(s) and trial balance(s) **(incorporating the list of ledger accounts of principals that moneys are held for)** of the effected accounting periods and for the final end of the auditing period in respect of the effected trust accounts been enclosed with the auditor's report? *If not, list reasons in Schedule 2 and/or 3 of the report*
S53(6), S57(2) [PSBA Act 2002- S90, S91 & C.34	m.7	Have you sighted a copy of Trust Account Notice(s) (Blue Form) in respect of the general account(s) and applicable separate account(s) *that were opened during the audit period* that have been endorsed by the authorised deposit-taking institutions, at the time of opening of the account(s), requiring interest payment to be credited to the department Statutory Interest Account? For more information refer to the *Trust accounts and audit requirements* page of the Fair Trading website at **www.fairtrading.nsw.gov.au**.