

Guidance Note	General
Date	1 February 2010

The pace and time pressures of business can sometimes result in the maintenance of documents and other records being neglected.

If you want your agency to present a professional, legislative compliant and up-to-date image, take time to review your routine letters, documents and notices.

The following three examples are common oversights discovered recently in a number of offices.

▪ **Settlement letters and Notice under (old) section 42A**

The practice of including a 'section 42A notice' on settlement letters to vendors is an outdated practice and is **NOT** a requirement of the **CURRENT** legislation, *Property, Stock and Business Agents Act 2002* and *Property, Stock and Business Agents Regulation 2003*.

Under the previous legislation *Property, Stock and Business Agents Act 1941* **REPEALED**, a licensee was required to include in a statement of claim or itemised account a 'notice' in a form approved by the Director-General.

▪ **Display of fees and expenses guide**

The practice of displaying in an office a guide of the licensee's fees, commissions, expenses with information that they are subject to negotiation is not necessary and is not a requirement under the **CURRENT** legislation.

The practice was a requirement of the previous legislation *Property, Stock and Business Agents (General) Regulation 1993* **REPEALED** (under section 13).

▪ **Information to be given when expression of interest deposit paid**

It is a requirement that when any initial deposit is paid the agent informs the person, in writing, that there is no obligation on the parties (i.e. vendor and purchaser) to sell or buy and that the deposit is refundable if a contract for the sale of the property is not entered into. A practical approach is to have the information printed on the Sales Trust receipt.

For more information go to the legislation:

Clause 5 of Part 1 of Schedule 2 to the *Property, Stock and Business Agents Regulation 2003* <

<http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+490+2003+cd+0+N/>