

Advice Note - Trust Account Name



What name can a Property Agent use to open a trust account

The Property Agents Board (the Board) acts as the supervisory authority for property agents in Tasmania. One of the specific duties of the Board is to supervise the trust accounts of property agents. This advice note is provided to assist property agents to comply with their obligations with trust accounts and trust account records.

Property Agents to comply with relevant legislation

A property agent who holds trust money must comply with the trust account requirements under the *Property Agents and Land Transactions Act 2016* (the Act) and the *Property Agents and Land Transactions Regulations 2017* (the Regulations). Please note these requirements are not applicable to a property agent's general working account.

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. *It is recommended that you confirm the licensed name before you open a trust account.*

ACN or ABN

There is a requirement for the property agent's ACN or ABN to be attached with the trust account and identified on certain trust account records.

If the property agent licensed to conduct business is a company then the company's ACN must be attached to the Trust Account and trust account records.

If the licensed property agent is an individual, then the individual's ABN must be attached to the Trust Account and trust account records.

There should **not** be any additional ACN or ABN attached/linked/noted on a trust account or trust account records (*see associated entities*).

Trust account records

Regulation 5 identifies *trust account records* as:

- Trust account receipt
- Trust account deposit record
- Trust account payments – trust account cheques or EFT payments
- Trust account cash book
- Trust account ledger
- Trust account general journal
- Statement by approved institution (bank statement)
- Reconciliation records
- Schedule of invested trust money (if trust money has been invested)

Location of trust account records

The trust account records for a property agent's business must be kept at the authorised place of business of the property agent conducting business.

The authorised place of business is the address entered in the Board's Register.

The 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 Board before the records are relocated.

What is the relevant legislation?

Section 3 Interpretation of the Act contains some definitions that are referred to in this advice note -

- ***Authorised place of business***
- ***Name***
- ***Register***
- ***Trust account***
- ***Trust money***

Part 9 of the Act discusses trust money, trust accounts and records and includes the following relevant sections -

- ***Section 133 Trust money***
- ***Section 134 Trust account***
- ***Section 135 Trust money to be paid into trust account***

The *Property Agents and Land Transactions Regulations 2017* provides the requirements for maintaining a trust account and trust account records. Regulation 4 through to Regulation 40 relate to trust accounts and trust account records.

Associated Entities – family or unit trusts

Sometimes businesses are created with a structure using family trusts or unit trusts. Under the Act, companies (body corporate wherever incorporated) and individuals can be licensed however there is no ability to license trusts under the Act.

It is important to remember that these associated entities must not be linked to the trust account. The legislation is very specific that the trust account must be in the licensed name.

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.

Examples

What name can be used and what ABN and ACN

For example - Company

Balesworthy Real Estate Purveyors (Tas) Pty Ltd is named in the Board's Register and has a business name Balesworthy Real Estate. The company's ACN is 123 456 789.

A trust account could be opened under the following names:

- Balesworthy Real Estate Purveyors (Tas) Pty Ltd trust account with ACN 123 456 789; or
- Balesworthy Real Estate Purveyors (Tas) Pty Ltd t/a Balesworthy Real Estate trust account with ACN 123 456 789; or
- Balesworthy Real Estate trust account with ACN 123 456 789.

The only ACN associated with this trust account should be the ACN of Balesworthy Real Estate Purveyors (Tas) Pty Ltd only.

The **trust account receipt** for Balesworthy Real Estate Purveyors (Tas) Pty Ltd to comply with Regulation 10 must have one of the following PRINTED on the form:

Balesworthy Real Estate Trust Account [Receipt Number] ACN 123 456 789	OR	Balesworthy Real Estate Purveyors (Tas) Pty Ltd Trust Account [Receipt Number] ACN 123 456 789	OR	Balesworthy Real Estate Purveyors (Tas) Pty Ltd t/a Balesworthy Real Estate Trust Account [Receipt Number] ACN 123 456 789
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The variable information such as; the date which the trust 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; and who receipted the money must all be added at the time the trust money is received.

In order to comply with the Regulation 11 the **trust account deposit form** must have one of the following PRINTED on it:

Balesworthy Real Estate Trust Account Account number of the trust account	OR	Balesworthy Real Estate Purveyors (Tas) Pty Ltd Trust Account Account number of the trust account	OR	Balesworthy Real Estate Purveyors (Tas) Pty Ltd t/a Balesworthy Real Estate Trust Account Account number of the trust account
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In order to comply with the Regulation 13 the **trust account cheque** must have one of the following PRINTED on it:

Balesworthy Real Estate Trust Account [Serial number of the cheque] ACN 123 456 789 Marked "not negotiable"	OR	Balesworthy Real Estate Purveyors (Tas) Pty Ltd Trust Account [Serial number of the cheque] ACN 123 456 789 Marked "not negotiable"	OR	Balesworthy Real Estate Purveyors (Tas) Pty Ltd t/a Balesworthy Real Estate Trust Account [Serial number of the cheque] ACN 123 456 789 Marked "not negotiable"
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All other associated trust account records must have the Balesworthy Real Estate Trust Account and ACN 123 456 789 printed on the documentation.

For example - Individual

If Ted Balesworthy was named in the Board's Register as an individual conducting business (sole trader) with the business name Balesworthy Real Estate a trust account could be opened in any one of the following names:

- Ted Balesworthy trust account with ABN 13 987 654 321; or
- Ted Balesworthy t/a Balesworthy Real Estate trust account with ABN 13 987 654 321; or
- Balesworthy Real Estate trust account with ABN 13 987 654 321.

Trust account receipts for Ted Balesworthy to comply with Regulation 10 must have any of the following PRINTED on the form:

Balesworthy Real Estate Trust Account [Receipt Number] ABN 13 987 654 32	OR	Ted Balesworthy Trust Account [Receipt Number] ABN 13 987 654 32	OR	Ted Balesworthy t/a Balesworthy Real Estate Trust Account [Receipt Number] ABN 13 987 654 32
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The variable information such as: the date which the trust 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; and who receipted the money must all be added at the time the trust money is received.