How new guideline released by PPRA is set to make audit season easier for rental agents

The Property Practitioners Regulatory Authority (PPRA) recently finalised its "Guideline on audit, accounting records and trust account requirements". According to PayProp's Jan Davel, this now presents an opportunity for property practitioners, who dread the cost and administration that comes with the annual audit season, to find significant relief.

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As a general rule for property practitioners, Section 54 of the PPA states that they must open and keep separate trust accounts for their clients' trust monies and that these accounts, plus the practitioner's business accounts, must be audited every year.

Davel says importantly, as per the previous regulator's requirements, these annual audits should be undertaken by accredited auditors. And although many of the audit requirements and property practitioners' responsibilities have remained the same, there are a few significant changes and, perhaps, a few temporary complications.

Revised audit report submission deadline

One of these changes is the period of time property practitioners have to get their trust and business accounts audited after their financial year-end. The audit report submission deadline has increased from the previous four months to a six-month timeframe under the PPA and, although it sounds simple, it isn't.

Whereas the new PPA came into effect on 1 February 2022, i.e., at a specific point in time, property practitioners have different financial year-ends. This means that in most cases, the effective date of the new legislation does not coincide with property practitioners' financial year-ends, and consequently their mandatory audit reporting periods.

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Transitional provisions

To address this misalignment, the PPRA introduced transitional provisions through its guideline, issued towards the end of May 2022. Essentially, it stipulates that the submission deadline of audit reports of property practitioners will be determined by their financial year-end dates, for example:

- if a property practitioner’s financial year ended on or before 30 September 2021, the submission deadline remains four months after its financial year-end, and the provisions of the old Estate Agency Affairs Act (EAAA) will apply; and

- if a property practitioner’s financial year ended on or after 31 October 2021, the new six months’ submission deadline will apply, and the provisions of the new Property Practitioners Regulations (PPRs) will apply.

Interest earned on trust accounts before 1 February 2022 will be accounted for in terms of the old EAAA and interest earned on trust accounts on or after 1 February 2022 will be accounted for in accordance with the provisions of the new PPRs.

Due to the temporary overlap of the two acts’ applicability, the guideline contains a detailed table that clarifies which act will apply to which months of the property practitioner’s financial year, as determined by such property practitioner’s financial year-end.

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Possibility of exemption

As a very positive exception to the general requirement of Section 54, the PPA introduces the possibility of exemption in Sections 4 and 23. In terms of Section 4, any person may, subject to specific provisions of this Section, be exempted from compliance with any specific provision of the PPA.

More specifically, Section 23 offers the possibility of exemption from keeping a trust account under certain circumstances, and states that exempted property practitioners’ accounting records may undergo a different (lighter) reviewing process.

Regulation 2 provides further details, with Regulation 2(1) outlining the circumstances in which this can happen, for example when a property practitioner:

- has never received any trust monies, other than as permitted in Regulation 2(4), or
- no longer receives any trust monies, other than as permitted in Regulation 2(4), and
- submits an affidavit to the PPRA asserting that the property practitioner already meets all these requirements, and also undertakes to continue meeting these requirements going forward.

Davel says that property practitioners would need to undertake the application process to apply for exemption as the process does not happen automatically.

“Regulation 2(3) specifies that a property practitioner must comply with all the above listed requirements to be exempted from having its financial statements and other accounts audited. Once exempted, they can have those accounts independently reviewed by a registered accountant, which would be a far easier and cheaper undertaking.”

“Property practitioners must further use an accredited ‘payment processing agent’, such as PayProp, to be exempted from operating their own trust accounts, and must follow the prescribed procedure,” says Davel. He lists the points that appear in Regulation 2(4) describing what a compliant “payment processing agent” is:

- They must also be a property practitioner, from which it follows that they must possess a valid Fidelity Fund Certificate (FFC).
- All of a property practitioner’s trust funds must be processed by the payment processing agent.
- The payment processing agent must operate a trust account environment that complies with the Act and the Regulations – i.e., a suite of different trust accounts, for different property practitioners, in a single trust environment.
- The overall trust account environment, and each of the different property practitioners’ individual trust accounts within that trust environment, must be audited annually. This means that:
  - The payment processing agent must enable two trust account audit processes: one for each of its clients (i.e., for each property practitioner), and another holistic audit of all of the property practitioners’ trust accounts together in the payment processing agent’s overall trust environment.

  - Audit reports on the overall trust environment, as well as individual audit reports on each of the property practitioners’ trust accounts, must be submitted to the PPRA annually.

This explains how property practitioners who have been exempted from keeping trust accounts can be excused from formal audits and only have to have their accounting records independently reviewed by a registered accountant: the audit compliance burden was taken on by the payment processing agent.

The guideline also includes 11 annexures that provide, among others, template affidavits in respect of trust monies that property practitioners should use when they apply for exemption; a template audit report on trust accounts; a summary of fines for contraventions of the PPA; and even a list of frequently asked questions.

The way forward

“The PPRA has been working through numerous challenges, and we are delighted to see that the guideline provides much more clarity on the above sections and regulations,” says Davel. “We do, however, have reason to believe that the Independent Regulatory Board of Auditors (IRBA) will soon be discussing the proposed audit report on trust account templates with the PPRA, after which further updates to the guideline might follow.”

“From our perspective, we are comfortable that we have met, and continue to meet all the requirements of being a payment processing agent and further that, as far as it might become necessary, can implement any necessary changes.”

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