



Queensland

*Property Agents and Motor Dealers Act 2000*

# Property Agents and Motor Dealers Regulation 2001

Reprinted as in force on 24 October 2008

Reprint No. 4

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**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

# Property Agents and Motor Dealers Regulation 2001

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# Property Agents and Motor Dealers Regulation 2001

[as amended by all amendments that commenced on or before 24 October 2008]

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Property Agents and Motor Dealers Regulation 2001*.

### 2 Commencement

- (1) Schedule 2, sections 1, 2(2), 3 and 5 to 8 commence on 1 September 2001.
- (2) The remaining provisions of this regulation commence on 1 July 2001.

## Part 2 Applications, fees and commissions

### 3 Applications for licence or registration—photograph

- (1) This section applies to an applicant under the Act who is required to supply photographs of the applicant to accompany an application.
- (2) Each photograph must be—
  - (a) at least 35mm x 45mm and not more than 40mm x 50mm in size; and

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- (b) certified by a person who—
  - (i) is at least 18 years of age; and
  - (ii) has known the applicant for not less than 12 months immediately before the application; and
  - (iii) is not related to the applicant by birth or marriage, or in a de facto relationship with the applicant.
- (3) The person certifying the photograph must write on the back of the photograph ‘This is a true photograph of [name of applicant]’ and sign his or her name.

#### **4 Fee concessions for multiple licences**

- (1) A person who applies for a licence must pay an application fee and a licence issue fee.
- (2) However, if the person is the holder of a licence or the person’s application for a licence has not been decided when an application for a second or other licence is made, no licence issue fee is payable for the second or other licence.
- (3) Also, if the person is a corporation and either the holder of a licence or the corporation’s application for a licence has not been decided when an application for a second or other licence is made, no application fee or licence issue fee is payable for the second or other licence.
- (4) If a person applies for 2 or more licences at the same time and the licence issue fees for the licences are different, the greater of the fees is payable.
- (5) The second or other licence expires at the same time as the first licence.
- (6) A person who holds more than 1 licence may renew all of the person’s licences on the payment of 1 licence renewal fee.
- (7) If the licence renewal fees are different, the greater of the fees is payable.



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## 5 Fees

The fees payable under the Act, other than in relation to the tribunal, are stated in schedule 1.

### 5A Refund of licence issue fee

- (1) If an application for a licence is withdrawn, the licence issue fee paid in relation to the application must be refunded.
- (2) If the chief executive refuses to issue a licence to an applicant, the licence issue fee paid in relation to the application must be refunded.

### 5B Refund of registration issue fee

- (1) If an application for registration is withdrawn, the registration issue fee paid in relation to the application must be refunded.
- (2) If the chief executive refuses to issue a registration certificate, the registration issue fee paid in relation to the application for registration must be refunded.

### 5C Refund if licence surrendered or licence term shortened

- (1) If a category of licence is surrendered and the term of the licence is 3 years, an amount equal to the licence renewal fee for 1 year, for the category of licence, that was payable by the following person when the fees payable for the term were paid must be refunded for each whole year the licence is unexpired—
  - (a) if the licensee is an individual—an individual;
  - (b) if the licensee is a corporation—a corporation.
- (2) Subsection (3) applies if the term of a category of licence (the *first licence*) held by a licensee has been shortened so that the first licence's expiry day is the same as the expiry day of a licence of the same category held by another licensee who carries on business in conjunction with the licensee.

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- (3) An amount equal to one twelfth of the licence renewal fee for 1 year, for the category of licence, that was payable when the fees payable for the original term of the first licence were paid must be refunded to the licensee under the first licence for each whole month the first licence is unexpired.

## **5D Refund if registration certificate is surrendered**

If a registration certificate is surrendered and the term of registration is 3 years, an amount equal to the registration certificate renewal fee for 1 year that was payable by a person when the fees payable for the term were paid must be refunded for each whole year the registration is unexpired.

## **5E Fees that are not refundable**

To remove any doubt, it is declared that—

- (a) no refund is payable for an application fee for—
- (i) a licence or registration; or
  - (ii) renewal of a licence or renewal of a registration certificate; or
  - (iii) restoration of a licence or restoration of registration; and
- (b) no refund is payable for—
- (i) a fee to restore a licence; or
  - (ii) the unexpired term of a deactivated licence; or
  - (iii) the unexpired term of a suspended or cancelled licence.

## **6 Commissions**

The maximum commissions chargeable under the Act are stated in schedule 1A.

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## **Part 3 Licences and registration certificates**

### **7 Educational or other qualifications for licence—Act, ss 35, 36, 41 and 44**

The educational or other qualifications for a resident letting agent's licence, real estate agent's licence, auctioneer's licence or motor dealer's licence are in schedule 2.

### **8 Period of employment for licence**

For sections 38(1)(c), 39(1)(c) and 40(1)(c) of the Act, the following periods of employment by a pastoral house are prescribed—

- (a) for a pastoral house director's licence—3 years;
- (b) for a pastoral house manager's licence—2 years;
- (c) for a pastoral house auctioneer's licence—1 year.

### **9 Application for renewal or restoration of licence**

- (1) For sections 57, 58, 60 and 61 of the Act, the licensee must have actively carried out the activities authorised under the licence for 1 year during the 5 years immediately before the application.
- (2) However, if the licensee has held a licence under the Act or the repealed Act for less than 1 year at the time of the application, the licensee must have actively carried out the activities authorised under the licence during the currency of the licence.

### **10 Display of licence**

For section 77 of the Act, the principal licensee must display the licensee's licence in a conspicuous position at the licensee's registered office so it is clearly visible when entering the registered office.

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*Examples—*

- 1 Display in a prominent position on the reception counter.
- 2 Display at eye level on a wall that customers view on first entering the registered office.

## **11 Licensees to notify chief executive of change of circumstances**

For section 81 of the Act, each of the following is a prescribed change—

- (a) a change of a licensee's name;
- (b) a change in a licensee's residential address or postal address;
- (c) a change in a licensee's home telephone number, business telephone number, business facsimile number, mobile telephone number or email address;
- (d) a change of a licensee's business name;
- (e) for a corporation, a change of the corporation's name;
- (f) for a corporation, a change of a director;
- (g) the happening of a thing mentioned in section 26 or 27 of the Act that affects a person's suitability to hold a licence.

## **12 Registered employee to notify chief executive of change of circumstances**

For section 110 of the Act, each of the following is a prescribed change—

- (a) a change of a registered employee's name;
- (b) a change in a registered employee's residential address or postal address;
- (c) a change in a registered employee's home telephone number, mobile telephone number or email address;
- (d) a change of a registered employee's employer;

- (e) a change of a registered employee's place of employment;
- (f) the happening of a thing mentioned in section 85 of the Act that affects a person's suitability to be a registered employee.

### **13 Display and publication of licensee's name**

- (1) This section applies for sections 123, 158, 195, 252, 273, 328 and 352 of the Act.
- (2) The principal licensee must display in lettering at least 1.5cm in height at each place of business—
  - (a) the licensee's name followed by the word 'licensee'; and
  - (b) if the licensee is not the person in charge of the business at the place, the name of the person in charge at the place; and
  - (c) the category of the licensee's licence.

*Example for paragraph (c)—*

property agents and motor dealers licence (real estate agent)

- (3) The names and category must be displayed in a conspicuous position at each of the principal licensee's places of business so it is clearly visible when entering the place of business.

*Examples for subsection (3)—*

- 1 Display in a prominent position on the reception counter.
  - 2 Display at eye level on a wall that customers view on first entering the place of business.
- (4) In addition to the requirements in subsection (2), an auctioneer who conducts an auction must display the auctioneer's name at the place of the auction—
    - (a) in lettering at least 1.5cm in height; and
    - (b) in a conspicuous position so it is clearly visible when entering the place; and
    - (c) for the entire period of the auction.

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**14 Educational or other qualifications for registration as registered employee—Act, s 90**

The educational or other qualifications for registration as a registered employee are in schedule 2.

**15 Employee particulars for employment register**

- (1) For sections 124, 159, 196, 253, 274, 329 and 353 of the Act, the following particulars for each employee are prescribed—
- (a) for each employed licensee—the employed licensee’s licence number;
  - (b) for each registered employee—the registered employee’s registration number;
  - (c) the expiry date of the employee’s licence or registration certificate;
  - (d) the date the employee started employment with the principal licensee;
  - (e) if the employee’s employment with the principal licensee has been terminated, the date of the termination;
  - (f) the date of the employee’s employment authority;
  - (g) a copy of the employee’s employment authority;
  - (h) the date of any change to the employee’s employment authority.
- (2) In this section—  
*employee* includes a trainee auctioneer.

**16 Form of employment register**

The employment register may be kept in a hard copy or an electronic form.

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## **Part 4                      Resident letting agents, real estate agents and pastoral houses**

### **17      Appointment of resident letting agent, real estate agent or pastoral house**

For sections 114(3)(b), 133(3)(b) and 173(3)(b) of the Act, the appointment must state the following—

‘The maximum amount of commission chargeable is [state percentage and estimated amount in dollars]. Please note you have a right to negotiate an amount lower than this amount of commission.’.

## **Part 5                      Auctioneers and motor dealers**

### **18      Appointment of auctioneer**

For section 210(3)(c) of the Act, the appointment must state the following—

‘The maximum amount of commission chargeable is [state amount or percentage]. Please note you have a right to negotiate an amount lower than this amount of commission.’.

### **19      Buyer’s premium**

For section 215 of the Act, the auctioneer must disclose the percentage of the buyer’s premium payable on the purchase of the chattel by—

- (a) announcing, at the start of the auction, that a buyer’s premium of [state percentage] is payable on a successful bid; and

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- (b) displaying in a prominent position at the auction a notice to that effect in lettering at least 10cm in height; and
- (c) writing it on each bidder's card in lettering at least 3mm in height; and
- (d) stating it on each written advertisement of the auction.

## **20 Guarantee of title for motor vehicles**

- (1) For sections 233(4) and 295(4) of the Act, the following particulars of the vehicle are prescribed—
  - (a) the vehicle identification number;
  - (b) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
  - (c) the registration number;
  - (d) the year of manufacture.
- (2) For sections 233(10) and 295(5) of the Act, the maximum amount the selling agent may charge the buyer for the provision of the security interest certificate is \$10 plus the cost of the certificate.

## **21 Unwarranted and restorable vehicles to be identified when offered for sale—auctioneers**

- (1) For section 238(1) of the Act, an auctioneer must have a sign displayed in a prominent position on each unwarranted vehicle stating in lettering at least 5cm in height 'no statutory warranty'.
- (2) However, if an auctioneer sells only unwarranted vehicles from particular premises, it is enough to display a sign in a prominent position at the main entrance to the premises stating in lettering at least 10cm in height that vehicles sold from the premises do not have a statutory warranty.



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- (3) In an advertisement for the sale of an unwarranted vehicle, an auctioneer must state that the vehicle does not have a statutory warranty.
  - (4) For section 238(2) of the Act, an auctioneer must have a sign displayed in a prominent position on each restorable vehicle stating in lettering at least 5cm in height 'if this vehicle is sold as a restorable vehicle, the statutory warranty will not apply'.
  - (5) The sign required under subsection (1) or (4) must be displayed—
    - (a) in close proximity to the price or description of the vehicle; or
    - (b) if the vehicle does not have a price or description displayed, on its front windscreen.

**21A Unwarranted and restorable vehicles to be identified when offered for sale—motor dealers**

- (1) For section 316(1) of the Act, a motor dealer must have a sign displayed in a prominent position on each unwarranted vehicle stating in lettering at least 5cm in height 'no statutory warranty'.
- (2) However, if a motor dealer sells only unwarranted vehicles from particular premises, it is enough to display a sign in a prominent position at the main entrance to the premises stating in lettering at least 10cm in height that vehicles sold from the premises do not have a statutory warranty.
- (3) For section 316(2) of the Act, a motor dealer must have a sign displayed in a prominent position on each restorable vehicle stating in lettering at least 5cm in height 'no statutory warranty will apply to this restorable vehicle if the buyer waives the statutory warranty'.
- (4) The sign required under subsection (1) or (3) must be displayed—
  - (a) in close proximity to the price or description of the vehicle; or

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- (b) if the vehicle does not have a price or description displayed, on its front windscreen.

## **22 Defects not covered by statutory warranty**

For sections 243 and 319 of the Act, the following are prescribed as defects in a warranted vehicle that are not covered by the statutory warranty—

- (a) a defect in the vehicle's fitted airbag;
- (b) a defect in the vehicle's installed radio, tape recorder or CD player;
- (c) for a class B warranted vehicle, a defect in the vehicle's air conditioning system;
- (d) a defect in any of the following—
  - (i) a tyre or tyre tube;
  - (ii) a battery;
  - (iii) a light other than a warning light or a turn indicator light used as a hazard light;
  - (iv) a radiator hose;
  - (v) a radio aerial or other aerial;
  - (vi) spark plugs;
  - (vii) distributor points;
  - (viii) wiper rubbers;
  - (ix) oil or an oil filter;
  - (x) a fuel filter or air filter;
  - (xi) a hose for a heater unit.

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**23 Warrantor to record particulars of extension of warranty period**

- (1) For sections 245 and 321 of the Act, the warrantor may keep the record in a hard copy or an electronic form.
- (2) The warrantor must number and date each entry in the record.

**24 Auctioneer or motor dealer to obtain statement from seller of vehicle**

For sections 254 and 331 of the Act, the statement the seller gives the auctioneer or motor dealer must contain the following particulars—

- (a) the seller's name;
- (b) the seller's address;
- (c) if the seller is not a motor dealer, the seller's driver licence number;
- (d) the vehicle's make;
- (e) the vehicle's body model;
- (f) the vehicle's colour;
- (g) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
- (h) the vehicle's identification number;
- (i) the vehicle's registration number;
- (j) the vehicle's year of manufacture;
- (k) the vehicle's odometer reading in words and figures;
- (l) if known to the seller, whether the vehicle's odometer has been replaced;
- (m) whether the vehicle's engine has been replaced by or for the seller and, if so, the approximate date of replacement;

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- (n) whether there is a mortgage or other encumbrance on the vehicle and, if so, the amount owing and to whom it is owing;
- (o) if the vehicle is to be sold at auction, the reserve price for the auction;
- (p) the date the seller gives the statement to the auctioneer or motor dealer.

## **25 Auctioneer or motor dealer to give statement to buyer of vehicle**

For sections 255 and 332 of the Act, the statement the auctioneer or motor dealer gives the buyer must contain the following particulars—

- (a) the name of the person who owned the vehicle immediately before the sale;

*Examples—*

- If the vehicle was owned by a motor dealer immediately before the sale, the statement must contain the name of the motor dealer.
  - If the vehicle is being sold on consignment by a motor dealer, the statement must contain the name of the owner of the vehicle for whom the vehicle is being sold as agent.
- (b) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
  - (c) the vehicle's identification number;
  - (d) the vehicle's registration number;
  - (e) the vehicle's year of manufacture;
  - (f) the vehicle's odometer reading in words and figures;
  - (g) if known to the auctioneer or motor dealer, whether the odometer has been replaced;
  - (h) the date the motor dealer gives the statement to the buyer;
  - (i) the price paid by the vehicle's buyer;

- (j) if known to the auctioneer or motor dealer, whether the vehicle's engine was replaced and, if so, the approximate date of replacement.

**26 Particular vehicles for sale on consignment to be identified as not being subject to cooling-off period**

- (1) For section 299 of the Act, a motor dealer must have a sign displayed in a prominent position on each vehicle that is not subject to a cooling-off period stating in lettering at least 5cm in height 'no cooling-off period—sale on consignment'.
- (2) The sign must be displayed—
  - (a) in close proximity to the price or description of the vehicle; or
  - (b) if the vehicle does not have a price or description displayed, on its front windscreen.
- (3) However, if a motor dealer sells only vehicles not subject to a cooling-off period from particular premises, it is enough to display a sign in a prominent position at the main entrance to the premises stating in lettering at least 10cm in height that vehicles sold from the premises are not subject to a cooling-off period.
- (4) In an advertisement for the sale of a vehicle that is not subject to a cooling-off period, the motor dealer must state 'no cooling-off period applies'.

**28 Consideration for cooling-off period**

For section 304 of the Act, the maximum non-refundable deposit is \$100.

**29 Consideration for option**

For section 305 of the Act, the maximum non-refundable deposit is \$100.

[s 30]

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### **30 Motor dealer to keep transaction register**

(1) For section 330(2) of the Act, the following particulars are prescribed—

- (a) the date of receipt by the motor dealer;
- (b) a brief description of the transaction;

*Examples for paragraph (b)—*

- 1 sale on consignment for a motor dealer
- 2 sale on consignment for a private seller
- 3 sale by a motor dealer for the motor dealer

- (c) the vehicle's odometer reading in words and figures as at the date of receipt by the motor dealer;
- (d) the vehicle's make;
- (e) the vehicle's body model;
- (f) the vehicle's colour;
- (g) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
- (h) the vehicle's identification number;
- (i) the vehicle's registration number;
- (j) the vehicle's year of manufacture;
- (k) the date of the vehicle's sale;
- (l) the following details of the vehicle's disposal—
  - (i) if the vehicle is sold—the sale price and the name and address of the buyer;
  - (ii) if the vehicle is accepted for sale on consignment and is returned to its owner—the date the vehicle is returned;
  - (iii) if the vehicle is offered for sale at auction and not sold—the date of the auction, the amount of the highest bid and, if known, the name and address of the highest bidder;
- (m) the name and address of the vehicle's seller;

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- (n) the number of the security interest certificate given to the buyer;
  - (o) if the vehicle is moved from 1 place of business to another—
    - (i) the date of the move; and
    - (ii) the place the vehicle is located;
  - (p) if the motor dealer operates from a number of places of business, the vehicle's exact location.
- (2) However, if a motor dealer acquires a used motor vehicle, whether or not as a complete unit, primarily to break-up for sale as parts or for use in the assembly of vehicles for sale as complete units or as parts, the following particulars only are prescribed for section 330(2) of the Act—
- (a) the date of receipt by the motor dealer;
  - (b) the vehicle's make;
  - (c) the vehicle's body model;
  - (d) the vehicle's colour;
  - (e) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
  - (f) the name and address of the vehicle's seller.

### **31 Form of transaction register**

The transaction register may be kept in a hard copy or an electronic form.

### **32 Motor dealer receipts**

- (1) If a motor dealer receives a payment from a buyer, a prospective buyer or an option holder in relation to the purchase of a used motor vehicle, the motor dealer must give promptly to the buyer a receipt headed 'Property Agents and Motor Dealers Act 2000' that contains the following particulars—

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- (a) the name of the motor dealer;
- (b) the name of the buyer, prospective buyer or option holder;
- (c) the vehicle's purchase price;
- (d) the date of the payment;
- (e) the amount of the payment;
- (f) if the buyer, prospective buyer or option holder pays for the vehicle by cheque, the drawer of the cheque;
- (g) the vehicle's make;
- (h) the vehicle's body model;
- (i) the vehicle's colour;
- (j) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
- (k) the vehicle's identification number;
- (l) the vehicle's registration number;
- (m) the vehicle's year of manufacture;
- (n) the name and signature of the person giving the receipt.

Maximum penalty—10 penalty units.

- (2) The motor dealer must keep a duplicate of a receipt issued under this section in the motor dealer's records.

Maximum penalty—10 penalty units.

### **33 Auction store books and auction sales books**

- (1) This section applies to—
  - (a) personal property other than livestock placed by a person with an auctioneer for sale; or
  - (b) an auctioneer's personal property other than livestock that is to be sold by the auctioneer.
- (2) The auctioneer must—



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- (a) keep at the auctioneer's registered office—
    - (i) an auction store book; and
    - (ii) an auction sales book; and
  - (b) if property is placed by a person with an auctioneer for sale, enter the particulars mentioned in subsection (3) in the auction store book when the property is placed with the auctioneer; and
  - (c) enter the particulars mentioned in subsection (5) in the auction sales book within 24 hours after the property has been auctioned.

Maximum penalty—10 penalty units.

- (3) The auction store book must contain the following particulars—
  - (a) for personal property other than the auctioneer's personal property—
    - (i) the date the property is received by the auctioneer; and
    - (ii) the name and address of the seller or person who delivered the property to the auctioneer;
  - (b) the details of any marks, numbers or other particulars that are relied upon for the identification of the property;
  - (c) the property's reserve price for the auction;
  - (d) the property's description.
- (4) If the property consists of articles, the articles may be grouped and entered in the auction store book as 1 property if—
  - (a) the lot value of the articles is not more than \$50; and
  - (b) the property is placed by 1 person with the auctioneer.
- (5) The auction sales book must contain the following particulars—
  - (a) the date of the auction of the property;
  - (b) the property's description;

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- (c) the property's sale price;
- (d) the buyer's name and address;
- (e) a cross-reference to the property's relevant entry in the auction store book.

### **34 Auction contract books**

- (1) This section applies to land placed by a person with an auctioneer for sale.
- (2) The auctioneer must—
  - (a) keep at the auctioneer's registered office an auction contract book; and
  - (b) enter the particulars mentioned in subsection (3) in the auction contract book when the land is placed by the person with the auctioneer for sale; and
  - (c) enter the particulars mentioned in subsection (5) in the auction contract book after the land has been auctioned.

Maximum penalty—10 penalty units.

- (3) The auction contract book must contain the following particulars when the land is placed by the person with the auctioneer for sale—
  - (a) the date the land is placed by the person with the auctioneer for sale;
  - (b) the land's lot-on-plan description;
  - (c) if there is an improvement on the land, a description of the improvement;
  - (d) the name and address of the owner or the person who has placed the land with the auctioneer for sale;
  - (e) the reserve price for the auction;
  - (f) any special conditions for the sale of the land;
  - (g) the proposed date, time and place of the auction.

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- (4) However, if the particulars mentioned in subsection (3) are contained in the appointment under section 210 of the Act and the auctioneer keeps the appointment or a copy of the appointment at the auctioneer's registered office, the auctioneer does not have to enter the particulars in the auction contract book.
  - (5) The auction contract book must contain the following particulars after the auction—
    - (a) the date of the auction of the land;
    - (b) the land's description;
    - (c) if the land is sold at auction—
      - (i) the price paid by the buyer; and
      - (ii) the buyer's name and address;
    - (d) if the land is not sold at auction—
      - (i) the amount of the highest bid at auction; and
      - (ii) if known, the highest bidder's name and address.

### **35 Sales of livestock by auctioneers**

- (1) This section applies to sales of livestock by an auctioneer.
- (2) The auctioneer must announce at the auction the name of the client for whom the auctioneer is selling the livestock.

Maximum penalty—10 penalty units.

- (3) The auctioneer must—
  - (a) keep at the auctioneer's registered office a livestock auction book; and
  - (b) enter the particulars mentioned in subsection (4) in the livestock auction book before the livestock are auctioned; and
  - (c) if the livestock are sold, enter the particulars mentioned in subsection (5) in the livestock auction book.

Maximum penalty—10 penalty units.

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- (4) The livestock auction book must contain the following particulars—
    - (a) the description of the livestock;
    - (b) the number of livestock;
    - (c) the name and address of the client for whom the auctioneer is selling the livestock.
  - (5) The livestock auction book must contain the following particulars—
    - (a) the date of the auction of the livestock;
    - (b) the buyer's name;
    - (c) the price paid by the buyer.
  - (6) If the livestock are to be sold on other than a cash basis, the auctioneer must—
    - (a) obtain a written authority for the sale—
      - (i) signed by the client; and
      - (ii) containing a statement that the auctioneer must pay to the client only the money actually paid to the auctioneer for the sale of the livestock less the auctioneer's commission and authorised expenses; and
    - (b) keep the authority in the auctioneer's registered office.
- Maximum penalty for subsection (6)—10 penalty units.

### **36 Form of auction books**

The auction store book, the auction sales book, the auction contract book and the livestock auction book may be kept in hard copy or electronic form.

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## Part 6 Commercial agents

### 37 Statements by commercial agents

- (1) This section applies to a commercial agent who repossesses a chattel that is subject to a hire purchase agreement, bill of sale or chattel lease agreement.
- (2) The commercial agent must—
  - (a) complete and sign 3 copies of a statement within 7 days after the repossession containing the following particulars—
    - (i) the principal licensee's name;
    - (ii) the date of repossession;
    - (iii) the name of the person from whom the chattel was repossessed;
    - (iv) the address from where the chattel was repossessed;
    - (v) if more than 1 chattel was repossessed, the number of chattels repossessed;
    - (vi) a description of each chattel repossessed; and
  - (b) give a copy of the statement to the commercial agent's client; and
  - (c) give a copy of the statement to the person from whom the chattel was repossessed; and
  - (d) keep a copy of the statement at the commercial agent's registered office or place of business.

Maximum penalty—10 penalty units.

- (3) For subsection (2)(c), the commercial agent gives a copy of the statement to the person from whom the chattel was repossessed if the copy—
  - (a) is given personally to the person; or

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- (b) is left in a conspicuous position at the person's place of residence or registered place of business last known to the commercial agent; or
- (c) is sent by post to the person's place of residence or registered place of business last known to the commercial agent.

## **Part 7                      Accounts, funds and record keeping**

### **Division 1                Prescribed books, accounts and records**

#### **38        Books, accounts and records to be kept by principal licensee**

- (1) A principal licensee must keep—
  - (a) the following books, accounts and records—
    - (i) a register of trust account receipt forms;
    - (ii) consecutively numbered trust account receipt forms in duplicate;
    - (iii) a trust account deposit book of trust account deposit forms in duplicate;
    - (iv) a trust account cash book;
    - (v) a trust account journal of consecutively numbered folios;
    - (vi) a trust account ledger; and
  - (b) if the principal licensee is an auctioneer, real estate agent, commercial agent or motor dealer—full and accurate accounts of all money paid or received for a sale or transaction.

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Maximum penalty—10 penalty units.

- (2) The books, accounts and records mentioned in subsection (1) must be kept in such a way that they can be easily and properly audited.

Maximum penalty—10 penalty units.

### **39 Entries in books, accounts and records**

A principal licensee must not enter in any book, account or record kept for this Act any particular that is not a particular relating to the principal licensee's business.

Maximum penalty—10 penalty units.

## **Division 2 Register of trust account receipt forms**

### **40 Register**

- (1) A register of trust account receipt forms must contain a record of the receipt number of each receipt form held by the principal licensee.
- (2) A register of trust account receipt forms must be updated within 2 business days of a trust account receipt form being brought into use for the operation of a trust account.

## **Division 3 Trust account receipt forms**

### **41 Trust account receipt forms**

- (1) A trust account receipt form must be headed 'Property Agents and Motor Dealers Act 2000 Trust Account Receipt'.
- (1A) Each trust account receipt form must be consecutively and uniquely numbered for each licence.

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- (2) A completed trust account receipt form must contain the following particulars—
- (a) the name of the principal licensee on whose behalf the receipt was completed;
  - (b) the date the receipt was completed;
  - (c) the name of the person for whom the receipt was completed;
  - (d) details of the transaction, including a way by which the name of the person on whose behalf the payment is received can be found out;  
*Example of a way by which the name of a person can be found out—*
    - using a code to identify the person, for example, S4 stands for N. Smith
- (e) a brief description of the matter for which the trust money was received, including for trust money received that is rent—
- (i) the address of the rented premises; and
  - (ii) the day up to which the rent is paid;
- (f) the amount of trust money received, in figures;
  - (g) how the trust money was received, for example, in cash, by cheque or by electronic funds transfer;
  - (h) the signature of the person who completed the receipt.
- (3) If a payment from a prospective buyer is for an option to purchase a used motor vehicle for sale on consignment, the completed trust account receipt form must contain, in addition to the particulars mentioned in subsection (2), the following particulars—
- (a) the vehicle's make;
  - (b) the vehicle's body model;
  - (c) the vehicle's colour;
  - (d) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;



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- (e) the vehicle's identification number;
  - (f) the vehicle's registration number;
  - (g) the vehicle's year of manufacture.
- (4) Each trust account receipt form must include provision for the particulars mentioned in subsections (2) and (3).
- (5) A duplicate trust account receipt form must also be headed 'Office Copy' or 'Duplicate Copy'.

## **42 Dealing with trust account receipt forms**

- (1) A principal licensee must complete a trust account receipt form—
- (a) if a principal licensee receives trust money by way of direct deposit or electronic funds transfer—on the day the principal licensee becomes aware of the receipt of the trust money; or
  - (b) if a principal licensee receives trust money other than by way of direct deposit or electronic funds transfer—immediately the principal licensee receives the trust money.

Maximum penalty—10 penalty units.

- (2) The principal licensee must ensure—
- (a) a trust account receipt form—
    - (i) is used only for the receipt of trust money; and
    - (ii) includes the relevant particulars mentioned in section 41; and
    - (iii) if requested by the person from whom the trust money was received, is given to the person promptly; and
  - (b) a legible copy of each trust account receipt form completed by the principal licensee is kept in the principal licensee's records; and

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- (c) if the principal licensee cancels a trust account receipt form, the form is kept in the principal licensee's records.

Maximum penalty—10 penalty units.

## **Division 4                    Trust account deposit book**

### **43            Trust account deposit forms**

A principal licensee must ensure that a trust account deposit form contains the following particulars—

- (a) the name and account number of the trust account into which the trust money is deposited;
- (b) the amount and the date of the deposit;
- (c) the signature of the depositor;
- (d) if a cheque is given to a licensee, the name of the drawer of the cheque and the name and branch of the financial institution against which the cheque is drawn.

Maximum penalty—10 penalty units.

### **44            Depositing trust money**

If trust money is deposited into a principal licensee's trust account, the principal licensee must—

- (a) if the trust money is deposited by way of electronic funds transfer—
  - (i) obtain, at least once each week, a transaction report statement from the financial institution into which the trust money is paid showing deposits made into the trust account; and
  - (ii) ensure the statement is kept in the principal licensee's records; and
- (b) if the trust money is deposited other than by way of electronic funds transfer—ensure a copy of the trust

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account deposit form is kept in the principal licensee's records.

Maximum penalty—10 penalty units.

## **Division 5                    Disbursement of trust money**

### **45            Disbursements**

(1) If the principal licensee draws a cheque against a trust account kept by the principal licensee under the Act, the principal licensee must ensure the following particulars are written on the cheque butt or another document—

- (a) the date the cheque is drawn;
- (b) the name of the person to whom the cheque is payable;
- (c) the name of the person on whose behalf the cheque is drawn;
- (d) a brief description of the matter for which the cheque is drawn;
- (e) the amount for which the cheque is drawn.

Maximum penalty—10 penalty units.

(2) If the principal licensee disburses trust money through electronic funds transfer, the principal licensee must keep a transaction report from a financial institution that contains the following particulars—

- (a) the date of the disbursement;
- (b) the amount of the disbursement;
- (c) the account name and number to which the trust money was disbursed.

Maximum penalty—10 penalty units.

(3) A principal licensee must keep each cheque butt or the other document or the transaction report containing the particulars mentioned in subsection (1) or (2) in the principal licensee's records.

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*Example of other document—*

a cheque requisition form

Maximum penalty—10 penalty units.

## **Division 6                      Trust account cash book**

### **46            Trust account cash book—entries**

- (1) If a principal licensee receives trust money, or pays trust money to a person, the principal licensee must, within 2 business days after the day the money is received or paid, enter the following particulars in the trust account cash book—
  - (a) if trust money is received—
    - (i) the date the money is received; and
    - (ii) the name of the person from whom the money is received; and
    - (iii) the name of the person on whose behalf the money is received; and
    - (iv) a brief description of the matter for which the money is received; and
    - (v) the amount received; and
    - (vi) the trust account receipt number; and
    - (vii) the date the trust money is paid into the licensee's trust account maintained at the financial institution where the general trust account is kept;
  - (b) if trust money is paid—
    - (i) the date the money is paid; and
    - (ii) the name of the person to whom the money is paid; and
    - (iii) the name of the person on whose behalf the money is paid; and

- (iv) a brief description of the matter for which the money is paid; and
- (v) the amount paid; and
- (vi) the cheque number or the electronic fund transfer number.

Maximum penalty—10 penalty units.

- (2) Despite subsection (1), if a principal licensee receives trust money by way of electronic funds transfer, the principal licensee may enter the particulars in the trust account cash book on the day the principal licensee becomes aware of the receipt of the trust money.

#### **47 Trust account cash book—reconciliation**

- (1) A principal licensee must, within 5 business days after the end of each month—
  - (a) reconcile the trust account cash book balance at the end of the month with the trust account ledger balances that show each trust account creditor's name and the amount held on behalf of the creditor; and
  - (b) reconcile the financial institution's statement balance for the principal licensee's trust account at the end of the month with the trust account cash book balance at the end of the month.

Maximum penalty—10 penalty units.

- (2) A reconciliation under subsection (1)(b) must contain the following particulars—
  - (a) the balance of the financial institution statement balance at the end of the month;
  - (b) the amount of trust money on hand at the end of the month and the date the money was received;
  - (c) the amount of each outstanding deposit at the end of the month and the date the amount was received and deposited;

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- (d) details of any outstanding cheques at the end of the month, including—
    - (i) the cheque number of each cheque; and
    - (ii) the amount and date of each cheque;
  - (e) details of any electronic fund transfer deposits recorded at the end of the month that are recorded on the financial institution statement but are not entered in the trust account cash book;
  - (f) the balance of the trust account at the end of the month as shown in the trust account cash book.
- (3) For a reconciliation under subsection (1)(b), the principal licensee must reconcile the trust account cash book balance at the end of the month with the amount obtained by—
- (a) adding the amounts mentioned in subsection (2)(b) and (c) to the financial institution statement balance amount at the end of the month; and
  - (b) deducting the amount of each outstanding cheque at the end of the month and the amount of each electronic funds transfer deposit at the end of the month that are recorded on the financial institution statement but are not entered in the trust account cash book from the amount obtained under paragraph (a).
- (4) The principal licensee must keep the reconciliations mentioned in subsection (1) in the principal licensee's records.

Maximum penalty for subsection (4)—10 penalty units.

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## **Division 7                      Trust account ledger**

### **48            Keeping trust account ledgers**

A principal licensee must keep a separate ledger account in the trust account ledger for each person on whose behalf the principal licensee receives trust money.

Maximum penalty—10 penalty units.

### **49            Trust account ledger—form**

(1) A principal licensee must ensure that each trust ledger account contains the following particulars—

- (a) the surname and initials of the person on whose behalf the trust money is received or paid;
- (b) a brief description of the matter for which the trust money is received or paid.

Maximum penalty—10 penalty units.

(2) Also, a principal licensee must ensure that each trust ledger account contains the following particulars for each entry in the ledger account—

- (a) the date the trust money is received or paid;
- (b) the name of the person from whom the trust money is received or to whom the trust money is paid;
- (c) a brief description of the matter for which the trust money is received or paid;
- (d) the amount received or paid;
- (e) if trust money is received—the receipt number;
- (f) if trust money is paid—the cheque number or the electronic fund transfer number;
- (g) the balance of the account after each entry;
- (h) if trust money is transferred to the trust ledger account from another trust ledger account under section 51, the

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number of the trust account journal folio on which the transfer is recorded.

Maximum penalty—10 penalty units.

#### **50 Trust account cash book entries to be posted to ledger account**

A principal licensee must ensure that each entry in the trust account cash book is posted to the trust ledger account for the person on whose behalf the trust money is received or paid within 2 business days after the day the trust money is received or paid.

Maximum penalty—10 penalty units.

### **Division 8 Trust account journals**

#### **51 Transfer by journal entry**

- (1) A principal licensee may transfer trust money from a trust ledger account to another trust ledger account by a journal entry.
- (2) However, a principal licensee must not transfer trust money by a journal entry unless the principal licensee is entitled to pay the money from the trust ledger account for the purpose for which it is transferred.

Maximum penalty—10 penalty units.

- (3) A principal licensee must ensure that a trust account journal includes the following particulars for each entry in the journal—
  - (a) the date the trust money is transferred;
  - (b) the name of the person, and a brief description of the matter conducted for the person, from whose trust ledger account the money is transferred;



- (c) the name of the person, and a brief description of the matter conducted for the person, to whose trust ledger account the money is transferred;
- (d) the amount transferred.

Maximum penalty—10 penalty units.

## **Division 9                      Computer system records**

### **52            Keeping computer system records**

- (1) This section applies if a principal licensee keeps any books, accounts or records mentioned in section 38 by a computerised accounting system.
- (2) The principal licensee must ensure that—
  - (a) the computer system does not allow the deletion of a trust ledger account unless—
    - (i) the account has a zero balance; and
    - (ii) a record of the account, as it was immediately before its deletion, is kept in a visible form; and
  - (b) an amendment of the particulars of a transaction recorded on the computer system is made by a separate transaction recorded on the system; and
  - (c) a record of information produced by the computer in a visible form is produced in chronological sequence.

Maximum penalty—10 penalty units.

- (3) The computer system must be capable of keeping a record in chronological sequence of any change (by creation, amendment or deletion) to the following information stored in the computer—
  - (a) the name and address of a person for whom trust money is held;
  - (b) the description of a matter being conducted by the principal licensee;

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- (c) the amount of trust money held for a person by the principal licensee;
  - (d) the financial institution account number of a trust account.
- (4) The principal licensee must, as soon as practicable after the end of each month, make a print-out of the following—
- (a) if a trust ledger account is kept by a computerised accounting system—the balance of the ledger account;
  - (b) if a reconciliation under section 47(1)(a) is kept by a computerised accounting system—the reconciliation;
  - (c) if a trust account financial institution statement balance is reconciled with the trust account cash book balance by a computerised accounting system—the reconciliation of the financial institution statement.

Maximum penalty—10 penalty units.

- (5) If a trust account ledger is kept by a computerised accounting system, a principal licensee must immediately before a trust ledger account or investment ledger account is deleted from the computer system—
- (a) make a print-out of the ledger account; and
  - (b) keep the print-out in the principal licensee's records.

Maximum penalty—10 penalty units.

## **Division 10                      Auditors**

### **53            Application for approval as auditor**

For section 393 of the Act, the amount of professional indemnity insurance prescribed is \$250000.

### **54            Transfer of trust accounts**

- (1) This section applies if—

- (a) a licensee enters into a partnership with another licensee; or
  - (b) a change occurs in the members of a partnership of licensees; or
  - (c) a licensee disposes of the licensee's business to another licensee by any means.
- (2) The trust money held by a former licensee or partnership must be properly disbursed and then held by the former licensee or partnership until the person who conducts the final audit certifies that the trust money has been properly disbursed.

Maximum penalty—10 penalty units.

- (3) Despite subsection (2), if the money is held in a trust account on a trust creditor's behalf, the money must be transferred if—
- (a) the trust creditor authorises the transfer in writing; or
  - (b) for trust money in the form of a bond or a security deposit in relation to a tenancy agreement, the landlord and the tenant authorise the transfer in writing; or
  - (c) subsection (4) is satisfied.
- (4) This subsection is satisfied if—
- (a) the transferee is the public trustee and the public trustee has agreed to accept the transfer; and
  - (b) the former licensee or partnership has taken reasonable steps to contact the person entitled to the money; and
  - (c) the former licensee or partnership has given a notice under the *Trusts Act 1973*, section 67 for the money; and
  - (d) it is after the date fixed in the notice; and
  - (e) the former licensee or partnership has no notice of any claim to the money.

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## **Division 11                    Agreements with financial institutions about keeping general trust accounts**

### **54A    Financial institutions to which s 410 of the Act applies**

Section 410 of the Act applies to a financial institution mentioned in schedule 3.

## **Part 8                            Claims against the fund**

### **55       Limits on recovery from fund**

- (1) For section 492(2) of the Act, the amount prescribed for a single claim is \$200000.
- (2) For section 492(4) of the Act, the total amount that may be paid from the fund because of, or arising out of, a wrong by a single person is \$2000000.

## **Part 9                            General**

### **56       Amendments of a register or record**

- (1) This section applies to a register or record kept under section 124, 159, 196, 245, 253, 274, 321, 329, 330 or 353 of the Act.
- (2) If the register or record is a hard copy register or record, a person amending the register or record must not amend it unless the person—
  - (a) rules through the incorrect information; and
  - (b) gives the correct information in close proximity to the incorrect information; and

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- (c) records a reason for the amendment in close proximity to the amendment; and
  - (d) signs and dates the amendment.

Maximum penalty—10 penalty units.

- (3) If the register or record is an electronic register or record, a person amending the register or record must not amend it unless the person—
  - (a) strikes out the incorrect information; and
  - (b) inserts the correct information immediately under the incorrect information; and
  - (c) records in close proximity to the amendment—
    - (i) a reason for the amendment; and
    - (ii) the name of the person who made the amendment; and
    - (iii) the date of the amendment.

Maximum penalty—10 penalty units.

## **57 Documents in electronic form**

If a document required to be kept under the Act is stored in electronic form on a computer, the principal licensee must ensure that—

- (a) the computer system has enough capacity and backup capability to record the information required to be kept under the Act; and
- (b) the computer system is backed-up at least once a month; and
- (c) a computer disk or other electronic device used to store the backed-up information is kept in a location that—
  - (i) is not the licensee's principal place of business or the licensee's agent's business address; and

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- (ii) is unaffected by magnetic interference or other thing that may adversely affect the stored information.

Maximum penalty—10 penalty units.

## 58 Keeping documents

- (1) A principal licensee must keep in a secure, orderly and accessible manner for a period of not less than 5 years all documents the principal licensee must keep under the Act.

Maximum penalty—10 penalty units.

- (2) Subsection (1) is subject to the *Evidence Act 1977*, section 111.

# Part 10 Transitional provision

## 59 Limited real estate agent's licences

- (1) This section applies to a person who, immediately before the commencement of this section (***commencement***), held a limited real estate agent's licence (a ***former licence***).
- (2) The person is taken, on commencement, to hold a limited real estate agent's licence (business letting).
- (3) The limited real estate agent's licence (business letting)—
  - (a) is taken to be subject to conditions and restrictions in the same terms as the conditions and restrictions to which the person's former licence was subject; and
  - (b) expires when the person's former licence would have expired.

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## Schedule 1      Fees

section 5

### Part 1                      Fees relating to licences

#### Division 1                  Issue of licence

	\$
1 Application fee for issue of licence (Act, section 22(2)(a)).....	120.00
2 Licence issue fee (Act, section 22(2)(b))—	
(a) corporation—	
for 1 year .....	465.00
for 3 years .....	930.00
(b) individual—	
(i) resident letting agent—	
for 1 year .....	905.00
for 3 years .....	1 805.00
(ii) real estate agent—	
for 1 year .....	905.00
for 3 years .....	1 805.00
(iii) pastoral house director—	
for 1 year .....	905.00
for 3 years .....	1 805.00
(iv) pastoral house manager—	
for 1 year .....	330.00
for 3 years .....	660.00
(v) pastoral house auctioneer—	
for 1 year .....	640.00
for 3 years .....	1 280.00

Schedule 1

	\$
(vi) auctioneer—	
for 1 year .....	905.00
for 3 years .....	1 805.00
(vii) property developer—	
for 1 year .....	905.00
for 3 years .....	1 805.00
(viii) property developer director—	
for 1 year .....	905.00
for 3 years .....	1 805.00
(ix) motor dealer—	
for 1 year .....	905.00
for 3 years .....	1 805.00
(x) commercial agent—	
for 1 year .....	905.00
for 3 years .....	1 805.00

## Division 2                      Renewal of licence

	\$
3    Application fee for renewal of licence (Act, section 57(2)(d)(i)) .....	61.00
4    Licence renewal fee for a licence other than a deactivated licence (Act, section 57(2)(d)(ii))—	
(a) corporation—	
for 1 year .....	235.00
for 3 years .....	710.00
(b) individual—	
(i) resident letting agent—	
for 1 year .....	460.00
for 3 years .....	1 380.00
(ii) real estate agent—	



	\$
for 1 year . . . . .	460.00
for 3 years . . . . .	1 380.00
(iii) pastoral house director—	
for 1 year . . . . .	460.00
for 3 years . . . . .	1 380.00
(iv) pastoral house manager—	
for 1 year . . . . .	170.00
for 3 years . . . . .	505.00
(v) pastoral house auctioneer—	
for 1 year . . . . .	325.00
for 3 years . . . . .	975.00
(vi) auctioneer—	
for 1 year . . . . .	460.00
for 3 years . . . . .	1 380.00
(vii) property developer—	
for 1 year . . . . .	460.00
for 3 years . . . . .	1 380.00
(viii) property developer director—	
for 1 year . . . . .	460.00
for 3 years . . . . .	1 380.00
(ix) motor dealer—	
for 1 year . . . . .	460.00
for 3 years . . . . .	1 380.00
(x) commercial agent—	
for 1 year . . . . .	460.00
for 3 years . . . . .	1 380.00
5 Licence renewal fee for a deactivated licence (Act, sections 57(2)(d)(ii) and 73(6))—	
(a) corporation—	
for 1 year . . . . .	120.00
for 3 years . . . . .	355.00
(b) individual—	

Schedule 1

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	\$
(i) resident letting agent—	
for 1 year .....	230.00
for 3 years .....	690.00
(ii) real estate agent—	
for 1 year .....	230.00
for 3 years .....	690.00
(iii) pastoral house director—	
for 1 year .....	230.00
for 3 years .....	690.00
(iv) pastoral house manager—	
for 1 year .....	85.00
for 3 years .....	255.00
(v) pastoral house auctioneer—	
for 1 year .....	165.00
for 3 years .....	490.00
(vi) auctioneer—	
for 1 year .....	230.00
for 3 years .....	690.00
(vii) property developer—	
for 1 year .....	230.00
for 3 years .....	690.00
(viii) property developer director—	
for 1 year .....	230.00
for 3 years .....	690.00
(ix) motor dealer—	
for 1 year .....	230.00
for 3 years .....	690.00
(x) commercial agent—	
for 1 year .....	230.00
for 3 years .....	690.00

**Division 3 Restoration of licence**

	\$
6 Application fee for restoration of licence (Act, section 60(2)(e)(i)) . . . . .	61.00
7 Licence renewal fee for a licence other than a deactivated licence (Act, section 60(2)(e)(ii)) . . . . .	the licence renewal fee stated for the licence in item 4 of this part
8 Licence renewal fee for a deactivated licence (Act, sections 60(2)(e)(ii) and 73(6)) . . . . .	the licence renewal fee stated for the licence in item 5 of this part
9 Licence restoration fee for a licence other than a deactivated licence (Act, section 60(2)(e)(iii)) . . . . .	81.00
10 Licence restoration fee for a deactivated licence (Act, sections 60(2)(e)(iii) and 73(6)). . . . .	41.00

**Division 4 Other acts relating to licence**

	\$
11 Fee for application for the appointment, or the extension of the appointment, of a substitute licensee (Act, section 64(5)(c), 65(5)(c) or 66(5)(c)) . . . . .	61.00
12 Application fee for amendment of condition of licence (Act, section 70(2)) . . . . .	61.00
13 Deactivation of licence (Act, section 73(2)) . . . . .	61.00
14 Reactivation of licence (Act, section 73(9)) . . . . .	61.00
15 Replacement of licence (Act, section 79(2)) . . . . .	31.00

**Division 5                      Licence register**

	\$
16 Fee to inspect licence register (Act, section 80(3)) . . . .	12.50
17 Fee for a copy of details in licence register (Act, section 80(3)) . . . . .	12.50

**Part 2                              Fees relating to registration as registered employee**

**Division 1                      Issue of registration certificate**

	\$
1 Application fee for registration as registered employee (Act, section 84(2)(a)) . . . . .	73.00
2 Registration issue fee (Act, section 84(2)(b))—	
for 1 year . . . . .	170.00
for 3 years . . . . .	335.00

**Division 2                      Renewal of registration certificate**

	\$
3 Application fee for renewal of registration certificate (Act, section 94(2)(d)(i)) . . . . .	37.00
4 Registration certificate renewal fee (Act, section 94(2)(d)(ii))—	
for 1 year . . . . .	84.00
for 3 years . . . . .	255.00

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**Division 3                      Restoration of registration certificate**

	\$
5 Application fee for restoration of registration certificate (Act, section 97(2)(e)(i)). . . . .	37.00
6 Registration renewal fee (Act, section 97(2)(e)(ii))—	
for 1 year . . . . .	84.00
for 3 years . . . . .	255.00
7 Registration restoration fee (Act, section 97(2)(e)(iii)).	14.50

**Division 4                      Other acts relating to registration certificate**

	\$
8 Application fee for amendment of condition of registration certificate (Act, section 101(2)) . . . . .	37.00
9 Replacement of registration certificate (Act, section 108(2)). . . . .	18.50

**Division 5                      Registration certificate register**

	\$
10 Fee to inspect registration certificate register (Act, section 109(4)). . . . .	12.50
11 Fee for a copy of details in registration certificate register (Act, section 109(4)). . . . .	12.50



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## Schedule 1A Maximum commissions

section 6

### Part 1 Residential property

#### 1 Maximum commission on purchase or sale of residential property

The maximum commission payable on the purchase or sale of residential property is—

- (a) if the purchase or sale price is not more than \$18000—5% of the price; or
- (b) if the purchase or sale price is more than \$18000—
  - (i) \$900; and
  - (ii) 2.5% of the part of the price that is more than \$18000.

#### 2 Maximum commission on letting of residential property

(1) The maximum commission payable on the letting of residential property is—

- (a) under a tenancy for more than 1 year—
  - (i) if more than 5 years—7.5% of the average annual rental; or
  - (ii) if not more than 5 years—5% of the first year's rental; or
- (b) under a tenancy for not more than 1 year—
  - (i) if more than 3 weeks—1 week's rental; or
  - (ii) if more than 2 weeks and not more than 3 weeks—75% of 1 week's rental; or
  - (iii) if not more than 2 weeks—50% of 1 week's rental.

- (2) A licensee is not entitled to commission payable on the letting of a residential property under a tenancy for holiday purposes.

**3 Maximum commission on collection of rents of residential property**

- (1) The maximum commission payable on the collection of rents from residential property is—
- (a) for a tenancy for holiday purposes—
    - (i) if the tenancy is not more than 3 months—12% of the rent collected; or
    - (ii) if the tenancy is more than 3 months—9% of the rent collected; or
  - (b) for a tenancy for residential purposes—
    - (i) if commission has not been paid on the letting of the property under section 32—7.5% of the rental collected; or
    - (ii) if commission has been paid on the letting of the property under section 32—5% of the rent collected for the first year and 7.5% from then on.
- (2) In addition to the amount mentioned in subsection (1), if the licensee is required to arrange and supervise repairs and replacements for the property, the licensee is also entitled to the further amounts as agreed in writing between the parties.

**4 Maximum commission on building for removal**

The maximum commission payable on the sale of a building for removal is 10% of the purchase price.



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## Part 2 Rural land

### 5 Maximum commission on sale of freehold rural land

The maximum commission payable on the sale of freehold rural land is—

- (a) if the sale price is not more than \$18000—5% of the price; or
- (b) if the sale price is more than \$18000—
  - (i) \$900; and
  - (ii) 2.5% of the part of the price that is more than \$18000.

### 6 Maximum commission on sale of leasehold rural land

The maximum commission payable on the sale of leasehold rural land is—

- (a) if the sale price is not more than \$1000—10% of the price; or
- (b) if the sale price is more than \$1000—
  - (i) \$100; and
  - (ii) 5% of the part of the price that is more than \$1000 and not more than \$5000; and
  - (iii) 2.5% of the part of the price that is more than \$5000.

### 7 Maximum commission on letting of rural land

The maximum commission payable on the letting of rural land is—

- (a) if the rental is not more than \$200—10% of the first year's rental; or
- (b) if the rental is more than \$200—

- (i) \$20; and
- (ii) 5% of the part of the rental that is more than \$200.

## **8 Maximum commission on share farming**

The maximum commission payable for negotiating a share farming agreement is 1.5% of the amount an owner or lessor advises the licensee the share tenant would be likely to receive as the share tenant's share of the profits for 1 year from the commencement of the agreement based, if possible, on the profits received in a fair average season.

## **Part 3 Exchange of properties**

### **9 Maximum commission on exchange of properties**

- (1) This section applies to residential or rural property.
- (2) The maximum commission payable on an exchange of properties is the amount calculated using the rate prescribed for each property as if each property had been sold separately for the amount adopted by the commissioner of stamp duties as the value of each property respectively for the purposes of the *Duties Act 2001*.

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## Schedule 2      **Qualifications for particular licences and registration certificates**

sections 7 and 14

### 1A      **Definitions for sch 2**

In this schedule—

*National Quality Council* has the meaning given by the *Skilling Australia's Workforce Act 2005* (Cwlth), section 3.

*registered training organisation* see the *Vocational Education, Training and Employment Act 2000*, section 14.

### 1      **Resident letting agent**

The prescribed educational qualifications for a resident letting agent's licence are the successful completion at, or the assessment of competency by, a registered training organisation of—

- (a) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- PRDRE10A (Manage agency risk)
  - PRDRE18A (Lease property)
  - PRDRE19A (Provide property management services)
  - PRDRE28A (Maintain trust account)
  - PRDRE37A (Perform and record property management activities and transactions)
  - PRDRE39A (Prepare and execute documentation);  
or

- (b) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- BSBSBM406A (Manage finances)
  - CPPDSM4006A (Establish and manage agency trust accounts)
  - CPPDSM4007A (Identify legal and ethical requirements of property management to complete agency work)
  - CPPDSM4010A (Lease property)
  - CPPDSM4015A (Minimise agency and consumer risk)
  - CPPDSM4016A (Monitor and manage lease or tenancy agreement).

## **2 Real estate agent**

- (1) The prescribed educational qualifications for a real estate agent's licence are the successful completion at, or the assessment of competency by, a registered training organisation of—
- (a) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- PRDRE09A (Implement and monitor financial systems)
  - PRDRE10A (Manage agency risk)
  - PRDRE11A (Provide property appraisal)
  - PRDRE12A (Establish and expand client base)
  - PRDRE13A (Obtain property listings)
  - PRDRE14A (Market property)
  - PRDRE15A (Undertake property sale by private treaty)

- 
- PRDRE16A (Monitor sales process)
  - PRDRE18A (Lease property)
  - PRDRE19A (Provide property management services)
  - PRDRE22A (Present and explain property reports)
  - PRDRE26A (Conduct property sale by auction)
  - PRDRE28A (Maintain trust account)
  - PRDRE30A (Implement personal marketing plan)
  - PRDRE37A (Perform and record property management activities and transactions)
  - PRDRE39A (Prepare and execute documentation)
  - PRDPOD62A (Clarify and confirm property information requirements); or
- (b) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- BSBSBM406A (Manage finances)
  - CPPDSM4003A (Appraise property)
  - CPPDSM4005A (Establish and build client-agency relationships)
  - CPPDSM4006A (Establish and manage agency trust accounts)
  - CPPDSM4007A (Identify legal and ethical requirements of property management to complete agency work)
  - CPPDSM4008A (Identify legal and ethical requirements of property sales to complete agency work)
  - CPPDSM4009A (Interpret legislation to complete agency work)
  - CPPDSM4010A (Lease property)
  - CPPDSM4011A (List property for lease)

Schedule 2

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- CPPDSM4012A (List property for sale)
  - CPPDSM4013A (Market property for lease)
  - CPPDSM4014A (Market property for sale)
  - CPPDSM4015A (Minimise agency and consumer risk)
  - CPPDSM4016A (Monitor and manage lease or tenancy agreement)
  - CPPDSM4018A (Prepare and present property reports)
  - CPPDSM4019A (Prepare for auction and complete sale)
  - CPPDSM4022A (Sell and finalise the sale of property by private treaty)
  - CPPDSM4046A (Manage tenancy disputes)
  - CPPDSM4080A (Work in the real estate industry).
- (2) However, the prescribed educational qualifications for a limited real estate agent's licence (business letting) are the successful completion at, or the assessment of competency by, a registered training organisation of—
- (a) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- PRDRE13A (Obtain property listings)
  - PRDRE15A (Undertake property sale by private treaty)
  - PRDRE18A (Lease property)
  - PRDRE39A (Prepare and execute documentation);  
or
- (b) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- CPPDSM4010A (Lease property)

- 
- CPPDSM4011A (List property for lease)
  - CPPDSM4013A (Market property for lease)
  - CPPDSM4016A (Monitor and manage lease or tenancy agreement).
- (3) The prescribed educational qualifications for a limited real estate agent's licence (affordable housing) are the successful completion at, or the assessment of competency by, a registered training organisation of—
- (a) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- PRDRE28A (Maintain trust account)
  - PRDRE37A (Perform and record property management activities and transactions); or
- (b) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- CPPDSM3008A (Maintain and protect condition of managed properties)
  - CPPDSM4006A (Establish and manage agency trust accounts)
  - CPPDSM4016A (Monitor and manage lease or tenancy agreement).
- (4) The other prescribed qualification for a limited real estate agent's licence (affordable housing) is that the person is a director of an approved nonprofit corporation, or a person in charge of an approved nonprofit corporation's business at a place of business.
- (5) In this section—
- affordable housing rental scheme*** means a scheme, to provide affordable rental housing, that is approved by the chief executive of the department in which the *Housing Act 2003* is administered.

***approved nonprofit corporation*** means a nonprofit corporation that—

- (a) is a registered provider under the *Housing Act 2003*; and
- (b) provides a service consisting of letting and collecting rents under an affordable housing rental scheme.

***limited real estate agent's licence (affordable housing)*** means a real estate agent's licence that authorises the holder of the licence to perform only the following activities mentioned in section 128(1) of the Act under an affordable housing rental scheme—

- (a) to let places of residence;
- (b) to collect rents;
- (c) to negotiate for the letting of places of residence.

***limited real estate agent's licence (business letting)*** means a real estate agent's licence that authorises the holder of the licence to perform only the following activities mentioned in section 128(1) of the Act—

- (a) to let businesses or interests in businesses;
- (b) to collect rents;
- (c) to negotiate for the letting of businesses or interests in businesses.

### **3 Auctioneer**

The prescribed qualifications for an auctioneer's licence are—

- (a) the successful completion at, or the assessment of competency by, a registered training organisation of—
  - (i) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
    - PRDRE09A (Implement and monitor financial systems)
    - PRDRE14A (Market property)



- 
- PRDRE26A (Conduct property sale by auction) or PRDSSA24A (Conduct chattel auction/clearing sale)
  - PRDRE28A (Maintain trust account)
  - PRDRE39A (Prepare and execute documentation); or
- (ii) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- BSBSBM406A (Manage finances)
  - CPPDSM4004A (Conduct auction)
  - CPPDSM4006A (Establish and manage agency trust accounts)
  - CPPDSM4014A (Market property for sale)
  - CPPDSM4019A (Prepare for auction and complete sale) or CPPDSM4038A (Conduct goods, chattels or equipment clearing sale or auction); and
- (b) the conducting of 5 auctions when employed as a trainee auctioneer under the supervision of an auctioneer.

#### **4 Motor dealer**

- (1) The prescribed educational qualifications for a motor dealer's licence are the successful completion at, or the assessment of competency by, a registered training organisation of—
- (a) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR99 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- AUR38216A (Determine used motor vehicle stock requirements)
  - AUR41303A (Apply sales procedures)
  - AUR41769A (Sell product)

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- AUR41803A (Apply legal requirements relating to product sales)
  - AUR41903A (Apply relevant finance, leasing and insurance contracts/policies)
  - AUR44230A (Inspect and appraise used motor vehicles in preparation for purchase)
  - AUR44355A (Purchase used motor vehicles to supplement stock for sale)
  - AUR63238A (Manage complex customer issues)
  - AUR70125A (Follow workplace occupational health and safety procedures)
  - AUR70314A (Contribute to workplace communication)
  - AUR70421A (Establish relations with customer);  
or
- (b) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR05 approved under that repealed Act—
- AURS338216A (Determine used motor vehicle stock requirements)
  - AURS241303A (Apply sales procedures)
  - AURS241769A (Sell product(s))
  - AURS241803A (Apply legal requirements relating to product sales)
  - AURC341903A (Apply relevant finance, leasing and insurance contracts/policies)
  - AURS344330A (Inspect, appraise and purchase used motor vehicles to supplement stock for sale)
  - AURC463238A (Manage complex customer issues)
  - AURC270103A (Apply safe working practices)
  - AURC270789A (Communicate effectively in the workplace)

- 
- AURC270421A (Establish relations with customers).
- (2) However, if a motor dealer's licence authorises the holder of the licence to perform only the activities mentioned in section 279(1)(e) and (f) of the Act, the prescribed qualification is—
- (a) the successful completion at, or the assessment of competency by, a registered training organisation of—
- (i) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR99 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- AUR37927A (Identify automotive parts/components/accessories)
  - AUR41303A (Apply sales procedures)
  - AUR42403A (Apply legal requirements relating to automotive sales)
  - AUR44355A (Purchase used motor vehicles to supplement stock for sale)
  - AUR63238A (Manage complex customer issues)
  - AUR70125A (Follow workplace occupational health and safety procedures)
  - AUR70314A (Contribute to workplace communication)
  - AUR70421A (Establish relations with customer); or
- (ii) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR05 approved under that repealed Act—
- AURS238127A (Identify and select automotive parts and products)
  - AURS241303A (Apply sales procedures)

- AURV228603A (Apply legal requirements for vehicle dismantlers)
  - AURS344330A (Inspect, appraise and purchase used motor vehicles to supplement stock for sale)
  - AURC463238A (Manage complex customer issues)
  - AURC270103A (Apply safe working practices)
  - AURC270789A (Communicate effectively in the workplace)
  - AURC270421A (Establish relations with customers); or
- (b) until the end of 30 June 2007, 3 years experience as a registered motor salesperson; or
- (c) until the end of 30 June 2007, 3 years experience in an occupation likely to provide the person with knowledge relevant to motor vehicle parts.

*Example for paragraph (c)—*

panel beater, motor mechanic, spare parts salesperson

- (3) Also, if a motor dealer's licence authorises the holder of the licence to perform only the activities mentioned in section 279(1)(g) of the Act, no qualifications are prescribed.

## **5 Real estate salesperson**

The prescribed educational qualifications for registration as a real estate salesperson are the successful completion at, or the assessment of competency by, a registered training organisation of—

- (a) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- PRDRE13A (Obtain property listings)

- 
- PRDRE15A (Undertake property sale by private treaty)
  - PRDRE18A (Lease property)
  - PRDRE39A (Prepare and execute documentation);  
or
- (b) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- CPPDSM4008A (Identify legal and ethical requirements of property sales to complete agency work)
  - CPPDSM4009A (Interpret legislation to complete agency work)
  - CPPDSM4010A (Lease property)
  - CPPDSM4012A (List property for sale)
  - CPPDSM4015A (Minimise agency and consumer risk)
  - CPPDSM4022A (Sell and finalise the sale of property by private treaty)
  - CPPDSM4080A (Work in the real estate industry).

## 6 Trainee auctioneer

The prescribed educational qualifications for registration as a trainee auctioneer are the successful completion at, or the assessment of competency by, a registered training organisation of—

- (a) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- PRDRE14A (Market property)
  - PRDRE39A (Prepare and execute documentation);  
or

- (b) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- CPPDSM4004A (Conduct auction)
  - CPPDSM4014A (Market property for sale).

## **7 Property developer salesperson**

The prescribed educational qualifications for registration as a property developer salesperson are the successful completion at, or the assessment of competency by, a registered training organisation of—

- (a) the following units from the Property Development and Management Training Package—PRD01 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- PRDRE13A (Obtain property listings)
  - PRDRE15A (Undertake property sale by private treaty)
  - PRDRE18A (Lease property)
  - PRDRE39A (Prepare and execute documentation);  
or
- (b) the following units from the Property Services Training Package—CPP07 endorsed by the National Quality Council—
- CPPDSM4008A (Identify legal and ethical requirements of property sales to complete agency work)
  - CPPDSM4009A (Interpret legislation to complete agency work)
  - CPPDSM4010A (Lease property)
  - CPPDSM4012A (List property for sale)
  - CPPDSM4015A (Minimise agency and consumer risk)

- 
- CPPDSM4022A (Sell and finalise the sale of property by private treaty)
  - CPPDSM4080A (Work in the real estate industry).

## 8 Motor salesperson

- (1) The prescribed educational qualifications for registration as a motor salesperson are the successful completion at, or the assessment of competency by, a registered training organisation of—
- (a) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR99 approved under the repealed *Australian National Training Authority Act 1992* (Cwlth)—
- AUR41303A (Apply sales procedures)
  - AUR41803A (Apply legal requirements relating to product sales)
  - AUR41903A (Apply relevant finance, leasing and insurance contracts/policies)
  - AUR70125A (Follow workplace occupational health and safety procedures)
  - AUR70314A (Contribute to workplace communication)
  - AUR70421A (Establish relations with customer);  
or
- (b) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR05 approved under that repealed Act—
- AURS241303A (Apply sales procedures)
  - AURS241803A (Apply legal requirements relating to product sales)
  - AURC341903A (Apply relevant finance, leasing and insurance contracts/policies)
  - AURC270103A (Apply safe working practices)

Schedule 2

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- AURC270789A (Communicate effectively in the workplace)
  - AURC270421A (Establish relations with customers).
- (2) However, if a motor salesperson's registration certificate authorises the holder of the certificate to acquire used motor vehicles, whether or not as complete units, for sale as parts, the prescribed educational qualifications are the successful completion at, or the assessment of competency by, a registered training organisation of—
- (a) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR99 approved under that repealed Act—
- AUR37927A (Identify automotive parts/components/accessories)
  - AUR41303A (Apply sales procedures)
  - AUR42403A (Apply legal requirements relating to automotive sales)
  - AUR70125A (Follow workplace occupational health and safety procedures)
  - AUR70314A (Contribute to workplace communication)
  - AUR70421A (Establish relations with customer);  
or
- (b) the following units of competency from the Automotive Industry Retail, Service and Repair Training Package AUR05 approved under that repealed Act—
- AURS238127A (Identify and select automotive parts and products)
  - AURS241303A (Apply sales procedures)
  - AURV228603A (Apply legal requirements for vehicle dismantlers)
  - AURC270103A (Apply safe working practices)



- AURC270789A (Communicate effectively in the workplace)
  - AURC270421A (Establish relations with customers).
- (3) Also, if a motor salesperson's registration certificate authorises the holder of the certificate to perform only the activities mentioned in section 279(1)(g) of the Act, no qualifications are prescribed.

**Schedule 3      Financial institutions to which  
section 410 of the Act  
applies**

section 54A

Bank of Western Australia Ltd ACN 050 494 454

Elders Rural Bank Limited ACN 083 938 416

Heritage Building Society Limited ACN 087 652 024

Mackay Permanent Building Society Ltd ACN 087 652 033

The Rock Building Society Limited ACN 067 765 717

# Endnotes

## 1 Index to endnotes

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## 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 24 October 2008. Future amendments of the Property Agents and Motor Dealers Regulation 2001 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

## 3 Key

### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 July 2001	6 July 2001
1A	none	1 September 2001	7 September 2001

Reprint No.	Amendments included	Effective	Notes
1B	2002 SL No. 167	1 July 2002	
1C	2002 SL No. 297	8 November 2002	
1D	2002 SL No. 304	22 November 2002	
1E	2002 SL No. 327	6 December 2002	
1F	2002 SL No. 311	1 January 2003	
1G	2003 SL No. 54	1 April 2003	
1H rv	2003 SL No. 143	1 July 2003	
1I rv	2003 SL No. 292	21 November 2003	
1J rv	2003 SL No. 369	19 December 2003	
2	2004 SL No. 14	12 March 2004	
2A	2004 SL No. 103	1 July 2004	
2B	2004 SL No. 313	17 December 2004	
2C	2005 SL No. 135	1 July 2005	
2D	2005 SL No. 159	8 July 2005	
2E	—	19 December 2005	provs exp 18 December 2005
2F	2006 SL No. 162	1 July 2006	
2G	2006 SL No. 219	21 August 2006	R2G withdrawn, see R3
3	—	21 August 2006	
3A	2007 SL No. 149	1 July 2007	provs exp 30 June 2007
3B	2007 SL No. 193	10 August 2007	
3C	2008 SL No. 266	1 September 2008	
3D	2008 SL No. 354	24 October 2008	R3D withdrawn, see R4
4	—	24 October 2008	

## 5 List of legislation

### Property Agents and Motor Dealers Regulation 2001 SL No. 55

made by the Governor in Council on 24 May 2001

notfd gaz 25 May 2001 pp 334–6

ss 1–2 commenced on date of notification

ss 1, 2(2), 3, 5–8 of sch 2 commenced 1 September 2001 (see s 2(1))

remaining provisions commenced 1 July 2001 (see s 2(2))

exp 1 September 2011 (see SIA s 54)

Notes—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) A regulatory impact statement and explanatory note were prepared.

amending legislation—

**Tourism, Racing and Fair Trading (Fees) Amendment Regulation (No. 1) 2002 SL No. 167 ss 1, 2(1), 3 sch 1**

notfd gaz 28 June 2002 pp 876–83

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2002 (see s 2(1))

**Property Agents and Motor Dealers Amendment Regulation (No. 1) 2002 SL No. 297**

notfd gaz 8 November 2002 pp 857–8

commenced on date of notification

**Revenue and Other Legislation Amendment Regulation (No. 2) 2002 SL No. 304 ss 1, 10 sch**

notfd gaz 22 November 2002 pp 1018–21

commenced on date of notification

**Fair Trading (Fees) Amendment Regulation (No. 1) 2002 SL No. 311 pts 1, 4**

notfd gaz 22 November 2002 pp 1018–21

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2003 (see s 2)

Note—A regulatory impact statement and explanatory note were prepared.

**Property Agents and Motor Dealers (Tribunal) Regulation 2002 SL No. 327 pts 1, 3**

notfd gaz 6 December 2002 pp 1162–6

ss 1–2 commenced on date of notification

remaining provisions commenced 6 December 2002 (see s 2)

**Discrimination Law (Marital Status) Amendment Regulation (No. 1) 2003 SL No. 54 ss 1–3 sch**

notfd gaz 28 March 2003 pp 1125–9

ss 1–2 commenced on date of notification

remaining provisions commenced 1 April 2003 (see s 2)

**Tourism, Racing and Fair Trading (Fees) Amendment Regulation (No. 1) 2003 SL No. 143 ss 1–3 sch**

notfd gaz 27 June 2003 pp 749–56

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2003 (see s 2)

**Property Agents and Motor Dealers Amendment Regulation (No. 1) 2003 SL No. 292**

notfd gaz 21 November 2003 pp 963–4

commenced on date of notification

**Property Agents and Motor Dealers Amendment Regulation (No. 2) 2003 SL No. 369**

notfd gaz 19 December 2003 pp 1307–13

commenced on date of notification

**Property Agents and Motor Dealers and Other Legislation Amendment Regulation (No. 1) 2004 SL No. 14 pts 1–2**

notfd gaz 12 March 2004 pp 966–7  
commenced on date of notification

**Tourism, Fair Trading and Wine Industry Development (Fees) Amendment Regulation (No. 1) 2004 SL No. 103**

notfd gaz 25 June 2004 pp 573–81  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2004 (see s 2)

**Property Agents and Motor Dealers Amendment Regulation (No. 1) 2004 SL No. 313**

notfd gaz 17 December 2004 pp 1277–85  
commenced on date of notification

**Tourism, Fair Trading and Wine Industry Development (Fees) Amendment Regulation (No. 1) 2005 SL No. 135**

notfd gaz 24 June 2005 pp 639–45  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2005 (see s 2)

**Property Agents and Motor Dealers Amendment Regulation (No. 1) 2005 SL No. 159**

notfd gaz 8 July 2005 pp 837–8  
commenced on date of notification

**Tourism, Fair Trading and Wine Industry Development (Fees) Amendment Regulation (No. 1) 2006 SL No. 162**

notfd gaz 30 June 2006 pp 1060–7  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2006 (see s 2)

**Property Agents and Motor Dealers Amendment Regulation (No. 1) 2006 SL No. 219**

notfd gaz 18 August 2006 pp 1821–5  
ss 1–2 commenced on date of notification  
remaining provisions commenced 21 August 2006 (see s 2)

**Tourism, Fair Trading and Wine Industry Development (Fees) Amendment Regulation (No. 1) 2007 SL No. 149 ss 1, 2(2), 3 sch**

notfd gaz 29 June 2007 pp 1157–65  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2007 (see s 2(2))

**Property Agents and Motor Dealers Amendment Regulation (No. 1) 2007 SL No. 193**

notfd gaz 10 August 2007 pp 1901–2  
commenced on date of notification

**Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2008 SL No. 266**

notfd gaz 22 August 2008 pp 2651–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 September 2008 (see s 2)

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**Property Agents and Motor Dealers Amendment Regulation (No. 1) 2008 SL No. 354**  
notfd gaz 24 October 2008 pp 1086–9  
commenced on date of notification

## **6 List of annotations**

### **Applications for licence or registration—photograph**

**s 3** amd 2003 SL No. 54 s 3 sch

### **Fees**

**s 5** amd 2002 SL No. 327 s 7; 2007 SL No. 149 s 3 sch

### **Refund of licence issue fee**

**s 5A** ins 2006 SL No. 219 s 4

### **Refund of registration issue fee**

**s 5B** ins 2006 SL No. 219 s 4

### **Refund if licence surrendered or licence term shortened**

**s 5C** ins 2006 SL No. 219 s 4

### **Refund if registration certificate is surrendered**

**s 5D** ins 2006 SL No. 219 s 4

### **Fees that are not refundable**

**s 5E** ins 2006 SL No. 219 s 4

### **Commissions**

**s 6** amd 2007 SL No. 149 s 3 sch

### **Educational or other qualifications for licence—Act, ss 35, 36, 41 and 44**

**s 7** amd 2008 SL No. 354 s 3

## **PART 4—RESIDENT LETTING AGENTS, REAL ESTATE AGENTS AND PASTORAL HOUSES**

**pt hdg** amd 2008 SL No. 354 s 4

### **Appointment of resident letting agent, real estate agent or pastoral house**

**s 17 prov hdg** amd 2008 SL No. 354 s 5

### **Buyer's premium**

**s 19** amd 2003 SL No. 292 s 3

### **Unwarranted and restorable vehicles to be identified when offered for sale—auctioneers**

**s 21** sub 2006 SL No. 219 s 5

### **Unwarranted and restorable vehicles to be identified when offered for sale—motor dealers**

**s 21A** ins 2006 SL No. 219 s 5

### **Defects not covered by statutory warranty**

**s 22** amd 2006 SL No. 219 s 6

Endnotes

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**Auctioneer or motor dealer to give statement to buyer of vehicle**  
s 25            amd 2006 SL No. 219 s 7

**Notice to be given about used motor vehicle—no prior contract**  
s 27            om 2005 SL No. 159 s 3

**PART 7—ACCOUNTS, FUNDS AND RECORD KEEPING**

**Register**

s 40            amd 2006 SL No. 219 s 8

**Trust account receipt forms**

s 41            amd 2006 SL No. 219 s 9

**Dealing with trust account receipt forms**

s 42            amd 2006 SL No. 219 s 10

**Trust account deposit forms**

s 43            amd 2006 SL No. 219 s 11

**Trust account ledger—form**

s 49            amd 2006 SL No. 219 s 12

**Keeping computer system records**

s 52            sub 2003 SL No. 103 s 3 sch

**Transfer of trust accounts**

s 54            amd 2006 SL No. 219 s 13; 2008 SL No. 354 s 6

**Division 11—Agreements with financial institutions about keeping general trust accounts**

div 11 (s 54A) ins 2002 SL No. 297 s 3

**Limits on recovery from fund**

s 55            amd 2008 SL No. 354 s 7

**PART 10—TRANSITIONAL PROVISION**

pt 10 (s 59) ins 2004 SL No. 313 s 3

**SCHEDULE 1—FEES**

sch hdg        sub 2007 SL No. 149 s 3 sch

sch 1            amd 2002 SL No. 167 s 3 sch 1; 2002 SL No. 311 s 11; 2002 SL No. 327 s 8  
                  sub 2002 SL No. 311 s 11; 2003 SL No. 143 s 3 sch; 2003 SL No. 292 s 4;  
                  2004 SL No. 103 s 3 sch; 2005 SL No. 135 s 3 sch; 2006 SL No. 162 s 3  
                  sch; 2007 SL No. 149 s 3 sch  
                  amd 2007 SL No. 149 s 3 sch  
                  sub 2008 SL No. 266 s 3 sch

**SCHEDULE 1A—MAXIMUM COMMISSIONS**

sch hdg        ins 2007 SL No. 149 s 3 sch

**PART 1—RESIDENTIAL PROPERTY**

pt hdg        (prev sch 1, pt 2, div 1 hdg) sub 2002 SL No. 311 s 11  
                  renum and reloc 2007 SL No. 149 s 3 sch



**Maximum commission on purchase or sale of residential property**

**s 1** (prev sch 1, s 31) sub 2002 SL No. 311 s 11  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on letting of residential property**

**s 2** (prev sch 1, s 32) sub 2002 SL No. 311 s 11  
amd 2006 SL No. 219 s 14  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on collection of rents of residential property**

**s 3** (prev sch 1, s 33) sub 2002 SL No. 311 s 11  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on building for removal**

**s 4** (prev sch 1, s 34) sub 2002 SL No. 311 s 11  
renum and reloc 2007 SL No. 149 s 3 sch

**PART 2—RURAL LAND**

**pt hdg** (prev sch 1, pt 2, div 2 hdg) sub 2002 SL No. 311 s 11  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on sale of freehold rural land**

**s 5** (prev sch 1, s 35) sub 2002 SL No. 311 s 11  
amd 2004 SL No. 103 s 3 sch  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on sale of leasehold rural land**

**s 6** (prev sch 1, s 36) sub 2002 SL No. 311 s 11  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on letting of rural land**

**s 7** (prev sch 1, s 37 (orig s 38)) sub 2002 SL No. 311 s 11  
renum 2003 SL No. 292 s 4(3)  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on share farming**

**s 8** (prev sch 1, s 38 (orig s 39)) amd 2002 SL No. 304 s 10 sch  
sub 2002 SL No. 311 s 11  
renum 2003 SL No. 292 s 4(3)  
renum and reloc 2007 SL No. 149 s 3 sch

**PART 3—EXCHANGE OF PROPERTIES**

**pt hdg** (prev sch 1, pt 2, div 3 hdg) sub 2002 SL No. 311 s 11  
renum and reloc 2007 SL No. 149 s 3 sch

**Maximum commission on exchange of properties**

**s 9** (prev sch 1, s 39 (orig s 40)) sub 2002 SL No. 311 s 11  
renum 2003 SL No. 292 s 4(3)  
amd 2004 SL No. 103 s 3 sch  
renum and reloc 2007 SL No. 149 s 3 sch

**SCHEDULE 2—QUALIFICATIONS FOR PARTICULAR LICENCES AND  
REGISTRATION CERTIFICATES**

**Definitions for sch 2**

**prov hdg** sub 2008 SL No. 354 s 8(1)

**s 1A** ins 2003 SL No. 369 s 3

def “**National Quality Council**” ins 2008 SL No. 354 s 8(2)

def “**registered training organisation**” amd 2004 SL No. 103 s 3 sch

**Resident letting agent**

**s 1** amd 2003 SL No. 369 s 4

(2)–(3) exp 18 December 2005 (see s 1(3))

sub 2008 SL No. 354 s 8(3)

**Real estate agent**

**s 2** amd 2003 SL No. 369 s 5; 2004 SL No. 103 s 3 sch; 2004 SL No. 313 s 4

(1A), (2A), (3), (3B) and (4), defs “employment” and “relevant period” exp 18  
December 2005 (see s 2(3B))

amd 2008 SL No. 354 s 8(4)–(7)

**Auctioneer**

**s 3** amd 2003 SL No. 369 s 6

(2)–(3) exp 18 December 2005 (see s 3(3))

sub 2008 SL No. 354 s 8(8)

**Motor dealer**

**s 4** amd 2006 SL No. 219 s 15(1)–(4)

(4)–(5) exp 30 June 2007 (see s 4(4A))

**Real estate salesperson**

**s 5** amd 2003 SL No. 369 s 7

(2)–(3) exp 18 December 2005 (see s 5(3))

amd 2008 SL No. 354 s 8(9)

**Trainee auctioneer**

**s 6** amd 2003 SL No. 369 s 8

(2)–(3) exp 18 December 2005 (see s 6(3))

amd 2008 SL No. 354 s 8(10)

**Property developer salesperson**

**s 7** amd 2003 SL No. 369 s 9

(2)–(3) exp 18 December 2005 (see s 7(3))

amd 2008 SL No. 354 s 8(11)

**Motor salesperson**

**s 8** amd 2006 SL No. 219 s 15(5)–(6)

**SCHEDULE 3—FINANCIAL INSTITUTIONS TO WHICH SECTION 410 OF  
THE ACT APPLIES**

ins 2002 SL No. 297 s 4

sub 2007 SL No. 193 s 3