



Queensland

# Property Occupations Regulation 2014

## Subordinate Legislation 2014 No. 251

made under the

*Chemical Usage (Agricultural and Veterinary) Control Act 1988*

*Legal Profession Act 2007*

*Police Powers and Responsibilities Act 2000*

*Property Occupations Act 2014*

*Queensland Civil and Administrative Tribunal Act 2009*

*Stock Act 1915*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Property Occupations Regulation 2014*.

### **2 Commencement**

This regulation commences on 1 December 2014.

## **Part 2 Limited property agent licences**

### **3 Limited real estate agent licence (affordable housing)**

- (1) For section 28(1) of the Act, the activities that may be performed under a limited real estate agent's licence (affordable housing) are limited to the following activities performed under an affordable housing rental scheme—
  - (a) letting places of residence;
  - (b) collecting rents;
  - (c) negotiating for the letting of places of residence.
- (2) Only the following persons may hold a limited real estate agent's licence (affordable housing)—
  - (a) a person who is a director of an approved non-profit corporation;
  - (b) a person who is in charge of an approved non-profit corporation's business at its place of business.
- (3) Subsection (2) does not limit the requirements that must be met to obtain a limited real estate agent's licence (affordable housing).
- (4) In this section—

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***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 non-profit corporation*** means a non-profit 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.

#### **4 Limited real estate agent licence (business letting)**

For section 28(1) of the Act, the activities that may be performed under a limited real estate agent's licence (business letting) are limited to the following activities —

- (a) letting businesses or interests in businesses;
- (b) collecting rents;
- (c) negotiating for the letting of businesses or interests in businesses.

## **Part 3 General provisions about licensees or real estate salespersons**

#### **5 Prescribed changes in licensee's circumstances to be notified to chief executive**

For section 83 of the Act, each of the following is a prescribed change for a licensee—

- (a) a change in the licensee's—
  - (i) name; or
  - (ii) business name; or

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- (iii) business address; or
- (iv) email address; or
- (v) postal address; or
- (vi) business facsimile number; or
- (vii) telephone number;
- (b) a change of the person who is in charge of a licensee's place of business;
- (c) if the licensee is an individual, a change in the licensee's residential address;
- (d) if the licensee is a corporation, a change of an executive officer of the corporation;
- (e) the coming into existence of circumstances for the licensee that would, under section 34(1) or 35(1) or (2) of the Act, affect the licensee's suitability to hold a licence if the licensee were applying for the licence.

## **6 Prescribed changes in real estate salesperson's circumstances to be notified to chief executive**

For section 149 of the Act, each of the following is a prescribed change for a real estate salesperson—

- (a) a change in the salesperson's—
  - (i) name; or
  - (ii) email address; or
  - (iii) postal address; or
  - (iv) residential address; or
  - (v) telephone number;
- (b) the coming into existence of circumstances for the salesperson that would, under section 120(1) of the Act, affect the salesperson's suitability to hold a registration certificate if the salesperson were applying for registration.

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## 7 Buyer's premium

- (1) For section 92(2)(a)(ii) of the Act, the auctioneer must disclose the percentage of the buyer's premium payable on the purchase of goods at auction by—
  - (a) including the required statement for the goods in each written advertisement for the auction; and
  - (b) displaying the required statement for the goods in a way likely to be seen by each prospective bidder; and
  - (c) at the start of the auction—
    - (i) if bids may be made in person—announcing the required statement for the goods at the place where bidders may be present at the auction; and
    - (ii) if bids may be made online—displaying the required statement for the goods to each person who may bid online during the auction.
- (2) In this section—

*required statement*, for goods, means a statement that a buyer's premium of a stated percentage of the purchase price of the goods is payable on a successful bid for the purchase of the goods.

## 8 Large scale non-residential property transactions or holdings

- (1) The area prescribed for section 8(1)(a)(i), (1)(b)(i), (2)(a) and (3)(a) of the Act is 10,000m<sup>2</sup>.
- (2) The amount prescribed for section 8(1)(a)(ii), (1)(b)(ii), (2)(b) and (3)(b) of the Act is \$10,000,000.

## 9 Display and announcement of auctioneer's name

- (1) For section 95(2) of the Act, an auctioneer who conducts an auction must display at the auction the auctioneer's name—
  - (a) in a conspicuous position so it is clearly visible; and
  - (b) for the entire period of the auction.

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- (2) However, subsection (1) does not apply if the display of the auctioneer's name in the way stated in subsection (1) would be ineffective because—
- (a) the exposure of the place where the auction is held to the elements prevents the effective display; or
- Example—*  
a livestock auction conducted outdoors
- (b) the auctioneer needs to change location to conduct the auction, to the extent the display of the auctioneer's name would be ineffective without repositioning the name.
- Example—*  
an auction where it is necessary for the auctioneer to move from item to item, for example, an auction of large machinery items
- (3) If subsection (2) applies, the auctioneer must announce the auctioneer's name at the start of the auction.

## **10 Prescribed statement for listing—property agents**

The prescribed statement for section 214(5)(b) or 216(5)(b) of the Act is—

'This property is being sold by auction or without a price and therefore a price guide can not be provided. The website may have filtered the property into a price bracket for website functionality purposes.'

## **11 Auction contract book**

- (1) This section applies to real property placed by a person with an auctioneer for sale.
- (2) The auctioneer must keep at the auctioneer's registered office an auction contract book.

Maximum penalty—10 penalty units.



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

Maximum penalty—10 penalty units.

- (4) However, if the particulars mentioned in subsection (3) are contained in the appointment of the auctioneer under section 102 of the Act and the auctioneer keeps the appointment or a copy of it at the auctioneer's registered office, the auctioneer need not enter the particulars in the auction contract book.
- (5) The auctioneer must enter the following particulars in the auction contract book as soon as practicable after the auction—
- (a) the date of the auction of the property;
  - (b) the property's description;
  - (c) if the property is sold at auction—
    - (i) the price paid by the buyer; and
    - (ii) the buyer's name and address;
  - (d) if the property is not sold at auction—
    - (i) the amount of the highest bid at the auction; and
    - (ii) if known, the highest bidder's name and address.

Maximum penalty—10 penalty units.

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**12 Sale of goods, other than livestock, by auctioneers—Act, s 236(2)(d)**

- (1) This section applies if—
  - (a) a person places goods with an auctioneer for sale; or
  - (b) an auctioneer sells goods belonging to the auctioneer.
- (2) When the person places the goods with the auctioneer for sale, the auctioneer must enter in the auctioneer's auction store book—
  - (a) a description of the goods; and
  - (b) the details of any mark, number or other particular relied upon for the identification of the goods; and
  - (c) the reserve price, if any, for the goods for the auction; and
  - (d) for goods other than goods belonging to the auctioneer—
    - (i) the name and address of the seller or person who delivered the goods to the auctioneer; and
    - (ii) the date the goods were delivered to the auctioneer.

Maximum penalty—10 penalty units.

- (3) For subsection (2), the auctioneer may group the goods and enter them in the auctioneer's auction store book as 1 item if—
  - (a) the goods consist of articles; and
  - (b) the articles are delivered to the auctioneer by 1 person; and
  - (c) the lot value of the articles is not more than \$50.
- (4) Within 24 hours after selling the goods at auction, the auctioneer must enter in the auctioneer's auction sales book—
  - (a) the date of the auction; and
  - (b) a description of the goods; and
  - (c) the sale price paid for the goods at the auction; and

- (d) the name and address of the buyer of the goods; and
- (e) a cross-reference to the relevant entry for the goods in the auctioneer's auction store book.

Maximum penalty—10 penalty units.

- (5) The auctioneer must keep the following at the auctioneer's registered office—
  - (a) the auction store book;
  - (b) the auction sales book.

Maximum penalty—10 penalty units.

- (6) In this section—  
*goods* does not include livestock.

### **13 Sales of livestock by auctioneers—Act, s 236(2)(d)**

- (1) This section applies to a sale of livestock by auction by an auctioneer.
- (2) Before the auction, the auctioneer must—
  - (a) enter in the auctioneer's livestock auction book—
    - (i) a description of the livestock; and
    - (ii) the number of livestock; and
    - (iii) the name and address of the client for whom the auctioneer is selling the livestock; and
  - (b) if livestock is to be sold on other than a cash basis—obtain a written authority for the sale—
    - (i) signed by the client; and
    - (ii) stating 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.

Maximum penalty—10 penalty units.

- (3) At the start of the auction the auctioneer must—

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- (a) announce the name of the client for whom the auctioneer is selling the livestock to the bidders present at the auction; and
- (b) if the auction is being conducted online, display the name of the client for whom the auctioneer is selling the livestock to each person who may bid online during the auction.

Maximum penalty—10 penalty units.

- (4) After selling the livestock at auction, the auctioneer must, as soon as practicable, enter in the auctioneer's livestock auction book—
  - (a) the date of the auction of the livestock; and
  - (b) the buyer's name; and
  - (c) the price paid by the buyer.

Maximum penalty—10 penalty units.

- (5) The auctioneer must keep both of the following at the auctioneer's registered office—
  - (a) the auctioneer's livestock auction book;
  - (b) any written authority for the sale obtained under subsection (2)(b).

Maximum penalty—10 penalty units.

## **14 Form in which particular records may be kept**

For section 236(2)(d) of the Act, an auctioneer may keep any or all of the following records in hard copy or electronic form—

- (a) the auctioneer's auction contract book;
- (b) the auctioneer's auction sales book;
- (c) the auctioneer's auction store book;
- (d) the auctioneer's livestock auction book.

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## Part 4 Keeping documents

### 15 Keeping documents

- (1) This section applies subject to the *Evidence Act 1977*, section 111.
- (2) A principal licensee must keep each document the licensee is required to keep under the Act—
  - (a) in a secure, orderly and accessible way; and
  - (b) for at least 5 years.

Maximum penalty—10 penalty units.

### 16 Keeping documents in electronic form

- (1) This section applies if—
  - (a) a principal licensee is required to keep a document under the Act; and
  - (b) the document is stored in electronic form on a computer.
- (2) The principal licensee must ensure—
  - (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 principal licensee's registered office, or if the principal licensee has more than 1 place of business, is not the principal licensee's registered office or other place of business; and

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

Maximum penalty—10 penalty units.

## **Part 5                      Conduct standards**

### **Division 1                Conduct standards**

#### **17        Conduct standards**

This part provides conduct standards for licensees and real estate salespersons for section 235 of the Act.

### **Division 2                Property agents and real estate salespersons**

#### **18        Conflict of duty or interest**

- (1) A property agent must not accept an appointment to act, or continue to act, as a property agent for a client if doing so will place the agent's duty or interests in conflict with the client's interests.
- (2) A real estate salesperson must not act, or continue to act, as a real estate salesperson for a client if doing so will place the salesperson's duty or interests in conflict with the client's interests.

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**19 Finding out or verifying property ownership and description**

- (1) Before auctioning property, an auctioneer appointed to sell the property must take reasonable steps to find out or verify the ownership of the property and property description.
- (2) Before listing property for sale, lease or exchange, a real estate agent or real estate salesperson must take reasonable steps to find out or verify the ownership of the property and property description.

**20 Finding out or verifying facts material to the sale of property**

- (1) An auctioneer appointed to sell property must take reasonable steps to find out or verify the facts material to the sale that a prudent auctioneer would have found out or verified to avoid error, omission, exaggeration or misrepresentation.
- (2) The steps must be taken before the auctioneer auctions the property and afterwards as the occasion arises.
- (3) A real estate agent appointed to sell, purchase, exchange or lease property must take reasonable steps to find out or verify the facts material to the sale, purchase, exchange or lease that a prudent real estate agent would have found out or verified to avoid error, omission, exaggeration or misrepresentation.
- (4) The steps mentioned in subsection (3) must be taken before the agent lists the property and afterwards as the occasion arises.

**21 Prior appointment of another property agent**

- (1) Before accepting an appointment to act as a property agent for a client to perform a service, the property agent (the *new agent*) must take reasonable steps to find out whether the client has already appointed another property agent (an *existing agent*) to act as a property agent to perform the service.

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- (2) If the service mentioned in subsection (1) is to let lots or to collect rent for lots in a building complex, the new agent must also take reasonable steps to find out whether the client has already appointed a residential letting agent (also an *existing agent*) to let lots or to collect rent for lots in the complex.
- (3) The new agent must not solicit or accept the appointment if—
  - (a) the new agent knows, or should know, the appointment of an existing agent to perform the service is in force; and
  - (b) the client may have to pay the following if the client appoints the new agent to perform the service—
    - (i) a commission under each appointment;
    - (ii) damages for breach of contract under the existing agent's appointment.
- (4) However, subsection (3) does not apply if, before the client signs the new agent's appointment, the new agent gives the client a written statement that, if the client appoints the new agent to perform the service, the client may have to pay the following—
  - (a) a commission under each appointment;
  - (b) damages for breach of contract under the existing agent's appointment.

## **22 Property agent to act in accordance with client's instructions**

- (1) A property agent must act in accordance with a client's instructions unless it is contrary to this division or otherwise unlawful to do so.

*Examples—*

- 1 A property agent must not market, or advertise for sale, purchase, exchange or lease, property at a price, or on terms, different from the terms authorised by the client.
- 2 A real estate agent must not offer to sell, purchase, exchange or lease on behalf of a client a property on terms different from the terms authorised by the client.



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- (2) However, the price at which a property agent offers to sell or buy property must be in accordance with the client's written instructions.

## **Division 3                      Auctioneers—conducting auctions**

### **23            Registration of bidders and related obligations for auction**

- (1) For each auction an auctioneer conducts at the same place on the same day, the auctioneer must keep a register of each bidder (a *registered bidder*) registered under this section to bid at the auction.
- (2) The auctioneer must—
- (a) inform persons considering bidding in the auction that only bids from registered bidders will be accepted; and
  - (b) before accepting a bid—ensure the bidder is a registered bidder.
- (3) However, if a bidder has previously been registered by the auctioneer for the sale of property, the bidder's previous registration may be applied to 1 or more subsequent auctions conducted by the auctioneer.
- (4) The auctioneer may register a person as a bidder only if the person—
- (a) gives the auctioneer the person's name and address; and
  - (b) produces satisfactory evidence of the person's identity to the auctioneer; and
- Example for paragraph (b)—*
- a driver licence with the person's photo on it
- (c) gives the auctioneer the name and address of any other person for whom bids are intended to be made on instructions given by the other person by telephone.
- (5) The auctioneer must, if satisfied of the person's identity—

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- (a) assign a unique bidder identifier to the person; and
  - (b) record the person's name and address, and the unique bidder identifier assigned by the auctioneer to the person, in the register.
- (6) If the auction is for the sale of property or goods other than livestock, the auctioneer must ensure—
- (a) the unique bidder identifier assigned to the person can be easily used by the person to bid during the auction; and
- Example for paragraph (a)—*
- The auctioneer may give the person a card or other thing with the person's unique bidder identifier clearly shown on it.
- (b) the unique bidder identifier can be easily identified by the auctioneer when the person uses it to make a bid during the auction.
- (7) The auctioneer must keep the register for at least 5 years after the day of the last entry made in it.

## **24 Bids by seller**

- (1) This section applies in relation to a seller of property offered for sale by auction.
- (2) If the seller or seller's agent bids for the property when it is offered for sale, the auctioneer must disclose to the other bidders that the bid is made by the seller or seller's agent.
- (3) If the seller sets a reserve price for the property, the auctioneer must not accept a bid from the seller or seller's agent that is higher than the reserve price.

## **25 Disclosure of bidder identity**

- (1) An auctioneer must not disclose the identity of a bidder registered by the auctioneer under section 23 to anyone other than an inspector or a court.

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- (2) However, the auctioneer may disclose a bidder's identity to the seller of the property offered for sale, or the seller's agent, if the disclosure is necessary to—
- (a) enable the seller or seller's agent to negotiate with the bidder after the property has been passed in; or
  - (b) otherwise facilitate the sale of the property.

## Division 4 Resident letting agents

### 26 Conflict of duty or interest

- (1) A resident letting agent must not accept an appointment to act, or act, as a resident letting agent for a client if doing so will place the resident letting agent's duty or interests in conflict with the client's interests.

*Example of a conflict with the client's interest—*

the agent lets lots in a building complex for a client and the agent owns or has an interest in lots in the complex that the agent also lets

- (2) However, subsection (1) does not apply if the resident letting agent discloses the conflict to the client in writing before accepting the appointment or acting.

### 27 Prior appointment of another agent

- (1) Before accepting an appointment to let lots or to collect rents for lots in a building complex for a client, a resident letting agent (the *new agent*) must take reasonable steps to find out whether the client has already appointed another resident letting agent (an *existing agent*) or a real estate agent (also an *existing agent*) to let lots or to collect rents for lots in the complex.
- (2) The new agent must not solicit or accept the appointment if—
- (a) the new agent knows, or should know, that the appointment of an existing agent to let lots or to collect rents for lots in the building complex is in force; and

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- (b) the client may have to pay the following—
  - (i) a commission under each appointment;
  - (ii) damages for breach of contract under the existing agent's appointment.
- (3) However, subsection (2) does not apply if, before the client signs the new agent's appointment, the new agent gives the client a written statement that, if the client appoints the new agent, the client may have to pay the following—
  - (a) a commission under each appointment;
  - (b) damages for breach of contract under the existing agent's appointment.

## **28 Finding out or verifying property ownership and description**

Before a resident letting agent lets lots or collects rents for lots in a building complex, the agent must take reasonable steps to find out or verify the lot's ownership and property description.

## **29 Finding out or verifying facts material to letting lots or collecting rents**

- (1) A resident letting agent appointed to let lots or to collect rents for lots in a building complex must take reasonable steps to find out or verify the facts material to letting the lots or collecting the rents that a prudent resident letting agent would have found out or verified to avoid error, omission, exaggeration or misrepresentation.
- (2) The steps must be taken before the resident letting agent lets the lots or collects the rents and afterwards as the occasion arises.

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**30 Resident letting agent to act in accordance with client's instructions**

A resident letting agent must act in accordance with a client's instructions unless it is contrary to this division or otherwise unlawful to do so.

*Example—*

A resident letting agent must not market or advertise or offer to let lots in a building complex at a price or on terms different from the price or terms authorised by the client.

## **Part 6 Issuing or renewing licence for shorter term**

**31 Shorter term for additional licence—Act, s 80(2)**

- (1) Subsection (2) applies if—
  - (a) a person applies for 1 or more licences under the Act or an Agents Act; and
  - (b) the application has not been decided when the person applies for 1 or more additional licences under the Act; and
  - (c) an application mentioned in paragraph (a) or (b) is decided before the other applications are decided.
- (2) The chief executive may issue a licence for an application under the Act mentioned in subsection (1) for a shortened term, so that each licence mentioned in that subsection expires at the same time.
- (3) Subsection (4) applies if—
  - (a) a person holds a licence under the Act or an Agents Act; and
  - (b) the person applies for 1 or more additional licences under the Act (the *second licence*).

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- (4) The chief executive may issue the second licence for a shortened term, so that each licence mentioned in subsection (3) expires at the same time.

**32 Shorter term for renewal of licence—Act, s 80(2)**

- (1) This section applies if—
- (a) a person holds a licence under the Act or an Agents Act; and
  - (b) the person applies for renewal of 1 or more additional licences under the Act.
- (2) The chief executive may renew a licence mentioned in subsection (1)(b) for a shortened term, so that each licence mentioned in subsection (1) expires at the same time.

**33 Shorter term if holder of another licence carries on business with applicant—Act, s 80(2)**

- (1) Subsection (2) applies if—
- (a) a person applies for—
    - (i) 1 or more licences; or
    - (ii) the renewal of 1 or more licences; and
  - (b) another person who carries on business with the applicant holds a licence under the Act or an Agents Act.
- (2) The chief executive may issue or renew a licence mentioned in subsection (1)(a) for a shortened term, so that each licence mentioned in subsection (1) expires at the same time.

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## **Part 7                      Fees**

### **Division 1                Fees payable**

#### **34        Fees**

Subject to division 2, the fees payable under the Act are prescribed in schedule 1.

### **Division 2                Licences**

#### **35        Fee discount for multiple applications under the Act or an Agents Act**

- (1) This section applies if—
  - (a) a person's application for a licence has not been decided when the person applies for 1 or more additional licences under the Act or an Agents Act; or
  - (b) a person applies for a licence and, at the same time, applies for 1 or more additional licences under the Act or an Agents Act.
- (2) If—
  - (a) the licence issue fee for 1 or more of the licences mentioned in subsection (1) is higher than the licence issue fee for any of the other licences mentioned in that subsection; and
  - (b) 1 of the applications is accompanied by a single licence issue fee that is the highest of the licence issue fees for a licence mentioned in subsection (1);the licence issue fee for each of the other licences is \$0.
- (3) If the licence issue fee payable for each licence mentioned in subsection (1) is the same and 1 of the applications is accompanied by the licence issue fee, the licence issue fee for each of the other applications is \$0.

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- (4) If the applicant is a corporation, and 1 of the licence applications mentioned in subsection (1) is accompanied by an application fee, the application fee for each other application is \$0.
- (5) In this section—  
*application fee* includes an application fee for a licence under an Agents Act.  
*licence issue fee* includes a licence issue fee for a licence under an Agents Act.

**36 Fee discount for applicant holding 1 or more licences under the Act or an Agents Act**

- (1) This section applies if—
  - (a) a person holds 1 or more licences under the Act or an Agents Act; and
  - (b) the person applies for 1 or more additional licences under the Act.
- (2) The licence issue fee for each licence mentioned in subsection (1)(b) is \$0.
- (3) If the applicant is a corporation, the application fee for each application is \$0.

**37 Fee discount for renewal of 1 or more licences under the Act or an Agents Act**

- (1) This section applies if—
  - (a) a person holds a licence under the Act and 1 or more other licences under the Act or an Agents Act; and
  - (b) the person applies for renewal of 1 or more of the licences.
- (2) If—
  - (a) the licence renewal fee for 1 or more of the licences mentioned in subsection (1) is higher than the licence



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renewal fee for any of the other licences mentioned in that subsection; and

- (b) 1 of the applications is accompanied by a single licence renewal fee that is the highest of the licence renewal fees for a licence mentioned in that subsection;

the licence renewal fee for each of the other licences is \$0.

- (3) If the licence renewal fee payable for renewal of each licence mentioned in subsection (1) is the same and 1 of the renewal applications is accompanied by the licence renewal fee, the licence renewal fee for each of the other licences is \$0.

- (4) In this section—

*licence renewal fee* includes a licence renewal fee for a licence under an Agents Act.

### **38 Fee discount to hold auctioneer licence and chattel auctioneer licence**

- (1) This section applies if—

(a) a person applies for an auctioneer licence; and

(b) either—

(i) the person holds a chattel auctioneer licence; or

(ii) the person's application for a chattel auctioneer licence has not been decided when the person applies for the auctioneer licence.

- (2) The application fee and licence issue fee for the auctioneer licence application is \$0.

- (3) In this section—

*chattel auctioneer licence* means a chattel auctioneer licence issued under the *Motor Dealers and Chattel Auctioneers Act 2014*.

## **Division 3                      Refunds for licensees**

### **39            Withdrawn or refused licence application**

The licence issue fee paid in relation to an application for a licence must be refunded if—

- (a) the application is withdrawn; or
- (b) the chief executive refuses to issue the licence in relation to the application.

### **40            Surrendered licence**

- (1) This section applies if—
  - (a) the term of a licence is more than 1 year; and
  - (b) the licence is surrendered before the term expires.
- (2) However, this section does not apply if the person surrendering the licence—
  - (a) continues to hold, at the time of the surrender, 1 or more additional licences under the Act or an Agents Act; and
  - (b) received a discount under division 2 in relation to any of the licences.
- (3) For each whole year the surrendered licence is unexpired, an amount must be refunded that is equal to the licence renewal fee for 1 year that was payable by the person who held the licence when the fees for the licence were paid.

### **41            Shortened licence term**

- (1) This section applies if the chief executive issues or renews a licence for a shorter term under part 6.
- (2) For each whole month the term of the licence is shortened, an amount must be refunded that is equal to one-twelfth of the licence renewal fee for the licence for 1 year that was payable when the fees for the licence were paid.

(3) In this section—

***whole month*** means a month beginning on the day of the calendar month on which a licence was issued or renewed and ending on the day before the corresponding day of the next calendar month.

*Examples of a whole month—*

- for a licence issued on 1 September in a year—a month beginning on the first day of any month and ending on the last day of that month
- for a licence issued on 7 March in a year—a month beginning on the seventh day of any month and ending on the sixth day of the next month

## **Division 4                      Refunds for real estate salespersons**

### **42      Withdrawn or refused application for registration as real estate salesperson**

The registration issue fee paid in relation to an application for registration as a real estate salesperson must be refunded if—

- (a) the application is withdrawn; or
- (b) the chief executive refuses to issue a registration certificate in relation to the application.

### **43      Surrendered registration certificate**

(1) This section applies if—

- (a) the term of registration as a real estate salesperson is 3 years; and
- (b) the registration certificate for the registration is surrendered before the term expires.

(2) For each whole year the registration is unexpired, an amount must be refunded that is equal to the registration certificate

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renewal fee for 1 year that was payable when the fees for the term of registration were paid.

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

### **44            No refund payable in particular circumstances**

To remove any doubt, it is declared that—

- (a) no refund is payable for an application fee for—
  - (i) a licence; or
  - (ii) renewal of a licence; or
  - (iii) restoration of a licence; or
  - (iv) registration as a real estate salesperson; or
  - (v) renewal of a registration certificate; or
  - (vi) restoration of a registration certificate; and
- (b) no refund is payable for—
  - (i) a licence restoration fee; or
  - (ii) a registration restoration fee; or
  - (iii) the unexpired term of a deactivated licence; or
  - (iv) the period a licence or registration certificate—
    - (A) is suspended; or
    - (B) would have been in force apart from its cancellation.

## **Part 8    Transitional provisions**

*Note—*

See section 272 (Refund of fees paid under PAMDA) of the Act.

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**45 Refund for property developer licence issued under PAMDA**

- (1) This section applies to a person who immediately before the commencement of this section, held a property developer licence under PAMDA.
- (2) However, this section does not apply if—
  - (a) the person, on the commencement, continues to hold a licence under the Act or an Agents Act; and
  - (b) the person received a fee concession, in relation to 1 or more of the licences, under the repealed *Property Agents and Motor Dealers Regulation 2001*, section 4; and
  - (c) the concession resulted in no licence issue fee being payable for each of the licences.
- (3) The chief executive must refund to the person the amount worked out using the formula—

$$\frac{LF \times WM}{LM}$$

where—

*LF* means—

- (a) if the licence has been renewed—the licence renewal fee paid by the person when the licence was last renewed; or
- (b) if the licence has been restored—the licence renewal fee paid by the person when the licence was last restored; or
- (c) otherwise—the licence issue fee paid by the person for the licence.

*LM* means the number of months (including any part of a month) for which the licence was issued, renewed or restored.

*WM* means the number of whole months, as defined in section 41(3), before the expiry date for the licence had PAMDA not been repealed.

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**46 Refund for surrender of registration certificate as a property developer salesperson**

- (1) This section applies to a person who—
  - (a) immediately before the commencement of this section held a registration certificate as a property developer salesperson under PAMDA; and
  - (b) surrenders the certificate.
- (2) The chief executive must refund to the person the amount worked out using the formula—

$$\frac{RF \times WM}{RM}$$

where—

*RF* means—

- (a) if the registration certificate was renewed—the registration certificate renewal fee paid by the person when the registration certificate was last renewed; or
- (b) if the registration certificate was restored—the registration renewal fee paid by the person when the registration certificate was last restored; or
- (c) otherwise—the registration issue fee paid by the person for the registration certificate.

*RM* means the number of months (including any part of a month) for which the registration certificate was issued, renewed or restored.

*WM* means the number of whole months, as defined in section 41(3), before the expiry date for the registration certificate had PAMDA not been repealed.

**47 No refund for surrender of transitioned licence if multiple licences held under Act or Agents Act**

- (1) This section applies to a person if—

- (a) under section 239 of the Act, the person is taken to be the holder of a transitioned licence that is a licence under the Act; and
  - (b) the person surrenders the licence; and
  - (c) the person continues to hold, at the time of the surrender, another licence under the Act or an Agents Act; and
  - (d) the person received a fee concession in relation to 1 or more of the licences under the repealed *Property Agents and Motor Dealers Regulation 2001*, section 4; and
  - (e) the concession resulted in no licence issue fee being payable for each of the licences.
- (2) No refund is payable under section 40 to the person for the surrender.
- (3) In this section—  
*transitioned licence* see schedule 3 of the Act.

## Part 9                      Legislation amended

### 48      Legislation amended

Schedule 2 amends the legislation it mentions.

**Schedule 1      Fees**

section 34

**Part 1                      Fees relating to licences***Note —*

Under section 28 of the Act, a limited real estate agent's licence (affordable housing) and a limited real estate agent's licence (business letting) are both property agent licences. Accordingly, the fees relating to the licences are stated in this part.

**Division 1                      Issue of licence**

	<b>\$</b>
1    Application fee for a licence (Act, s 30(2)(a)) . . . . .	144.60
2    Licence issue fee (Act, s 30(2)(b))—	
(a) corporation—	
• for 1 year . . . . .	562.30
• for 3 years . . . . .	1130.00
(b) individual—	
(i) auctioneer—	
• for 1 year . . . . .	1098.00
• for 3 years . . . . .	2185.00
(ii) real estate agent—	
• for 1 year . . . . .	1098.00
• for 3 years . . . . .	2185.00
(iii) resident letting agent—	
• for 1 year . . . . .	1098.00
• for 3 years . . . . .	2185.00



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**Division 2                      Renewal of licence**

		\$
3	Application fee for renewal of a licence (Act, s 58(2)(d)(i)).....	73.90
4	Licence renewal fee for a licence, other than a deactivated licence mentioned in section 75(6) of the Act (Act, s 58(2)(d)(ii))—	
	(a) corporation—	
	• for 1 year .....	283.90
	• for 3 years .....	857.00
	(b) individual—	
	(i) auctioneer—	
	• for 1 year .....	557.00
	• for 3 years .....	1677.00
	(ii) real estate agent—	
	• for 1 year .....	557.00
	• for 3 years .....	1677.00
	(iii) resident letting agent—	
	• for 1 year .....	557.00
	• for 3 years .....	1677.00
5	Licence renewal fee for a deactivated licence (Act, ss 58(2)(d)(ii) and 75(6))—	
	(a) corporation—	
	• for 1 year .....	144.60
	• for 3 years .....	428.50
	(b) individual—	
	(i) auctioneer—	
	• for 1 year .....	278.50
	• for 3 years .....	835.60
	(ii) real estate agent—	
	• for 1 year .....	278.50
	• for 3 years .....	835.60

	\$
(iii) resident letting agent—	
• for 1 year .....	278.50
• for 3 years .....	835.60

### **Division 3                      Restoration of licence**

	\$
6    Application fee for restoration of a licence (Act, s 61(2)(e)(i)).....	73.90
7    Licence renewal fee for a licence, other than a deactivated licence mentioned in section 75(6) of the Act (Act, s 61(2)(e)(ii))—	
(a) corporation—	
• for 1 year .....	283.90
• for 3 years .....	857.00
(b) individual—	
(i) auctioneer—	
• for 1 year .....	557.00
• for 3 years .....	1677.00
(ii) real estate agent—	
• for 1 year .....	557.00
• for 3 years .....	1677.00
(iii) resident letting agent—	
• for 1 year .....	557.00
• for 3 years .....	1677.00
8    Licence renewal fee for a deactivated licence (Act, ss 61(2)(e)(ii) and 75(6))—	
(a) corporation—	
• for 1 year .....	144.60
• for 3 years .....	428.50
(b) individual—	

	\$
(i) auctioneer—	
• for 1 year .....	278.50
• for 3 years .....	835.60
(ii) real estate agent—	
• for 1 year .....	278.50
• for 3 years .....	835.60
(iii) resident letting agent—	
• for 1 year .....	278.50
• for 3 years .....	835.60
9 Licence restoration fee for a licence, other than a deactivated licence mentioned in section 75(6) of the Act (Act, s 61(2)(e)(iii)) .....	98.55
10 Licence restoration fee for a deactivated licence (Act, ss 61(2)(e)(iii) and 75(6)) .....	49.80

## **Division 4            Other acts relating to licence**

	\$
11 Application fee for the appointment, or the extension of the appointment, of a substitute licensee or real estate salesperson (Act, s 66(5)(c) or 67(5)(c)) .....	73.90
12 Application fee for amendment of condition of licence (Act, s 71(2)) .....	73.90
13 Fee for deactivation of licence (Act, s 75(2)) .....	73.90
14 Fee for reactivation of licence (Act, s 75(9)) .....	73.90
15 Fee for replacement of licence (Act, s 81(6)(b)) .....	37.45
16 Fee for replacement of licence other than under the Act, section 81 (Act, s 236(2)(a)) .....	37.45

**Division 5                      Licence register**

		\$
17	Fee to inspect the part of the licence register containing the particulars mentioned in section 82 of the Act (Act, s 82(3)). . . . .	15.00
18	Fee for a copy of details in that part of the licence register (Act, s 82(3)). . . . .	15.00

**Part 2                              Fees relating to registration as real estate salesperson**

**Division 1                      Issue of registration certificate**

		\$
19	Application fee for registration as a real estate salesperson (Act, s 117(2)(a)) . . . . .	87.85
20	Registration issue fee (Act, s 117(2)(b))—	
	• for 1 year . . . . .	203.50
	• for 3 years . . . . .	407.10

**Division 2                      Renewal of registration certificate**

		\$
21	Application fee for renewal of registration certificate (Act, s 130(2)(c)(i)) . . . . .	44.50
22	Registration certificate renewal fee (Act, s 130(2)(c)(ii))—	

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	\$
• for 1 year .....	101.70
• for 3 years .....	310.70

### **Division 3                      Restoration of registration certificate**

	\$
23 Application fee for restoration of registration certificate (Act, s 133(2)(d)(i)) .....	44.50
24 Registration renewal fee (Act, s 133(2)(d)(ii))—	
• for 1 year .....	101.70
• for 3 years .....	310.70
25 Registration restoration fee (Act, s 133(2)(d)(iii)) ....	17.70

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

	\$
26 Application fee for amendment of condition of registration certificate (Act, s 138(2)) .....	44.50
27 Fee for replacement of registration certificate (Act, s 147(6)(b)). .....	22.50

**Division 5                      Registration certificate register**

	\$
28 Fee to inspect the part of the registration certificate register mentioned in section 148(3) of the Act (Act, s 148(4)) . . . . .	15.00
29 Fee for a copy of details in that part of the registration certificate register (Act, s 148(4)) . . . . .	15.00

**Part 3                              Fees relating to register of undertakings**

	\$
30 Fee to inspect register of undertakings (Act, s 201(4)) .	15.00
31 Fee for a copy of details in register of undertakings (Act, s 201(4)) . . . . .	15.00

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## Schedule 2      Legislation amended

section 48

### Chemical Usage (Agricultural and Veterinary) Control Regulation 1999

**1      Section 15, definition *agent*—**

*omit, insert—*

*agent* means a chattel auctioneer under the *Motor Dealers and Chattel Auctioneers Act 2014* or an auctioneer under the *Property Occupations Act 2014* who has been appointed to sell livestock in connection with a real property auction.

### Legal Profession Regulation 2007

**1      Section 24, ‘PAMDA’—**

*omit, insert—*

POA

**2      Section 24(3), definition *interstate real estate agent*, ‘*Property Agents and Motor Dealers Act 2000*’—**

*omit, insert—*

*Property Occupations Act 2014*

## **Police Powers and Responsibilities Regulation 2012**

**1 Schedule 2, ‘Property Agents and Motor Dealers Act 2000’—**

*omit, insert—*

*Property Occupations Act 2014*

## **Queensland Civil and Administrative Tribunal Regulation 2009**

**1 Schedule 1, part 1, ‘Property Agents and Motor Dealers Act 2000, section 501’—**

*omit.*

**2 Schedule 1, part 1—**

*insert—*

*Agents Financial Administration Act 2014, section 45*

*Debt Collectors (Field Agents and Collection Agents) Act 2014, section 117*

*Motor Dealers and Chattel Auctioneers Act 2014, section 196*

*Property Occupations Act 2014, section 176*

**3 Schedule 1, part 2, ‘Property Agents and Motor Dealers Act 2000, section 483’—**

*omit.*

**4 Schedule 1, part 2—**

*insert—*

*Agents Financial Administration Act 2014, section 103*



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**5 Schedule 1, part 3, ‘Property Agents and Motor Dealers Act 2000, section 511(1)’—**

*omit.*

**6 Schedule 1, part 3—**

*insert—*

*Agents Financial Administration Act 2014, section 122(1)*

*Debt Collectors (Field Agents and Collection Agents) Act 2014, section 119(1)*

*Motor Dealers and Chattel Auctioneers Act 2014, section 198(1)*

*Property Occupations Act 2014, section 178(1)*

## **Queensland Civil and Administrative Tribunal Rules 2009**

**1 Section 117(1)(a), ‘Property Agents and Motor Dealers Act 2000’—**

*omit, insert—*

*Property Occupations Act 2014*

**2 Section 117(1)(a), ‘section 528A’—**

*omit, insert—*

section 182

## Stock (Cattle Tick) Notice 2005

### 1 Section 63(2)(a)(iii)—

*omit, insert—*

- (iii) a chattel auctioneer under the *Motor Dealers and Chattel Auctioneers Act 2014* or an auctioneer under the *Property Occupations Act 2014* who has been appointed to sell livestock in connection with a real property auction; or

## Stock Identification Regulation 2005

### 1 Schedule, definition *selling agent*—

*omit, insert—*

*selling agent* means a chattel auctioneer under the *Motor Dealers and Chattel Auctioneers Act 2014* or an auctioneer under the *Property Occupations Act 2014* who has been appointed to sell livestock in connection with a real property auction.

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#### ENDNOTES

- 1 Made by the Governor in Council on 30 October 2014.
- 2 Notified on the Queensland legislation website on 31 October 2014.
- 3 The administering agency is the Department of Justice and Attorney-General.