



Queensland

Debt Collectors (Field Agents and Collection Agents) Act 2014

Debt Collectors (Field Agents and Collection Agents) Regulation 2014

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Debt Collectors (Field Agents and Collection Agents) Regulation 2014

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Debt Collectors (Field Agents and Collection Agents) Regulation 2014

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Debt Collectors (Field Agents and Collection Agents) Regulation 2014*.

2 Commencement

This regulation commences on 1 December 2014.

Part 2 Application for licence or registration as subagent

3 Requirements for 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
 - (b) certified by a person who—
 - (i) is at least 18 years of age; and
 - (ii) has known the applicant for at least 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, on the back of the photograph—

5 Prescribed changes in subagent's circumstances to be notified to chief executive

For section 29 of the Act, each of the following is a prescribed change for a subagent—

- (a) a change in the subagent'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 subagent that would, under section 80 of the Act, affect the subagent's suitability for registration as a subagent if the subagent were applying for the registration.

6 Statements by field agents

- (1) This section applies to a field agent who repossesses a chattel that is subject to a bill of sale, chattel lease agreement or hire purchase agreement.
- (2) The field agent must—
 - (a) within 7 days after the repossession, sign 3 copies of a statement containing the following particulars—
 - (i) the principal field agent'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

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- (b) give a copy of the statement to the field 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 field agent's place of business or registered office.

Maximum penalty—10 penalty units.

- (3) For subsection (2)(c), the field 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
 - (b) is left in a conspicuous position at the person's place of residence or registered place of business last known to the field agent; or
 - (c) is sent by post to the person's place of residence or registered place of business last known to the field agent.
- (4) In this section—

registered place of business, for a person, means a place of business for the person for which a record is maintained by ASIC.

Part 4 Keeping documents

7 Keeping documents

- (1) This section is subject to the *Evidence Act 1977*, section 111.
- (2) A principal field agent must keep each document the agent 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.

8 Keeping documents in electronic form

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

9 Conduct standards

This part provides conduct standards for debt collectors in performing a regulated activity for section 39 of the Act.

10 Acting in accordance with client's instructions

A debt collector must act in accordance with a client's instructions unless it is contrary to this part or otherwise unlawful to do so.

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11 Conflict of duty or interest

- (1) A debt collector must not accept an appointment to act, or continue to act, as a debt collector for a client if doing so will place the debt collector's duty or interests in conflict with the client's interests.
- (2) However, subsection (1) does not apply if the debt collector discloses the conflict to the client in writing before accepting the appointment or continuing to act.

12 Finding out or verifying facts material to regulated activity

- (1) A debt collector appointed by a client to perform a regulated activity must take reasonable steps to find out or verify the facts material to the regulated activity that a prudent debt collector would have found out or verified to avoid error, omission, exaggeration or misrepresentation.
- (2) The steps must be taken at the time of appointment and afterwards as the occasion arises.

Part 6 Issuing or renewing licence for shorter term

13 Shorter term for additional licence—Act, s 74(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 under the Act for a shortened term, so that each of the licences mentioned in subsection (1) 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*).
- (4) The chief executive may issue the second licence for a shortened term, so that each of the licences mentioned in subsection (3) expires at the same time.

14 Shorter term for renewal of licence—Act, s 74(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 the licence being renewed for a shortened term, so that each of the licences mentioned in subsection (1) expires at the same time.

15 Shorter term if holder of another licence carries on business with applicant—Act, s 74(2)

- (1) Subsection (2) applies if—
 - (a) a person applies for—
 - (i) 1 or more licences; or
 - (ii) 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.

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- (2) The chief executive may issue or renew a licence mentioned in subsection (1)(a) for a shortened term, so that each of the licences mentioned in subsection (1) expires at the same time.

Part 7 Fees

Division 1 Fees payable

16 Fees

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

Division 2 Licences

17 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) the application 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 of the licences 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.
- (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.

18 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.
- (2) The licence issue fee for each of the licences mentioned in subsection (1)(b) is \$0.
- (3) If the applicant is a corporation, the application fee for each of the applications is \$0.

19 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

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- (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 renewal fee for any of the other licences mentioned in that subsection; and
 - (b) the application 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 of the licences 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.

Division 3 Refunds for field agents

20 Withdrawn or refused application

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

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

21 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 payable for the licence were paid.

22 Shortened licence term

- (1) This section applies if the chief executive issues or renews a licence for a shorter term under section 14(2).
- (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 subagents

23 Withdrawn or refused application for registration as subagent

The registration fee paid in relation to an application for registration as a subagent must be refunded to the applicant if—

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

24 Surrendered registration certificate

- (1) This section applies if—
 - (a) the term of registration as a subagent 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 renewal fee for 1 year that was payable when the fees payable for the term of registration were paid.

Division 5 Fees that are not refundable

25 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 subagent; 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 the *Property Occupations Act 2014*, section 272 (Refund of fees paid under PAMDA).

26 Refund if transitioned licence is surrendered

- (1) This section applies if, under the *Property Occupations Act 2014*, section 239, a person who is taken to be the holder of a transitioned licence that is a debt collector licence surrenders the licence.
- (2) However, this section does not apply if—
 - (a) the person continues to hold, at the time of the surrender, another licence under the Act or an Agents Act; and
 - (b) the person received a fee concession under the repealed *Property Agents and Motor Dealers Regulation 2001*, section 4 in relation to the transitioned licence and any existing licence; and

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- (c) the concession resulted in no licence issue fee being payable for the transitioned licence or any other of the existing 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 surrendered licence was renewed—the licence renewal fee paid by the person when the surrendered licence was last renewed; or
- (b) if the surrendered licence was restored—the licence renewal fee paid by the person when the surrendered licence was last restored; or
- (c) otherwise—the licence issue fee paid by the person for the surrendered licence.

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

WM means the number of whole months, as defined in section 22(3), before the expiry date for the surrendered licence.

- (4) In this section—

existing licence see the *Property Occupations Act 2014*, schedule 3.

transitioned licence see the *Property Occupations Act 2014*, schedule 3.

27 Refund if transitioned certificate is surrendered

- (1) This section applies if, under the *Property Occupations Act 2014*, section 240, a person who is taken to be the holder of a

transitioned certificate that is a debt collector subagent registration certificate 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 surrendered registration certificate was renewed—the registration certificate renewal fee paid by the person when the surrendered registration certificate was last renewed; or
- (b) if the surrendered registration certificate was restored—the registration renewal fee paid by the person when the surrendered registration certificate was last restored; or
- (c) otherwise—the registration issue fee paid by the person for the surrendered registration certificate.

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

WM means the number of whole months, as defined in section 22(3), before the expiry date for the transitioned certificate.

- (3) In this section—

existing registration certificate see the *Property Occupations Act 2014*, schedule 3.

transitioned certificate see the *Property Occupations Act 2014*, schedule 3.

Schedule 1 Fees

section 16

Part 1 Fees relating to licences

Division 1 Issue of licence

	\$
1 Application fee for a licence (Act, s 41(2)(a))	175.60
2 Licence issue fee (Act, s 41(2)(b))—	
(a) corporation—	
(i) for 1 year	683.10
(ii) for 3 years	1,373.00
(b) individual—	
(i) for 1 year	1,333.00
(ii) for 3 years	2,653.00

Division 2 Renewal of licence

	\$
3 Application fee for renewal of a licence (Act, s 54(2)(d)(i))	89.75
4 Licence renewal fee for a licence other than a deactivated licence (Act, s 54(2)(d)(ii))—	
(a) corporation—	

	\$
(i) for 1 year	344.80
(ii) for 3 years	1,041.00
(b) individual—	
(i) for 1 year	676.70
(ii) for 3 years	2,037.00
5 Licence renewal fee for a deactivated licence (Act, ss 54(2)(d)(ii) and 65(6))—	
(a) corporation—	
(i) for 1 year	175.60
(ii) for 3 years	520.60
(b) individual—	
(i) for 1 year	338.40
(ii) for 3 years	1,015.00

Division 3 Restoration of licence

	\$
6 Application fee for restoration of a licence (Act, s 57(2)(e)(i))	89.75
7 Licence renewal fee for a licence other than a deactivated licence (Act, s 57(2)(e)(ii))—	
(a) corporation—	
(i) for 1 year	344.80
(ii) for 3 years	1,041.00
(b) individual—	
(i) for 1 year	676.70

Schedule 1

	\$
(ii) for 3 years	2,037.00
8 Licence renewal fee for a deactivated licence (Act, ss 57(2)(e)(ii) and 65(6))—	
(a) corporation—	
(i) for 1 year	175.60
(ii) for 3 years	520.60
(b) individual—	
(i) for 1 year	338.40
(ii) for 3 years	1,015.00
9 Licence restoration fee for a licence other than a deactivated licence (Act, s 57(2)(e)(iii))	119.70
10 Licence restoration fee for a deactivated licence (Act, ss 57(2)(e)(iii) and 65(6))	60.50

Division 4 Other acts relating to licence

	\$
11 Application fee for amendment of the conditions of a licence (Act, s 61(2))	89.75
12 Fee for deactivation of a licence (Act, s 65(2))	89.75
13 Fee for reactivation of a licence (Act, s 66(3))	89.75
14 Application fee for the appointment or the extension of the appointment of a substitute (Act, s 69(6)(c))	89.75
15 Fee for replacement of a licence (Act, s 75(6)(b))	45.45

Division 5 Licence register

	\$
16 Fee to inspect the part of the licence register containing the particulars mentioned in section 76(2) of the Act (Act, s 76(3))	18.25
17 Fee for a copy of details in that part of the licence register (Act, s 76(3))	18.25

Part 2 Fees relating to registration as subagent

Division 1 Issue of registration certificate

	\$
18 Application fee for registration as a subagent (Act, s 78(2)(a))	106.80
19 Registration fee (Act, s 78(2)(b))—	
(a) for 1 year	247.20
(b) for 3 years	494.70

Division 2 Renewal of registration certificate

	\$
20 Application fee for renewal of registration as a subagent (Act, s 85(2)(c)(i))	54.05

Schedule 1

	\$
21 Registration renewal fee (Act, s 85(2)(c)(ii))—	
(a) for 1 year	123.70
(b) for 3 years	377.60

Division 3 Restoration of registration certificate

	\$
22 Application fee for restoration of registration as a subagent (Act, s 88(2)(d)(i))	54.05
23 Registration renewal fee (Act, s 88(2)(d)(ii))—	
(a) for 1 year	123.70
(b) for 3 years	377.60
24 Registration restoration fee (Act, s 88(2)(d)(iii))	21.45

Division 4 Other acts relating to registration certificate

	\$
25 Application fee for amendment of the conditions of registration as a subagent (Act, s 92(2))	54.05
26 Fee for replacement of a registration certificate (Act, s 100(6)(b))	27.35

Division 5 Registration register

	\$
27 Fee to inspect the part of the registration register containing the particulars mentioned in section 101(2) of the Act (Act, s 101(3))	18.25
28 Fee for a copy of details in that part of the registration register (Act, s 101(3))	18.25

Part 3 Fees relating to register of undertakings

	\$
29 Fee to inspect the register of undertakings (Act, s 132(3))	18.25
30 Fee for a copy of details in the register of undertakings (Act, s 132(3))	18.25