



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—



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## **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.



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## **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

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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))	165.90
2    Licence issue fee (Act, s 41(2)(b))—	
(a) corporation—	
• for 1 year	645.30
• for 3 years	1,297.00
(b) individual—	
• for 1 year	1,260.00
• for 3 years	2,507.00

**Division 2                  Renewal of licence**

	\$
3    Application fee for renewal of a licence (Act, s 54(2)(d)(i))	84.80
4    Licence renewal fee for a licence, other than a deactivated licence mentioned in section 65(6) of the Act (Act, s 54(2)(d)(ii))—	
(a) corporation—	

	\$
• for 1 year	325.70
• for 3 years	983.50
(b) individual—	
• for 1 year	639.20
• for 3 years	1,925.00
5 Licence renewal fee for a deactivated licence mentioned in section 65(6) of the Act (Act, s 54(2)(d)(ii))—	
(a) corporation—	
• for 1 year	165.90
• for 3 years	491.70
(b) individual—	
• for 1 year	319.60
• for 3 years	958.90

### Division 3 Restoration of licence

	\$
6 Application fee for restoration of a licence (Act, s 57(2)(e)(i))	84.80
7 Licence renewal fee for a licence, other than a deactivated licence mentioned in section 65(6) of the Act (Act, s 57(2)(e)(ii))—	
(a) corporation—	
• for 1 year	325.70
• for 3 years	983.50
(b) individual—	
• for 1 year	639.20

## Schedule 1

	\$
<ul style="list-style-type: none"> <li>• for 3 years</li> </ul>	1,925.00
8 Licence renewal fee for a deactivated licence mentioned in section 65(6) of the Act (Act, s 57(2)(e)(ii)—	
(a) corporation—	
• for 1 year	165.90
• for 3 years	491.70
(b) individual—	
• for 1 year	319.60
• for 3 years	958.90
9 Licence restoration fee for a licence, other than a deactivated licence mentioned in section 65(6) of the Act (Act, s 57(2)(e)(iii))	113.10
10 Licence restoration fee for a deactivated licence mentioned in section 65(6) of the Act (Act, s 57(2)(e)(iii))	57.15

## Division 4                      Other acts relating to licence

	\$
11 Application fee for amendment of the conditions of a licence (Act, s 61(2))	84.80
12 Fee for deactivation of a licence (Act, s 65(2))	84.80
13 Fee for reactivation of a licence (Act, s 66(3))	84.80
14 Application fee for the appointment or the extension of the appointment of a substitute (Act, s 69(6)(c))	84.80
15 Fee for replacement of a licence (Act, s 75(6)(b))	42.95

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## **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))	17.25
17 Fee for a copy of details in that part of the licence register (Act, s 76(3))	17.25

## **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))	100.80
19 Registration fee (Act, s 78(2)(b))—	
• for 1 year	233.50
• for 3 years	467.30

### **Division 2                      Renewal of registration certificate**

	\$
20 Application fee for renewal of registration as a subagent (Act, s 85(2)(c)(i))	51.05

## Schedule 1

	\$
21 Registration renewal fee (Act, s 85(2)(c)(ii))—	
• for 1 year	116.80
• for 3 years	356.70

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

	\$
22 Application fee for restoration of registration as a subagent (Act, s 88(2)(d)(i))	51.05
23 Registration renewal fee (Act, s 88(2)(d)(ii))—	
• for 1 year	116.80
• for 3 years	356.70
24 Registration restoration fee (Act, s 88(2)(d)(iii))	20.30

### **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))	51.05
26 Fee for replacement of a registration certificate (Act, s 100(6)(b))	25.80



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**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))	17.25
28 Fee for a copy of details in that part of the registration register (Act, s 101(3))	17.25

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

	\$
29 Fee to inspect the register of undertakings (Act, s 132(3))	17.25
30 Fee for a copy of details in the register of undertakings (Act, s 132(3))	17.25