



Australian Capital Territory

Agents Act 2003

A2003-20

Republication No 37

Effective: 1 July 2022 – 9 December 2022

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Last amendment made by [A2022-8](#)

About this republication

The republished law

This is a republication of the *Agents Act 2003* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 July 2022. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 July 2022.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



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Australian Capital Territory

Agents Act 2003

An Act to regulate agents, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Agents Act 2003*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act or in other legislation.

For example, the signpost definition ‘*executive officer*—see the [Corporations Act](#), section 9.’ means that the term ‘executive officer’ is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

6 Application of Act

This Act does not apply to the following:

- (a) an executor under a will or an administrator under letters of administration;
- (b) a trustee of a deceased estate;
- (c) the public trustee and guardian;
- (d) a trustee company under the [Trustee Companies Act 1947](#) exercising functions under that Act;
- (e) an administrator, a receiver or a liquidator under the [Corporations Act](#);
- (f) a manager under the [Guardianship and Management of Property Act 1991](#);
- (g) a bailiff;
- (h) a sheriff;
- (i) another court officer;

- (j) a lawyer exercising the functions of a lawyer;
- (k) a Minister;
- (l) an entity prescribed by regulation.

Part 2 Key concepts

7 Meaning of *fair trading legislation*

In this Act:

fair trading legislation—see the *Fair Trading (Australian Consumer Law) Act 1992*, dictionary.

Note This Act forms part of the fair trading legislation. Other fair trading legislation includes the *Fair Trading (Australian Consumer Law) Act 1992*, the *Australian Consumer Law (ACT)* and the *Security Industry Act 2003*. As part of the fair trading legislation, this Act is subject to various provisions of the *Fair Trading (Australian Consumer Law) Act 1992* about the administration and enforcement of the fair trading legislation generally.

7A Meaning of *licensed property agent*

In this Act:

licensed property agent means—

- (a) a licensed business agent; or
- (b) a licensed real estate agent; or
- (c) a licensed stock and station agent.

8 Carrying on business as real estate agent

- (1) A person *carries on business as a real estate agent* if the person provides, or offers to provide, a real estate agent service for a principal for reward.
- (2) Each of the following is a *real estate agent service*:
 - (a) buying, selling (other than by auction), exchanging, leasing, assigning or otherwise disposing of land;

- (b) negotiating with, or inducing or attempting to induce, a person to—
 - (i) buy, sell, exchange, lease, assign or otherwise dispose of land; or
 - (ii) enter into, or make or accept an offer to enter into, a contract to buy, sell, exchange, lease, assign or otherwise dispose of land;
 - (c) collecting payments under a lease;
 - (d) managing property under a lease;
 - (e) collecting payments under a mortgage of land or payments under a terms contract for land;
 - (f) acting as manager of an owners corporation for a units plan;
 - (g) any other service prescribed by regulation for this section.
- (3) To remove any doubt, a person does not carry on business as a real estate agent only because the person carries on business as a stock and station agent.

8A People not taken to carry on business as real estate agent

The following people do not carry on business as a real estate agent, and need not be licensed, only because they act as manager of an owners corporation for a units plan:

- (a) a member of the owners corporation appointed as treasurer of the corporation;
- (b) a member of the owners corporation appointed as manager of the corporation;
- (c) a person who manages only 1 owners corporation and whose income from the owners corporation is not the person's primary source of income.

9 Carrying on business as stock and station agent

- (1) A person *carries on business as a stock and station agent* if the person provides, or offers to provide, a stock and station agent service for a principal for reward.
- (2) Each of the following is a *stock and station agent service*:
 - (a) buying, selling (other than by auction), exchanging, leasing, assigning or otherwise disposing of rural land;
 - (b) negotiating with, or inducing or attempting to induce, a person to—
 - (i) buy, sell, exchange, lease, assign or otherwise dispose of rural land; or
 - (ii) enter into, or make or accept an offer to enter into, a contract to buy, sell, exchange, lease, assign or otherwise dispose of rural land;
 - (c) introducing a buyer or lessee of rural land to another licensed agent or to the owner, or an agent of the owner, of rural land;
 - (d) collecting payments under a lease of rural land;
 - (e) managing rural property under a lease;
 - (f) buying, selling (including by auction) or otherwise disposing of livestock;
 - (g) negotiating with , or inducing or attempting to induce, a person to—
 - (i) buy, sell, auction, exchange or otherwise dispose of livestock; or
 - (ii) enter into, or make or accept an offer to enter into, a contract to buy, sell, auction, exchange or otherwise dispose of livestock;

- (h) providing agistment for livestock or collecting fees for the agistment of livestock;
 - (i) any other service prescribed by regulation for this section.
- (3) In this section:
- lessee* includes prospective lessee.
- livestock* means animals raised or kept for profit.

10 Carrying on business as business agent

- (1) A person *carries on business as a business agent* if the person provides, or offers to provide, a business agent service for a principal for reward.
- (2) Each of the following is a *business agent service*:
 - (a) buying, selling, exchanging, disposing of, or otherwise dealing with, a business or professional practice or a share or interest in the goodwill or stock of a business or professional practice;
 - (b) negotiating for the purchase, sale, exchange, disposition of, or other dealing with, a business or professional practice or any share or interest in the goodwill or stock of a business or professional practice;
 - (c) any other service prescribed by regulation for this section.
- (3) To remove any doubt, a person does not carry on business as a business agent only because the person carries on business as a stock and station agent.

11 Carrying on business as land auctioneer

- (1) A person *carries on business as a land auctioneer* if the person provides, or offers to provide, a land auctioneer service for a principal.
- (2) Each of the following is a *land auctioneer service*:
 - (a) acting as an auctioneer of land, including rural land;
 - (b) any other service prescribed by regulation for this section.

12 Carrying on business as employment agent

- (1) A person *carries on business as an employment agent* if the person provides, or offers to provide, an employment agent service for a principal for reward.
- (2) Each of the following is an *employment agent service*:
 - (a) finding, or helping to find, a person to carry out work for a principal;
 - (b) any other service prescribed by regulation for this section.
- (3) For subsection (2), it does not matter whether the work or employment—
 - (a) is to be carried out under a contract of employment or otherwise;
or
 - (b) is to be carried out in or outside the ACT.

13 Employees not taken to carry on business as agents

For this Act, a person who is an employee of somebody else does not carry on business as an agent only because the person, in the course of employment by the other person, performs any of the following services:

- (a) a real estate agent service;
- (b) a stock and station agent service;

- (c) a business agent service;
- (d) an employment agent service.

14 Silent partners not taken to carry on business as agents

For this Act, a person does not carry on business as an agent only because the person is a member of a partnership that carries on the business.

15 Publishers of advertisements not agents

For this Act, a person does not carry on business as an agent only because the person publishes, on behalf of somebody else, an advertisement about—

- (a) a business carried on, or to be carried on, by the other person; or
- (b) a service provided, or to be provided, by the other person.

Part 3 Licensing of agents

Division 3.1 Agents to be licensed

16 Application—div 3.1

This division does not apply to an administrator appointed under section 139.

17 Meaning of *licensed*—div 3.1

In this division:

licensed, in relation to an agent, does not include an agent whose licence is suspended.

18 Real estate agents must be licensed

- (1) A person commits an offence if—
 - (a) the person is not a licensed real estate agent; and
 - (b) the person—
 - (i) carries on business as a real estate agent; or
 - (ii) pretends to be a licensed real estate agent.

Maximum penalty: 100 penalty units, imprisonment for 12 months or both.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the provision of a service by a person if the person is otherwise licensed to provide the service.

19 Stock and station agents must be licensed

- (1) A person commits an offence if—
 - (a) the person is not a licensed stock and station agent; and
 - (b) the person—
 - (i) carries on business as a stock and station agent; or
 - (ii) pretends to be a licensed stock and station agent.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the provision of a service by a person if the person is otherwise licensed to provide the service.

20 Business agents must be licensed

- (1) A person commits an offence if—
 - (a) the person is not a licensed business agent; and
 - (b) the person—
 - (i) carries on business as a business agent; or
 - (ii) pretends to be a licensed business agent.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the provision of a service by a person if the person is otherwise licensed to provide the service.

21 Land auctioneers must be licensed

- (1) A person commits an offence if—
- (a) the person is not a licensed land auctioneer; and
 - (b) the person—
 - (i) carries on business as a land auctioneer; or
 - (ii) pretends to be a licensed land auctioneer.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) (b) (i) does not apply if the person elects, or is taken, to be 1 or more of the following licensed property agents under section 229, section 230 or section 231:
- (a) a class 1 licensed real estate agent;
 - (b) a class 1 licensed stock and station agent;
 - (c) a class 2 licensed real estate agent;
 - (d) a class 2 licensed stock and station agent.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) An offence against this section is a strict liability offence.
- (4) Subsection (2) and this subsection expire on 30 June 2024.

22 Employment agents must be licensed

- (1) A person commits an offence if—
- (a) the person is not a licensed employment agent; and
 - (b) the person—
 - (i) carries on business as an employment agent; or

- (ii) pretends to be a licensed employment agent.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) An offence against this section is a strict liability offence.

23 Unlicensed agents cannot recover fees etc

A person is not entitled to bring a proceeding to recover a commission, fee or reward for a service provided by the person as an agent if the person was not licensed to provide the service when the service was provided.

23A Classes of property agent licence

A property agent licence may be a class 1 or class 2 licence.

Note The qualifications and experience needed for each class of property agent licence are declared under s 25.

23B Property agents must have correct class of licence

- (1) A person commits an offence if the person—
- (a) is not a class 1 licensed agent of a particular kind; and
 - (b) pretends to be a class 1 licensed agent of that kind.

Maximum penalty: 100 penalty units.

Example

A person is not a class 1 licensed real estate agent but pretends to be a class 1 licensed real estate agent.

- (2) A person commits an offence if—
- (a) the person is not a class 2 licensed agent of a particular kind; and
 - (b) pretends to be a class 2 licensed agent of that kind.

Maximum penalty: 100 penalty units.

- (3) An offence against this section is a strict liability offence.

(4) In this section:

class 1 licensed agent, of a particular kind, means a person who holds a class 1 licence to carry on business as one of the following agents:

- (a) a business agent;
- (b) a real estate agent;
- (c) a stock and station agent.

class 2 licensed agent, of a particular kind, means a person who holds a class 2 licence to carry on business as one of the following agents:

- (a) a business agent;
- (b) a real estate agent;
- (c) a stock and station agent.

Division 3.2 Eligibility, qualifications and disqualification—agents

24 Eligibility for licences

- (1) An individual is eligible to be licensed as an agent if the commissioner for fair trading is satisfied that the individual—
 - (a) is an adult; and
 - (b) has the qualifications required under section 25 for—
 - (i) the kind of licence; and
 - (ii) for a property agent licence—the class of licence; and
 - (c) has the experience required under section 25 for—
 - (i) the kind of licence; and
 - (ii) for a property agent licence—the class of licence; and

- (d) is not disqualified under section 27 (People disqualified from being licensed) or section 51 (People disqualified from being registered).
- (2) For subsection (1) (b), the commissioner for fair trading may decide that a higher qualification, equivalent qualification or substantially equivalent qualification meets the qualifications required under section 25 for—
 - (a) the kind of licence; and
 - (b) for a property agent licence—the class of licence.
- (3) A person in a partnership is eligible to be licensed as an agent if the commissioner for fair trading is satisfied that—
 - (a) the person is eligible to be licensed as an agent under subsection (1); and
 - (b) no person in the partnership is disqualified under section 27 or section 51.
- (4) A corporation is eligible to be licensed as an agent if—
 - (a) the commissioner for fair trading is satisfied that no director of the corporation is disqualified from being licensed as an agent under section 27; and
 - (b) at least 1 director of the corporation holds a licence of the same kind.
- (5) To remove any doubt, a regulation may provide that a person may be issued with an agents licence with stated conditions if the person does not have stated qualifications.

25 Qualifications and experience for licences

- (1) The commissioner for fair trading may declare the qualifications and experience required for—
 - (a) a licence, or renewal of a licence, for an agent; and
 - (b) each class of property agent licence.
- (2) A declaration is a disallowable instrument.
- (3) A declaration may apply, adopt or incorporate a law of another jurisdiction or instrument as in force from time to time.
- (4) The [Legislation Act](#), section 47 (5) or (6) does not apply in relation to the law of another jurisdiction or instrument applied, adopted or incorporated under a declaration.

Note Laws of another jurisdiction and instruments mentioned in s (4) do not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) does not apply (see [Legislation Act](#), s 47 (7)).

- (5) In this section:
law of another jurisdiction—see the [Legislation Act](#), section 47 (10).

27 People disqualified from being licensed

- (1) A person is disqualified from being licensed as an agent if the person—
 - (a) for a licence other than a real estate agent’s licence—has been convicted of an ACT dishonesty offence or a non-ACT offence that is similar in nature to an ACT dishonesty offence; or
- Note* A conviction does not include a spent conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i)).
- (b) for a real estate agent’s licence—is found unsuitable to be licensed under section 27A; or
 - (c) is bankrupt or, at any time in the last 3 years—
 - (i) has been bankrupt; or

- (ii) has executed a personal insolvency agreement; or
- (d) at any time in the last 3 years was involved in the management of a corporation when—
 - (i) the corporation became the subject of a winding-up order; or
 - (ii) a controller or administrator was appointed; or
- (e) has a mental incapacity that may affect the exercise of the person’s functions as licensee; or
- (f) is licensed and has contravened, or is contravening, an order of the ACAT;
- (g) holds a licence that is suspended;
- (h) is disqualified by the ACAT from being licensed or registered; or
- (i) is disqualified under a corresponding law from holding an authority (however described) to be an agent or be an employee of an agent; or
- (j) holds an authority (however described) under a corresponding law to be an agent or be an employee of an agent that is suspended; or
- (k) is in partnership with a person disqualified from being licensed or registered; or
- (l) is a corporation that is the subject of a winding-up order; or
- (m) is a corporation for which a controller or administrator has been appointed; or
- (n) is a licensed agent who is applying for a licence or the renewal of a licence and has contravened, or is contravening, a condition of the person’s licence; or

- (o) has contravened, or is contravening, a provision of this Act prescribed by regulation as a disqualifying breach.
- (2) However, a person is not disqualified from being licensed only because subsection (1) (c) or (d) applies to the person if the commissioner for fair trading is satisfied that the person took all reasonable steps to avoid the bankruptcy, personal insolvency agreement, winding-up or appointment mentioned in the paragraph.
- (3) Also, a person is not disqualified from being licensed only because the person has contravened, or is contravening, a licence condition if the commissioner for fair trading decides that the contravention should be disregarded for this section.

27A Suitability—real estate agents

- (1) This section applies to a person if the person has been convicted of a relevant offence.
- (2) The commissioner for fair trading may decide the person is unsuitable to be licensed as a real estate agent.

Note A review of a decision to refuse to issue a licence to a person may include a review of the commissioner's decision on the person's suitability (see sch 1, item 2).

- (3) In deciding whether a person is unsuitable to be licensed, the commissioner for fair trading must have regard to the following matters:
 - (a) when the offence was committed;
 - (b) the nature, seriousness and circumstances of the offence;
 - (c) whether the offence indicates the person may be a risk to members of the public;
 - (d) the relevance of the offence to the person's duties as an agent;
 - (e) whether the offence was committed by the person in the course of their duties as a real estate agent or assistant real estate agent;

- (f) whether the ACAT has made an occupational discipline order in relation to the person.

Division 3.3 Licence procedures and details—agents

28 Advertising intended licence applications

- (1) A person who intends to apply for a licence as an agent must give public notice of the person's intention to apply for the licence.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (2) The notice must—
- (a) state the kind of licence the person intends to apply for; and
 - (b) for a property agent licence—state the class of licence the person intends to apply for; and
 - (c) include any other information prescribed by regulation.

29 Licence applications

- (1) An application for a licence may be made to the commissioner for fair trading only—
- (a) by a person who has published a notice under section 28 in relation to the application; and
 - (b) within 10 business days after the day the notice is published.

Note 1 If a form is approved under s 177 for an application, the form must be used.

Note 2 A fee may be determined under section 176 for this section.

- (2) An application must be in writing and state—
- (a) the kind of licence applied for; and
 - (b) for a property agent licence—the class of licence applied for.

- (3) An application must be accompanied by—
- (a) a statement setting out the place that, if the licence is issued, will be the applicant's main place of business; and
 - (b) a police certificate dated not earlier than 2 months before the day the application is made for each of the following people:
 - (i) the applicant;
 - (ii) any partners of the applicant;
 - (iii) if the applicant is a corporation—each director of the corporation.

30 **Objections to licences**

- (1) This section applies if a notice (the *public notice*) is published under section 28 (1) (Advertising intended licence applications) in relation to a licence application.
- (2) A person may object to the issue of the licence by written notice (the *objection*) given to the commissioner for fair trading within 10 business days after the day the public notice is published.
- (3) The objection must set out the grounds on which it is claimed that the applicant is not eligible for the licence.

Note For the grounds of eligibility, see s 24.

- (4) The person making the objection must give a copy of the objection to the applicant within 10 business days after the day the public notice is published.

Note For how documents may be served, see the [Legislation Act](#), pt 19.5.

- (5) The commissioner for fair trading may consider the objection only if satisfied that subsection (4) has been complied with.

31 Further information for licence applications

- (1) The commissioner for fair trading may, by written notice given to an applicant for a licence, require the applicant to give the commissioner further stated information, or a document, that the commissioner reasonably needs to consider the application.
- (2) If the applicant fails to comply with a requirement under subsection (1), the commissioner may refuse to consider the application until the requirement is complied with.

32 Information about licence applications

The commissioner for fair trading may seek information about a licence application or an applicant in any way the commissioner considers appropriate.

33 Decisions on licence applications

- (1) This section applies if the commissioner for fair trading receives an application for a licence under section 29 (Licence applications).
- (2) Within 12 weeks after the day the commissioner for fair trading receives the application, the commissioner must—
 - (a) issue the licence; or
 - (b) refuse to issue the licence.

Note Failure to do an act within the period set out is taken to be a decision not to do the act (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

- (3) The commissioner for fair trading must issue the licence if satisfied that the applicant is eligible to be licensed under section 24 (Eligibility for licences).
- (4) If the licence is a property agent licence, the licence must state the class of licence.

- (5) If a requirement for information or a document relating to an application is made under section 31 (Further information for licence applications), the 12-week period mentioned in subsection (2) is extended by the period beginning on the day when the requirement is made and ending on the day when the requirement is complied with.

34 Licence conditions

- (1) A licence is subject to any conditions—
- (a) prescribed by regulation; or
 - (b) put on the licence under this section.

Examples of conditions that may be put on a licence

- 1 restrictions about the size or kind of business that may be operated
- 2 geographic limitations
- 3 requiring the licensee to obtain stated qualifications

- (2) The commissioner for fair trading—
- (a) may put a condition on a licence when the licence is issued or at any other time; and
 - (b) may at any time amend or omit a condition that the commissioner has put on a licence; and
 - (c) must put a condition on a licence, or amend or omit a condition, if directed to do so by the ACAT.
- (3) The commissioner for fair trading may put a condition on a person's licence, or amend a condition, under subsection (2) (a) or (b) only if—
- (a) the commissioner has given the person written notice of the proposed condition or amendment; and
 - (b) the notice states that written comments on the proposal may be made to the commissioner within a stated period of at least 10 business days after the day the notice is given to the person; and

- (c) the commissioner has considered any comments made within the period.
- (4) Subsection (3) does not apply if the person asked for, or agreed in writing to, the proposed condition or amendment.

35 Term of licences

A licence is issued for the period of up to 3 years stated in the licence.

36 Renewal of licences

- (1) A licensed agent may apply to the commissioner for fair trading to renew the licence.

Note 1 If a form is approved under s 177 for an application, the form must be used.

Note 2 A fee may be determined under section 176 for this section.

- (2) Within 6 weeks after the day the commissioner for fair trading receives an application, the commissioner must—
 - (a) renew the licence; or
 - (b) refuse to renew the licence.

Note Failure to do an act within the period set out is taken to be a decision not to do the act (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

- (3) The commissioner for fair trading must renew the licence if satisfied that the applicant—
 - (a) is eligible to be licensed under section 24 (Eligibility for licences); and
 - (b) has complied with the requirements (if any) prescribed by regulation.

37 Continuation of existing licences until renewal applications decided

- (1) If a licensed agent applies to renew a licence under section 36, the licence remains in force until the application is decided.
- (2) Subsection (1) applies even if it causes the existing licence to be in force for longer than 3 years.
- (3) If a person who has been a licensed agent applies, within 3 months after the day the term of the licence ends (the *last licence day*), to renew the licence—
 - (a) any service provided by the person after the last licence day and before the day of the commissioner for fair trading's decision about the renewal application (whether or not the licence is renewed) is taken to have been provided by the person as a licensed agent; and
 - (b) if the licence is renewed, the term of the renewed licence is backdated to the day after the last licence day.
- (4) Subsection (3) (a) does not prevent the person committing, being prosecuted for, or being found guilty of, an offence against division 3.1 (Agents to be licensed).

Note **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

38 Licence certificates

- (1) If the commissioner for fair trading decides to issue a licence to a person or renew a person's licence, the commissioner must give the person a licence certificate.
- (2) The commissioner for fair trading may issue a replacement licence certificate to a licensed agent if satisfied that the certificate has been lost, stolen, damaged or destroyed.

Note 1 If a form is approved under s 177 for an application, the form must be used.

Note 2 A fee may be determined under section 176 for this section.

39 Surrender of licence

A licensed agent may at any time surrender the licence by written notice given to the commissioner for fair trading.

Division 3.4 Occupational discipline—agents

Note Under the *Fair Trading (Australian Consumer Law) Act 1992*, s 33, the commissioner for fair trading may receive and investigate complaints in relation to the supply of goods and services or the acquisition of interests in land.

40 Meaning of *agent* for div 3.4

In this division:

agent means a licensed agent or a former licensed agent.

41 Grounds for occupational discipline—agents

- (1) Each of the following is a *ground for occupational discipline* in relation to an agent:
 - (a) the agent has contravened, or is contravening, the fair trading legislation;

- (b) the agent has contravened, or is contravening, a rule of conduct;
Note Rules of conduct—see s 171.
 - (c) the agent has contravened, or is contravening, a condition of the agent's licence;
 - (d) if the agent is a licensed agent—the agent has become ineligible for a licence under section 24 (Eligibility for licences) or for registration under section 49 (Eligibility for registration);
 - (e) the agent has contravened, or is contravening, an order of the ACAT;
 - (f) the agent's licence was obtained by fraud or mistake;
 - (g) a ground prescribed by regulation for this section.
- (2) However, subsection (1) (a) to (e) applies to a former licensed agent only in relation to anything that happened while the person was licensed.

42 Application to ACAT for occupational discipline—agents

If the commissioner for fair trading believes on reasonable grounds that a ground for occupational discipline exists in relation to an agent, the commissioner may apply to the ACAT for an occupational discipline order in relation to the agent.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out when the ACAT may make an occupational discipline order, and s 66 sets out the occupational discipline orders the ACAT may make.

43 Occupational discipline orders—agents

- (1) This section applies if the ACAT makes an occupational discipline order to cancel or suspend an agent's licence.
- (2) The ACAT may—
 - (a) cancel or suspend any other licence held by the agent; or
 - (b) prohibit the agent administering a general fund or sinking fund under the *Unit Titles (Management) Act 2011*.

Note **Licence**—see the dictionary.

Part 4 **Registration of assistant property agents**

Division 4.1 **Assistant property agents to be registered**

44 **Meaning of *registered*—div 4.1**

In this division:

registered, in relation to an assistant property agent, does not include an assistant property agent whose registration is suspended.

45 **Assistant real estate agents must be registered**

- (1) A person commits an offence if the person—
 - (a) is not a registered assistant real estate agent; and
 - (b) is, or pretends to be, employed by a licensed real estate agent to provide a real estate agent service.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the provision of a service by a person who is otherwise licensed or registered to provide the service.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

46 **Assistant stock and station agents must be registered**

- (1) A person commits an offence if the person—
 - (a) is not a registered assistant stock and station agent; and

(b) is, or pretends to be, employed by a licensed stock and station agent to provide a stock and station agent service.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the provision of a service by a person who is otherwise licensed or registered to provide the service.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

47 Assistant business agents must be registered

- (1) A person commits an offence if the person—
- (a) is not a registered assistant business agent; and
- (b) is, or pretends to be, employed by a licensed business agent to provide a business agent service.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the provision of a service by a person who is otherwise licensed or registered to provide the service.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

48 Assistant property agents must be registered to recover fees etc

- (1) A person is not entitled to bring a proceeding to recover salary, or a commission, fee or reward, for a service provided by the person if, in providing the service, the person contravened any of the following provisions:
- (a) section 45 (Assistant real estate agents must be registered);

- (b) section 46 (Assistant stock and station agents must be registered);
- (c) section 47 (Assistant business agents must be registered).
- (2) Subsection (1) applies whether or not anyone has been convicted of an offence against section 45, section 46 or section 47.

Division 4.2 Eligibility, qualifications and disqualification—assistant property agents

49 Eligibility for registration

- (1) An individual is eligible to be registered as an assistant property agent if the commissioner for fair trading is satisfied that the individual—
 - (a) is an adult; and
 - (b) has the qualifications required under section 50 for the kind of registration; and
 - (c) has the experience required under section 50 for the kind of registration; and
 - (d) is not disqualified under section 27 (People disqualified from being licensed) or section 51 (People disqualified from being registered).
- (2) For subsection (1) (b), the commissioner for fair trading may decide that a higher qualification, equivalent qualification or substantially equivalent qualification meets the qualifications required under section 50 for the kind of registration.
- (3) To remove any doubt, a regulation may provide that a person may be registered subject to stated conditions if the person does not have stated qualifications.

50 Qualifications and experience for registration

- (1) The commissioner for fair trading may declare the qualifications and experience required for registration, or renewal of registration, of an assistant property agent.
- (2) A declaration is a disallowable instrument.
- (3) A declaration may apply, adopt or incorporate a law of another jurisdiction or instrument as in force from time to time.
- (4) The [Legislation Act](#), section 47 (5) or (6) does not apply in relation to the law of another jurisdiction or instrument applied, adopted or incorporated under a declaration.

Note Laws of another jurisdiction and instruments mentioned in s (4) do not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) does not apply (see [Legislation Act](#), s 47 (7)).

- (5) In this section:

law of another jurisdiction—see the [Legislation Act](#), section 47 (10).

51 People disqualified from being registered

- (1) A person is disqualified from being registered as an assistant property agent if the person—
 - (a) for registration of a person other than as an assistant real estate agent—has been convicted of an ACT dishonesty offence or a non-ACT offence that is similar in nature to an ACT dishonesty offence; or

Note A conviction does not include a spent conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i)).

 - (b) for registration of a person as an assistant real estate agent—is found unsuitable to be licensed under section 51A; or
 - (c) is bankrupt or, at any time in the last 3 years—
 - (i) has been bankrupt; or

- (ii) has executed a personal insolvency agreement; or
 - (d) has a mental incapacity that may affect the exercise of the person's functions as a registered assistant property agent; or
 - (e) is registered and has contravened, or is contravening, an order of the ACAT;
 - (f) holds a registration that is suspended;
 - (g) is disqualified by the ACAT from being licensed or registered; or
 - (h) is disqualified under a corresponding law from holding an authority (however described) to be an agent or an employee of an agent; or
 - (i) holds an authority (however described) under a corresponding law to be an agent or an employee of an agent that is suspended; or
 - (j) is a registered assistant property agent who is applying for another kind of registration and has contravened, or is contravening, a condition of the person's registration; or
 - (k) has contravened, or is contravening, a provision of this Act prescribed by regulation as a disqualifying breach.
- (2) However, a person is not disqualified from being registered only because subsection (1) (c) applies to the person if the commissioner for fair trading is satisfied that the person took all reasonable steps to avoid the bankruptcy or personal insolvency agreement mentioned in the paragraph.
- (3) Also, a person is not disqualified from being registered only because the person has contravened, or is contravening, a registration condition if the commissioner for fair trading decides that the contravention should be disregarded for this section.

51A Suitability—assistant real estate agents

- (1) This section applies to a person if the person has been convicted of a relevant offence.
- (2) The commissioner for fair trading may decide the person is unsuitable to be registered as an assistant real estate agent.

Note A review of a decision to refuse to register an applicant may include a review of the commissioner's decision on the applicant's suitability (see sch 1, item 7).

- (3) In deciding whether a person is unsuitable to be registered, the commissioner for fair trading must have regard to the following matters:
 - (a) when the offence was committed;
 - (b) the nature, seriousness and circumstances of the offence;
 - (c) whether the offence indicates the person may be a risk to members of the public;
 - (d) the relevance of the offence to the person's duties as an assistant real estate agent;
 - (e) whether the offence was committed by the person in the course of their duties as a real estate agent or assistant real estate agent;
 - (f) whether the ACAT has made an occupational discipline order in relation to the person.

Division 4.3 Registration procedures and details— assistant property agents

52 Advertising intended registration applications

- (1) A person who intends to apply for registration as an assistant property agent must give public notice of the person's intention to apply for registration.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (2) The notice must—
 - (a) state the kind of registration the person intends to apply for; and
 - (b) include any other information prescribed by regulation.

53 Registration applications

- (1) An application for registration may be made to the commissioner for fair trading only—
 - (a) by a person who has published a notice under section 52 in relation to the application; and
 - (b) within 10 business days after the day the notice is published.

Note 1 If a form is approved under s 177 for an application, the form must be used.

Note 2 A fee may be determined under section 176 for this section.

- (2) An application must be in writing and state the kind of registration applied for.
- (3) An application must be accompanied by a police certificate for the applicant, dated not earlier than 2 months before the day the application is made.

54 Objections to registration

- (1) This section applies if a notice (the *public notice*) is published under section 52 (1) (Advertising intended registration applications) in relation to a registration application.
- (2) A person may object to the registration by written notice (the *objection*) given to the commissioner for fair trading within 10 business days after the day the public notice is published.
- (3) The objection must set out the grounds on which it is claimed that the applicant is not eligible for registration.

Note For the grounds of eligibility, see s 49.

- (4) The person making the objection must give a copy of the objection to the applicant within 10 business days after the day the public notice is published.

Note For how documents may be served, see the [Legislation Act](#), pt 19.5.

- (5) The commissioner for fair trading may consider the objection only if satisfied that subsection (4) has been complied with.

55 Further information for registration applications

- (1) The commissioner for fair trading may, by written notice given to an applicant for registration, require the applicant to give the commissioner further stated information, or a document, that the commissioner reasonably needs to consider the application.
- (2) If the applicant fails to comply with a requirement under subsection (1), the commissioner may refuse to consider the application until the requirement is complied with.

56 Information about registration applications

The commissioner for fair trading may seek information about a registration application or an applicant in any way the commissioner considers appropriate.

57 Decisions on registration applications

- (1) This section applies if the commissioner for fair trading receives an application for registration under section 53 (Registration applications).
- (2) Within 12 weeks after the day the commissioner for fair trading receives the application, the commissioner must—
 - (a) register the applicant; or
 - (b) refuse to register the applicant.

Note Failure to do an act within the period set out is taken to be a decision not to do the act (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

- (3) The commissioner for fair trading must register the applicant if satisfied that the applicant is eligible to be registered under section 49 (Eligibility for registration).
- (4) If a requirement for information or a document relating to an application is made under section 55 (Further information for registration applications), the 12-week period mentioned in subsection (2) is extended by the period beginning on the day when the requirement is made and ending on the day when the requirement is complied with.

58 Registration conditions

- (1) A registration is subject to any conditions—
 - (a) prescribed by regulation; or
 - (b) put on the registration under this section.

Example of a condition that may be put on a registration
that the registered person obtain a specified qualification

- (2) The commissioner for fair trading—
 - (a) may put a condition on a registration when the person is registered or at any other time; and

- (b) may at any time amend or omit a condition that the commissioner has put on a person’s registration; and
 - (c) must put a condition on a registration, or amend or omit a condition, if directed to do so by the ACAT.
- (3) The commissioner for fair trading may put a condition on a person’s registration, or amend a condition, under subsection (2) (a) or (b) only if—
- (a) the commissioner has given the person or registered assistant property agent written notice of the proposed condition or amendment; and
 - (b) the notice states that written comments on the proposal may be made to the commissioner within a stated period of at least 10 business days after the day the notice is given to the person; and
 - (c) the commissioner has considered any comments made within the period.
- (4) Subsection (3) does not apply if the person asked for, or agreed in writing to, the proposed condition or amendment.

59 Term of registration

A registration is for the period of up to 3 years stated in the registration certificate.

60 Renewal of registrations

- (1) A registered assistant property agent may apply to the commissioner for fair trading to renew the registration.

Note 1 If a form is approved under s 177 for an application, the form must be used.

Note 2 A fee may be determined under section 176 for this section.

- (2) Within 6 weeks after the day the commissioner for fair trading receives the application, the commissioner must—
- (a) renew the registration; or
 - (b) refuse to renew the registration.

Note Failure to do an act within the period set out is taken to be a decision not to do the act (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

- (3) The commissioner for fair trading must renew the registration if satisfied that—
- (a) the applicant is eligible to be registered under section 49 (Eligibility for registration); and
 - (b) the applicant has complied with the requirements (if any) prescribed by regulation.

61 Continuation of existing registrations until renewal applications decided

- (1) If a registered assistant property agent applies to renew the registration under section 60, the registration remains in force until the application is decided.
- (2) Subsection (1) applies even if it causes the existing registration to be in force for longer than 3 years.
- (3) If a person who has been a registered assistant property agent applies, within 3 months after the day the term of the registration ends (the ***last registration day***), to renew the registration—
- (a) any service provided by the person after the last registration day and before the day of the commissioner for fair trading's decision about the renewal application (whether or not the registration is renewed) is taken to have been provided by the person as a registered assistant property agent; and
 - (b) if the registration is renewed, the term of the renewed registration is backdated to the day after the last registration day.

- (4) Subsection (3) (a) does not prevent the person committing, being prosecuted for, or being found guilty of, an offence against division 4.1 (Assistant property agents to be registered).

Note **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

62 Registration certificates

- (1) If the commissioner for fair trading decides to register a person or renew a person's registration, the commissioner must give the person a registration certificate.
- (2) The commissioner for fair trading may issue a replacement registration certificate to a registered assistant property agent if satisfied that the certificate has been lost, stolen, damaged or destroyed.

Note 1 If a form is approved under s 177 for an application, the form must be used.

Note 2 A fee may be determined under section 176 for this section.

63 Surrender of registration

A registered assistant property agent may at any time surrender the registration by written notice given to the commissioner for fair trading.

Division 4.4 Occupational discipline—registered assistant property agents

Note Under the *Fair Trading (Australian Consumer Law) Act 1992*, s 33, the commissioner for fair trading may receive and investigate complaints in relation to the supply of goods and services or the acquisition of interests in land.

64 Meaning of *registered assistant property agent*—div 4.4

In this division:

registered assistant property agent means a registered assistant property agent or a former registered assistant property agent.

65 Grounds for occupational discipline—assistant property agents

(1) Each of the following is a *ground for occupational discipline* in relation to a registered assistant property agent:

- (a) the assistant property agent has contravened, or is contravening, the fair trading legislation;
- (b) the assistant property agent has contravened, or is contravening, a rule of conduct;

Note Rules of conduct—see s 171.

- (c) the assistant property agent has contravened, or is contravening, a condition of the assistant property agent's registration;
- (d) the assistant property agent has become ineligible for registration under section 49 (Eligibility for registration);
- (e) the assistant property agent has contravened, or is contravening, an order of the ACAT;
- (f) the assistant property agent's registration was obtained by fraud or mistake;
- (g) a ground prescribed by regulation for this section.

- (2) However, subsection (1) (a) to (e) applies to a former registered assistant property agent only in relation to anything that happened while the person was registered.

66 Application to ACAT for occupational discipline—assistant property agents

If the commissioner for fair trading believes on reasonable grounds that a ground for occupational discipline exists in relation to a registered assistant property agent, the commissioner may apply to the ACAT for an occupational discipline order in relation to the assistant property agent.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out when the ACAT may make an occupational discipline order, and s 66 sets out the occupational discipline orders the ACAT may make.

67 Occupational discipline orders—assistant property agents

- (1) This section applies if the ACAT makes an occupational discipline order to cancel or suspend a registered assistant property agent's registration.
- (2) The ACAT may cancel or suspend any other registration held by the registered assistant property agent.

Note **Registration**—see the dictionary.

Part 5 **Conduct of licensed agents and registered assistant property agents**

Division 5.1 **Licensed agent's main place of business**

68 **Main place of business**

- (1) On the issue of an agents licence, the commissioner for fair trading must enter in the register, as the agent's main place of business, the place shown in the statement under section 29 (3) (a) (Licence applications).

Note **Register**—see s 160.

- (2) A licensed agent must tell the commissioner for fair trading in writing about any change in the agent's main place of business in the ACT within the period prescribed by regulation.
- (3) The commissioner for fair trading must enter in the register any change notified under subsection (2).

Division 5.2 **Management of licensed agent's business**

68A **Licensed agent in charge to have class 1 property agent licence**

- (1) A person commits an offence if the person—
 - (a) is responsible for the day-to-day management of a place of business of a licensed property agent; and
 - (b) is not a class 1 licensed property agent.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

- (3) A licensed property agent may be exempted from this section under section 71 (Class 1 licensed property agent to be in charge of business—exemptions).

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

69 Property agent place of business to have class 1 licensed property agent in charge

- (1) A class 1 licensed property agent commits an offence if—
- (a) the licensed property agent is an individual; and
 - (b) the licensed property agent carries on business at 2 or more places of business; and
 - (c) the licensed property agent does not employ, at each place of business where the licensed property agent is not responsible for the day-to-day management of the business, an individual who—
 - (i) is a class 1 licensed property agent; and
 - (ii) is responsible for the day-to-day management of the place of business.

Maximum penalty: 50 penalty units.

- (2) A class 2 licensed property agent commits an offence if—
- (a) the licensed property agent is an individual; and
 - (b) the licensed property agent does not employ, at each place of business where the licensed property agent carries on business, an individual who—
 - (i) is a class 1 licensed property agent; and
 - (ii) is responsible for the day-to-day management of the place of business.

Maximum penalty: 50 penalty units.

- (3) A licensed property agent commits an offence if—
- (a) the licensed property agent is a corporation; and
 - (b) the licensed property agent does not employ, at each place of business where the licensed property agent carries on business, an individual who—
 - (i) is a class 1 licensed property agent; and
 - (ii) is responsible for the day-to-day management of the place of business.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) A licensed property agent may be exempted from this section under section 71.

Note The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

70 Class 1 licensed property agent to be in charge of 1 place of business

- (1) A class 1 licensed property agent commits an offence if the licensed property agent is responsible for the day-to-day management of 2 or more places of business.

Maximum penalty: 50 penalty units.

- (2) A class 1 licensed property agent commits an offence if—
- (a) the licensed property agent—
 - (i) is employed to be responsible for the day-to-day management of another licensed property agent's place of business; and
 - (ii) provides services for 2 or more licensed property agents at the place; and

- (b) the licensed property agents to whom the services are provided are not in partnership with each other.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) A class 1 licensed property agent may be exempted from this section under section 71.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

71 Class 1 licensed property agent to be in charge of business—exemptions

- (1) The commissioner for fair trading may, in writing, exempt a licensed property agent from the following provisions:
 - (a) section 68A (Licensed agent in charge to have class 1 property agent licence);
 - (b) section 69 (Property agent place of business to have class 1 licensed property agent in charge);
 - (c) section 70 (Class 1 licensed property agent to be in charge of 1 place of business).
- (2) The exemption may be conditional.
- (3) A regulation may prescribe the matters to be considered by the commissioner for fair trading in deciding whether to exempt a licensed property agent under subsection (1), or amend or revoke an exemption.
- (4) A condition under this section may be put or amended as if it were a condition on a licence.

Note The procedure for putting or amending licence conditions is dealt with in s 34 (2), (3) and (4).

72 Licensed property agent must not share commission etc with unlicensed person

- (1) A licensed property agent commits an offence if—
- (a) the licensed agent—
 - (i) enters into an agreement or arrangement with an unlicensed person; or
 - (ii) acts with an unlicensed person; and
 - (b) the unlicensed person is not a registered assistant property agent; and
 - (c) the unlicensed person would, apart from this section, be entitled to a share of the commission, fee or reward payable to the licensed agent for the provision of a service for which the licensed agent is required to be licensed.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) This section does not apply in relation to an agreement, arrangement or action by a licensed property agent with a partner of the agent who does not carry on business as an agent.
- (4) An agreement or arrangement mentioned in subsection (1) is void so far as it purports to provide an entitlement mentioned in subsection (1) (c).
- (5) A person is not entitled to bring a proceeding to recover a commission, fee or reward for a service provided by the person if, in providing the service, the person contravened subsection (1).
- (6) Subsections (4) and (5) apply whether or not anyone has been convicted of an offence against subsection (1).
- (7) A provision in, or applying to, an agreement that purports to exclude or change the operation of this section is void.

(8) In this section:

unlicensed person means a person who—

- (a) is not licensed under this Act; and
- (b) either—
 - (i) does not hold an authority (however described) under a corresponding law to be an agent or an employee of an agent; or
 - (ii) holds an authority mentioned in subparagraph (i) that is suspended.

73 Agreements between licensed agents to share commission etc

- (1) An agreement between licensed agents to share a commission, fee or reward for a service carried out as licensed agents is unenforceable unless the agreement—
 - (a) is in writing; and
 - (b) is signed by each of the licensed agents; and
 - (c) contains the terms prescribed by regulation for this section.
- (2) A provision in, or applying to, the agreement that purports to exclude or change the operation of this section (including the terms prescribed by regulation for this section) is void.
- (3) This section does not apply to—
 - (a) an agreement between licensed agents who are in partnership together; or
 - (b) an agreement between licensed agents if one agent employs the other; or
 - (c) an agreement, transaction, circumstance or kind of person exempted from this section by regulation; or

- (d) an agreement for services in relation to land (other than rural land), if the land is used or intended to be used only or mainly for commercial, business or industrial purposes.
- (4) A licensed agent commits an offence if the agent enters into an agreement that is unenforceable because of subsection (1).
Maximum penalty: 50 penalty units.
- (5) An offence against this section is a strict liability offence.

74 Duty to notify failures to account

- (1) A licensed agent commits an offence if the agent—
 - (a) finds out that there has been a failure to account by an employee; and
 - (b) does not tell the commissioner for fair trading about the failure within 5 business days after the day the agent finds out about it.Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.
- (3) In this section:

employee, of a licensed agent, includes a person who performs services for the agent on contract.

Division 5.3 Offences—assistant property agents

Note At common law, a licensed agent is responsible, in tort and contract, for acts or omissions of the agent's employees within the scope of the employee's authority or for the benefit, or purported or intended benefit, of the agent or agent's business.

75 Licensed property agent may only employ licensed property agent or registered assistant property agent

- (1) A licensed property agent commits an offence if—
- (a) the agent employs a person to provide a service, in relation to the agent's business, that a person must be licensed or registered to provide; and
 - (b) the person provides the service; and
 - (c) either—
 - (i) the person is not licensed or registered to provide the service; or
 - (ii) the person is licensed or registered to provide the service but the licence or registration is suspended.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.

75A Assistant property agents must not sign agency agreements

- (1) A person commits an offence if the person—
- (a) is a registered assistant property agent; and
 - (b) signs an agency agreement.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) does not apply if the person is taken to be a registered assistant property agent under section 234.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) An offence against this section is a strict liability offence.
(4) Subsection (2) and this subsection expire on 30 June 2023.
(5) In this section:

agency agreement—see section 100 (1) (a).

76 Employee must tell employer about disqualification

- (1) An employee of a licensed agent commits an offence if the employee—
- (a) is disqualified under—
- (i) section 27 (People disqualified from being licensed) from being licensed; or
- (ii) section 51 (People disqualified from being registered) from being registered; and
- (b) does not tell the licensed agent about the disqualification within 5 business days after the day the employee finds out about it.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

Division 5.4 Conflicts of interest—real estate and stock and station agents

77 Licensed real estate and stock and station agents must not act for buyer and seller of land

- (1) A licensed real estate agent or licensed stock and station agent commits an offence if the agent acts as agent for the buyer and seller of the same land at the same time.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.

Division 5.5 Advertisements and other statements

78 When is a statement *published*?

A statement is *published* if it is—

- (a) included in a newspaper, periodical publication or other publication; or
- (b) publicly exhibited in, on, over or under a building, vehicle or place (whether or not a public place and whether on land or water), or in the air in view of people on a street or in a public place; or
- (c) contained in a document given to someone or left on premises where someone lives or works; or
- (d) broadcast by radio or television; or
- (e) electronically distributed by other means (for example, by inclusion on a website).

79 False or misleading advertisements

- (1) An agent commits an offence if—
- (a) the agent publishes an advertisement; and
 - (b) the advertisement contains a statement about the agent's business; and
 - (c) the agent publishes the advertisement knowing that, or being reckless about whether, the statement—
 - (i) is false or misleading; or
 - (ii) omits anything without which the statement is misleading.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) (c) (i) does not apply if the statement is not false or misleading in a material particular.
- (3) Subsection (1) (c) (ii) does not apply if the omission does not make the statement misleading in a material particular.

Division 5.6 Land—further provisions

80 Meaning of *benefit*, *estimate* and *selling price* for div 5.6

In this division:

benefit means financial or other benefit.

estimate includes opinion and belief.

selling price includes selling price range.

81 Meaning of *pre-contract information* for div 5.6

In this division:

pre-contract information, for an agent acting for the buyer or seller of land, means information about—

- (a) any relationship, and the nature of the relationship (whether personal or commercial), the agent has with anyone whom the agent has referred, refers, or expects to refer, the seller or buyer to for professional services in relation to the sale or purchase; and
- (b) whether the agent receives, or expects to receive, any benefit, whether financial or otherwise, from a person whom the agent has referred, refers, or expects to refer, the seller or buyer to for professional services and, if so, the amount or value of the benefit; and
- (c) the amount, value or nature of any benefit anyone (other than the buyer or seller) has received, receives, or expects to receive, in relation to the sale or purchase, or for promoting the sale or purchase, or for providing a service in relation to the sale or purchase, of the land.

Examples of relationships for par (a)

- 1 a family relationship
- 2 a business relationship
- 3 a fiduciary relationship
- 4 a relationship in which a person is accustomed, or obliged, to act in accordance with the directions, instructions, or wishes of the other

Examples of people who may receive a benefit for par (c)

- 1 finance broker
- 2 financial adviser
- 3 financier

- 4 property valuer
- 5 lawyer
- 6 real estate agent

82 Meaning of *beneficial interest* and *obtains a beneficial interest* for div 5.6

In this division:

beneficial interest in land includes—

- (a) a lease of the land; and
- (b) an option for the purchase of the land or a lease of the land; and
- (c) a general power of appointment over the land.

obtains a beneficial interest—a person (including an agent or assistant property agent) *obtains a beneficial interest* in land if a beneficial interest in the land is obtained by—

- (a) the person; or
- (b) a family member of the person; or
- (c) a corporation with not more than 100 members that the person, or a family member of the person, is a member of; or
- (d) a subsidiary of a corporation mentioned in paragraph (c); or
- (e) a corporation that the person, or a family member of the person, is an executive officer of; or
- (f) the trustee of a trust that the person, or a family member of the person, is a beneficiary of, if the interest is obtained on behalf of the trust; or
- (g) a member of a firm or partnership that the person, or a family member of the person, is a member of; or

- (h) someone else carrying on a business if the person, or a family member of the person, has a direct or indirect right to participate in the profits of the business.

83 Agents giving financial and investment advice

- (1) A regulation may make provision in relation to information or warnings that an agent must give to a person if the agent provides financial or investment advice to the person about the sale or purchase of land.
- (2) Despite section 178 (3) (Regulation-making power), a regulation may prescribe maximum penalties of not more than 200 penalty units for offences for contravention of a regulation made for subsection (1).

84 Agents must disclose certain information

- (1) An agent who is acting for a buyer of land must disclose the pre-contract information to the buyer before the buyer enters into a contract for the purchase of the land.

Maximum penalty: 200 penalty units.

- (2) A written acknowledgement by a buyer of land that the pre-contract information was given to the buyer before the buyer entered into a contract in relation to the land is evidence that subsection (1) has been complied with in relation to the land.

Note If a form is approved under s 177 for an acknowledgement, the form must be used.

- (3) An agent who is acting for a seller of land must disclose the pre-contract information to the seller before the seller enters into a contract for the sale of the land.

Maximum penalty: 200 penalty units.

- (4) A written acknowledgement by a seller of land that the pre-contract information was given to the seller before the seller entered into a contract in relation to the land is evidence that subsection (3) has been complied with in relation to the land.

Note If a form is approved under s 177 for an acknowledgement, the form must be used.

- (5) An offence against this section is a strict liability offence.

85 Assistant property agents must disclose certain information

- (1) An assistant property agent commits an offence if the assistant property agent—
- (a) is employed by an agent who is acting for a buyer of land; and
 - (b) does not disclose to the buyer the pre-contract information before the buyer enters into a contract for the purchase of land.

Maximum penalty: 200 penalty units.

- (2) A written acknowledgement by a buyer of land that the pre-contract information was given to the buyer before the buyer entered into a contract in relation to the land is evidence that subsection (1) has been complied with in relation to the land.

Note If a form is approved under s 177 for an acknowledgement, the form must be used.

- (3) An assistant property agent commits an offence if the assistant property agent—
- (a) is employed by a licensed agent who is acting for a seller of land; and
 - (b) does not disclose to the seller the pre-contract information before the seller enters into a contract for the sale of the land.

Maximum penalty: 200 penalty units.

- (4) A written acknowledgement by a seller of land that the pre-contract information was given to the seller before the seller entered into a contract in relation to the land is evidence that subsection (3) has been complied with in relation to the land.

Note If a form is approved under s 177 for an acknowledgement, the form must be used.

- (5) An offence against this section is a strict liability offence.

86 Agents must not obtain beneficial interest in land

- (1) An agent commits an offence if the agent—
- (a) acts for a seller of land; and
 - (b) intentionally—
 - (i) obtains a beneficial interest in the land; or
 - (ii) is in any way involved in someone else obtaining a beneficial interest in the land.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) Subsection (1) does not apply to an agent in relation to a beneficial interest in land if—
- (a) before the interest is obtained—
 - (i) the agent fully discloses to the seller the circumstances surrounding the obtaining of the beneficial interest; and
 - (ii) the seller agrees in writing to the obtaining of the interest; and

Note If a form is approved under s 177 for an agreement, the form must be used.

- (b) the seller—
 - (i) does not pay to the agent any commission or reward for the sale of the land; or
 - (ii) if the agent is a licensed agent—agrees in writing, before entering into a contract for the sale of the land, to the payment of a commission or reward to the agent for the sale.

Note If a form is approved under s 177 for an agreement, the form must be used.

87 Assistant property agents must not obtain beneficial interest in land

- (1) An assistant property agent commits an offence if—
 - (a) the assistant property agent is employed by an agent; and
 - (b) the agent acts for a seller of land; and
 - (c) the assistant property agent intentionally—
 - (i) obtains a beneficial interest in the land; or
 - (ii) is in any way involved in someone else obtaining a beneficial interest in the land.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) This section does not apply to an assistant property agent in relation to a beneficial interest in land if—
 - (a) before the interest is obtained—
 - (i) the assistant property agent fully discloses to the seller the circumstances surrounding the obtaining of the beneficial interest; and

- (ii) the seller agrees in writing to the obtaining of the interest;
and

Note If a form is approved under s 177 for an agreement, the form must be used.

- (b) the seller—

- (i) does not pay to the assistant property agent any commission or reward for the sale of the land; or
- (ii) if the assistant property agent is a registered assistant property agent—agrees in writing before entering into a contract for the sale of the land, to the payment of a commission or reward to the assistant property agent for the sale.

Note If a form is approved under s 177 for an agreement, the form must be used.

88 False representations to sellers or buyers

- (1) An agent commits an offence if the agent—
 - (a) acts for a seller of land; and
 - (b) makes a dishonest representation about the agent's estimate of the selling price of the land—
 - (i) to the seller; or
 - (ii) to a buyer; or
 - (iii) in an advertisement or other publication.

Maximum penalty: 100 penalty units.

- (2) A registered assistant property agent commits an offence if the assistant property agent—
 - (a) is employed by a licensed agent who is acting for a seller of land;
and

- (b) makes a dishonest representation about the assistant property agent's estimate of the selling price of the land—
 - (i) to the seller; or
 - (ii) to a buyer; or
 - (iii) in an advertisement or other publication.

Maximum penalty: 100 penalty units.

- (3) For this section, a representation is *dishonest* if—
 - (a) the representation is dishonest according to the standards of ordinary people; and
 - (b) the maker of the representation knows that the representation is dishonest according to those standards.

89 Requirement to substantiate selling price estimates

- (1) The commissioner for fair trading may, by written notice to a licensed agent or registered assistant property agent, require the agent or assistant property agent to give to the commissioner the evidence that the agent or assistant property agent relied on in the making of any representation about the agent's or assistant property agent's estimate of the selling price of land—
 - (a) to a seller of the land; or
 - (b) to a buyer of the land; or
 - (c) in an advertisement or other publication.
- (2) The notice must state a reasonable period for complying with the notice.
- (3) A person commits an offence if the person fails to comply with a notice given to the person under this section within the stated period.

Maximum penalty: 100 penalty units.

- (4) An offence against this section is a strict liability offence.

89A Proposed contracts for sale of residential property

- (1) An agent commits an offence if—
- (a) the agent offers residential property for sale; and
 - (b) the required documents are not all available at the agent’s place of business for inspection by a prospective buyer (or an agent for a prospective buyer) at all reasonable times when an offer to buy the property may be made to the agent.

Maximum penalty: 50 penalty units.

- (2) An assistant property agent commits an offence if—
- (a) the assistant property agent is employed by an agent who is acting for a seller of residential property; and
 - (b) the assistant property agent offers the residential property for sale; and
 - (c) the required documents are not all available at the agent’s place of business for inspection by a prospective buyer (or an agent for a prospective buyer) at all reasonable times when an offer to buy the property may be made to the assistant property agent.

Maximum penalty: 50 penalty units.

- (3) An agent or assistant property agent ***offers residential property for sale*** if the agent or assistant property agent, expressly or by implication—
- (a) indicates that the property is for sale or is to be auctioned at any future time; or
 - (b) offers to sell the property; or
 - (c) invites an offer to buy the property; or

- (d) indicates that someone may be willing to grant an option to buy the property.

Examples for par (a)

- 1 The agent or assistant property agent advertises or promotes the property in a way that, in the circumstances, may reasonably be taken to indicate that the property is or may be for sale.
 - 2 The agent or assistant property agent places a sign on or near the property that, in the circumstances, may reasonably be taken to indicate that the property is or may be for sale.
 - 3 The agent or assistant property agent advertises or in any way gives notice that the property is to be auctioned at a future time.
 - 4 The agent places on display particulars or a description of, or a photograph, drawing or other representation of, the property in or on any premises, vehicle or place where the agent carries on business as a real estate agent.
 - 5 The agent or assistant property agent shows the property to a prospective buyer or gives the address of the property to a prospective buyer.
- (4) An offence against this section is a strict liability offence.
- (5) This section does not apply to—
- (a) anything done by an agent when acting for a prospective buyer of residential property; or
 - (b) a contract, or proposed contract, for the sale of residential property if the contract arises from the exercise of an option to buy the property and—
 - (i) the option was contained in a will or sublease; or
 - (ii) the period for exercise of the option was longer than 60 days.
- (6) A regulation may prescribe exceptions to this section.
- (7) In this section:
- prospective buyer***, in relation to residential property, includes a prospective grantee of an option to buy the property.

required documents—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9.

residential property—see the *Civil Law (Sale of Residential Property) Act 2003*, section 8.

89B Contracts for sale of residential property

- (1) An agent or assistant property agent may do any of the following:
 - (a) insert into a proposed contract for the sale of residential property any of the following:
 - (i) the name and address of, and contact details for, the buyer;
 - (ii) the name and address of, and contact details for, the buyer's lawyer;
 - (iii) the purchase price;
 - (iv) the date of the contract;
 - (b) insert in, or delete from, a proposed contract for the sale of residential property a description of any furnishings or goods to be included in the sale of the property;
 - (c) take part in an exchange of contracts or the making of a contract for the sale of residential property.
- (2) An agent or assistant property agent must not insert a special condition into a proposed contract for the sale of residential property.
Maximum penalty: 10 penalty units.
- (3) An offence against subsection (2) is a strict liability offence.

- (4) If a prospective party to a proposed contract for the sale of residential property for whom an agent or assistant property agent acts tells the agent or assistant property agent, or it is apparent from the proposed contract, that a lawyer is or will be acting for the party, the agent or assistant property agent must not take part in the exchange of contracts or the making of the contract unless expressly authorised to do so by the party or the lawyer.
- (5) A contract is not invalid only because of the failure of an agent or assistant property agent to comply with subsection (4).
- (6) An agent or assistant property agent must not charge a fee for anything authorised to be done under this section.
- (7) In this section:

residential property—see the *Civil Law (Sale of Residential Property) Act 2003*, section 8.

Division 5.8 Employment agents—further provisions

96 Employment agents must only take fee from employer

- (1) A licensed employment agent commits an offence if—
 - (a) the agent asks for, or accepts, a benefit from a person for a service; and
 - (b) the person is not—
 - (i) seeking to have work carried out; or
 - (ii) a model or performer.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

model includes a person employed—

- (a) to pose for a photographer, painter, sculptor or other artist; or

- (b) to wear and display clothes or other articles to potential customers or the public.

performer means an actor, singer, dancer, musician, acrobat, disc jockey, compere, or any other kind of performer.

Division 5.9 Other offences—agents and assistant property agents

97 Lending licence certificate

- (1) A licensed agent commits an offence if the agent lets out, hires or lends the agent's licence certificate to someone else.

Maximum penalty: 100 penalty units.

- (2) A licensed agent commits an offence if the agent lets someone else use the agent's licence certificate.

Maximum penalty: 100 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) If a court convicts a licensed agent of an offence against this section, the agent's licence is cancelled under this section.

98 Lending registration certificate

- (1) A registered assistant property agent commits an offence if the assistant property agent lets out, hires or lends the assistant property agent's registration certificate to someone else.

Maximum penalty: 100 penalty units.

- (2) A registered assistant property agent commits an offence if the assistant property agent lets someone else use the assistant property agent's registration certificate.

Maximum penalty: 100 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) If a court convicts a registered assistant property agent of an offence against this section, the assistant property agent's registration is cancelled under this section.

Part 6 Agency agreements

99 Application of pt 6

This part applies to services provided in relation to—

- (a) rural land; and
- (b) other land not used or intended to be used only or mainly for commercial, business or industrial purposes.

100 No commission or expenses without agency agreement

- (1) A licensed property agent is not entitled to commission or expenses from a principal for services provided by the agent for the principal unless—
 - (a) the services were carried out under a written agreement signed by the principal and the agent (an *agency agreement*); and
 - (b) the agency agreement—
 - (i) identifies the rebates, discounts, commissions and expenses that the agent may receive; and
 - (ii) estimates the amount of any rebates, discounts, commissions and expenses; and
 - (c) the agency agreement complies with the regulations; and
 - (d) a copy of the agency agreement signed by the agent was given to the principal within 48 hours after the agreement was signed by the principal.

Note If a form is approved under s 177 for an agreement, the form must be used.

- (2) A court in which a proceeding is taken by the licensed property agent to recover commission or expenses from the principal may order that the commission or expenses be completely or partly recovered even though the agent has failed to comply with subsection (1) (d).

- (3) However, the court may make the order only if satisfied that—
- (a) the licensed property agent's failure to give a copy of the agency agreement to the principal within the 48 hours was either inadvertent or caused by something beyond the agent's control; and
 - (b) the commission or expenses to be recovered if the order is made are fair and reasonable; and
 - (c) failure to make the order would be unjust.

Part 7 Trust accounts—licensed property agents

Division 7.1 Definitions for pt 7

101 Meaning of *licensed property agent*—pt 7

In this part:

licensed property agent includes any of the following:

- (a) a person who is no longer a licensed property agent but holds trust money received while licensed;
- (b) the personal representative of a licensed property agent who died while holding trust money, if the representative holds the trust money;
- (c) the liquidator of a corporation that went into liquidation while being a licensed property agent and holding trust money, if the corporation holds the trust money.

102 What is *trust money*?

- (1) For this Act, money is *trust money* if it is received—
 - (a) by a licensed property agent in relation to the business for which the agent is licensed on behalf of someone else; and
 - (b) on the basis that the money is to be paid to the other person or as the other person directs.
- (2) However, money received by a licensed property agent as bond under the *Leases (Commercial and Retail) Act 2001*, part 7 (Bonds and guarantees) is not trust money for this Act.

103 Trust account details

In this part:

details, of a trust account, means the following details:

- (a) the name and address of the authorised deposit-taking institution where the trust account is kept; and
- (b) the title of the account; and
- (c) the identifying number the institution has given the account.

Division 7.2 Trust money and trust accounts

104 Meaning of *ADI business day* for div 7.2

In this division:

ADI business day, for a trust account, means a day when the branch of the authorised deposit-taking institution where the trust account is kept is open for business.

105 Opening trust accounts

- (1) A licensed property agent must keep an account (a *trust account*) at an authorised deposit-taking institution in the ACT under a name that includes—
 - (a) the name of the agent or, if the agent carries on business under a business name or in partnership, the business name or the name of the partnership; and
 - (b) the words ‘trust account’.
- (2) A licensed property agent may keep more than 1 trust account.
- (3) When opening a trust account, a licensed property agent must tell the authorised deposit-taking institution, in writing, that the account is a trust account for this Act.

- (4) A licensed property agent must give to the commissioner for fair trading, in writing, the details of each trust account held by the agent and, if the agent opens a new trust account, of each new trust account.
- (5) The details must be given to the commissioner for fair trading within 7 business days after the day the agent becomes a licensed property agent or the agent opens the new trust account.

Note Trust money received by a licensed property agent must be paid into the agent's trust account by the next ADI business day after the day the agent receives the money (see s 107 (2)).

- (6) A licensed property agent must ensure that the words 'trust account' appear in every mention of a trust account in the records of the agent and every cheque drawn on a trust account.
- (7) A licensed property agent may, under section 105A, be exempted from the requirements under this section.

105A Opening trust accounts—exemptions

- (1) If a licensed property agent does not receive or hold trust money, the commissioner for fair trading may, in writing, exempt the agent from the requirements under section 105 (Opening trust accounts).
- (2) The exemption ends if the licensed property agent receives or holds trust money.
- (3) The exemption may be conditional.
- (4) A regulation may prescribe the matters to be considered by the commissioner for fair trading in deciding whether to exempt a licensed property agent under subsection (1), or amend or revoke an exemption.
- (5) A condition under this section may be put or amended as if it were a condition on a licence.

Note The procedure for putting or amending licence conditions is dealt with in s 34 (2), (3) and (4).

106 Closing trust accounts

- (1) A licensed property agent commits an offence if the agent—
 - (a) closes a trust account; and
 - (b) does not tell the commissioner for fair trading, in writing, of the closure within 10 business days after the day the account is closed.

Maximum penalty: 100 penalty units.

- (2) An offence against this section is a strict liability offence.

107 Dealing with trust money

- (1) A licensed property agent commits an offence if the agent deals with trust money otherwise than as directed by the person for whom the money is held on trust.

Maximum penalty: 100 penalty units.

- (2) A licensed property agent commits an offence if the agent—
 - (a) receives trust money; and
 - (b) does not pay the money into a trust account kept by the agent by the next ADI business day after the day the agent receives the money.

Maximum penalty: 100 penalty units.

- (3) A licensed property agent commits an offence if—
 - (a) trust money is paid by direct deposit or electronic funds transfer into another account kept by the agent; and
 - (b) the agent does not pay the money into a trust account on the next ADI business day after the day the agent becomes aware of the payment.

Maximum penalty: 100 penalty units.

- (4) A licensed property agent commits an offence if the agent pays an amount out of a trust account maintained by the agent otherwise than—
- (a) by electronic transfer; or
 - (b) by using a cheque that—
 - (i) is expressed to be payable to a person specified in the cheque; and
 - (ii) clearly has across the front of the cheque the addition of 2 parallel transverse lines with the words ‘not negotiable’ between, or substantially between, the lines.

Note This cheque is a ‘crossed cheque’ (see [Cheques Act 1986](#) (Cwlth), s 53).

Maximum penalty: 100 penalty units.

- (5) An offence against this section is a strict liability offence.
- (6) Trust money held by a licensed property agent—
- (a) is not available for payment of the debts of the agent; and
 - (b) must not be attached, or taken in execution, under a court order or court process at the request of a creditor of the agent.
- (7) An authorised deposit-taking institution with which a trust account is kept must not enforce any liability that the licensed property agent may have towards the authorised deposit-taking institution against any amount held in the account, whether by way of claim, set-off, counterclaim, charge or otherwise.

107A Assistant property agents must not withdraw trust money

- (1) A registered assistant property agent commits an offence if the assistant property agent withdraws money from a trust account.

Maximum penalty: 100 penalty units.

- (2) An offence against this section is a strict liability offence.

- (3) In this section:
withdraw money—see section 141 (4).

108 Licensed property agents to notify of overdrawn trust accounts

- (1) A licensed property agent commits an offence if the agent—
- (a) finds out that the agent's trust account has become overdrawn; and
 - (b) does not, within 5 business days after the day the agent finds out, tell the commissioner for fair trading in writing that the account has become overdrawn and provide—
 - (i) details of the overdrawn account; and
 - (ii) the amount by which the account is overdrawn; and
 - (iii) the reason for the account being overdrawn.

Maximum penalty: 100 penalty units.

- (2) An offence against this section is a strict liability offence.

109 Interest on trust accounts

- (1) On the 10th ADI business day in each month, the authorised deposit-taking institution with which a trust account has been kept during the previous month must—
- (a) work out the interest at the specified rate on the daily balances, during the previous month, of the amount held in each account that the authorised deposit-taking institution has been notified is a trust account; and
 - (b) pay to the Territory an amount equal to the total of the amounts of interest worked out.

- (2) For subsection (1) (a), the *specified rate*, for a particular day, is 70% of the yield of authorised deposit-taking institution accepted bills published by the Reserve Bank of Australia for the day.
- (3) An authorised deposit-taking institution may deduct from an amount payable under subsection (1) (b) an amount equal to any tax or charge that the authorised deposit-taking institution is required, under a law of a Territory, Commonwealth or State, to pay in relation to the amount payable.
- (4) This section does not apply in relation to a trust account exempted by regulation.

109A Change of owners corporation managing agent—former agent to give statement and records

- (1) This section applies if a person stops being the owners corporation managing agent for an owners corporation.
- (2) The person must, not later than 14 days after the person stops being the managing agent, give the owners corporation—
 - (a) a certified copy of the owners corporation’s accounts; and
 - (b) the records about the management of the owners corporation.
- (3) In this section:

owners corporation managing agent means a person appointed as manager of an owners corporation for a units plan under the *Unit Titles (Management) Act 2011*.

Division 7.3 Periodic returns and quarterly statements

110 Monthly returns by authorised deposit-taking institutions

- (1) An authorised deposit-taking institution commits an offence if—
 - (a) a trust account is kept with the institution at any time during a month; and
 - (b) the institution does not give to the commissioner for fair trading within 10 business days after the end of the month a written report that sets out, for the month, details of—
 - (i) each trust account kept with the institution at any time during the month; and
 - (ii) the interest worked out in relation to the trust accounts and paid under section 109.

Maximum penalty: 100 penalty units.

Note If a form is approved under s 177 for a report, the form must be used.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply in relation to a trust account exempted by regulation.

111 Quarterly statements by licensed property agents

- (1) A licensed property agent must, within 15 business days after the end of each quarter, prepare a quarterly statement for the quarter.
- (2) The quarterly statement must be made up as at the close of business on the last business day of the quarter to which the statement relates.
- (3) The quarterly statement must set out—
 - (a) the name of each person (the *person*) on whose behalf the licensed property agent held trust money; and

- (b) the amount of trust money held in the agent's trust accounts on behalf of the person; and
- (c) the amount of trust money held in cash by the agent on behalf of the person; and
- (d) the amount in each trust account kept by the agent.

Note If a form is approved under s 177 for a quarterly statement, the form must be used.

- (4) In working out an amount for subsection (3) (d), a cheque drawn on an account but not presented is taken to have been paid.
- (5) The licensed property agent must keep the quarterly statement for 5 years after the end of the quarter to which the statement relates.
- (6) The licensed property agent must give the quarterly statement to the auditor who audits the trust account records of the agent for the audit period that includes the quarter to which the statement relates.
- (7) In this section:

quarter, for a licensed property agent, means the 3 months beginning on the 1st day of the audit period for the agent and each following period of 3 months.

Division 7.4 Audit of trust accounts

Note Licensed agent has an extended meaning in this division (see s 104A).

112 Meaning of *qualified auditor* for div 7.4

In this division:

qualified auditor means a person who has the qualifications determined under section 114.

113 Audit period

- (1) The commissioner for fair trading may, by written notice given to a licensed property agent, fix a period as the agent's audit period.
- (2) The audit period for a licensed property agent for whom no period is fixed under subsection (1) is each financial year.

114 Qualifications for auditors

- (1) The Minister may determine the qualifications necessary for auditors under this Act.
- (2) A determination under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

115 Requirement for audit

- (1) A person commits an offence if—
 - (a) the person—
 - (i) is or was a licensed property agent; or
 - (ii) is a personal representative of a licensed property agent;
and
 - (b) the person held trust money during an audit period applying to the agent; and

- (c) within 3 months after the end of the audit period or any longer period allowed by the commissioner for fair trading, the person's records relating to the trust money have not been audited by a qualified auditor.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

117 Audit obligations of partners

If a provision of this division is complied with by a licensed property agent in relation to the audit of records of a partnership, the provision is taken to have been complied with by each partner.

118 Auditor reports

- (1) An auditor's report of a licensed property agent's records must state whether, in the auditor's opinion—
 - (a) the agent has kept the accounting and other records relating to trust money in accordance with this part; and
 - (b) the records were available for the auditor's examination within a reasonable time after the auditor asked for them; and
 - (c) the agent complied with the auditor's requirements within a reasonable time; and
 - (d) there is any discrepancy relating to a trust account; and
 - (e) any records to which the audit relates are kept in a way that does not allow them to be properly audited or are missing; and
 - (f) records that are necessary for the proper audit of other records are missing; and
 - (g) there is anything else in relation to the records about which the commissioner for fair trading or the agent should be informed.

- (2) As soon as practicable after finishing the audit, the auditor must prepare a report of the result of the audit and give the report to the commissioner for fair trading and a copy to the licensed property agent.

Division 7.5 Unclaimed trust money

119 Unclaimed trust money held by licensed property agents

- (1) This section applies if, on 1 July of a year, a licensed property agent holds trust money received by the agent more than 3 years before that day (the *unclaimed money*).
- (2) The licensed property agent must give the commissioner for fair trading a statement under section 122 (Content of statements), made up as at 1 July, about the unclaimed money by 31 July of the same year.
- (3) The regulations may provide that subsection (2) does not apply in relation to unclaimed money exempted by regulation (the *exempt unclaimed money*).
- (4) The licensed property agent must keep a written record of any exempt unclaimed money held by the agent.

120 Trust money held by former licensed property agents

- (1) This section applies if—
 - (a) a person ceases to be a licensed property agent; and
 - (b) at the time the person ceases to be a licensed property agent, the person holds trust money.
- (2) Within 3 months after the day the person ceases to be a licensed property agent, the person must give to the commissioner for fair trading a statement under section 122 (Content of statements) about the trust money, made up as at the day the person ceased to be a licensed property agent.

121 Trust money held by personal representatives of licensed property agents

- (1) This section applies to a person who is the personal representative of a licensed property agent who held trust money at the time of his or her death.
- (2) Within 3 months after the day the licensed property agent died, the person must give to the commissioner for fair trading a statement under section 122 (Content of statements) about the trust money, made up as at the day of the licensed property agent's death.

122 Content of statements

A statement under this section must contain details of—

- (a) the name and address of each person for whom or on whose behalf trust money is held; and
- (b) the amount held for each person; and
- (c) for each person—the purpose for which the money was paid to the person giving the statement or licensed property agent by whom the trust account was kept.

Note If a form is approved under s 177 for a statement, the form must be used.

123 Duties of commissioner in relation to unclaimed money in trust accounts

- (1) Within 6 months after the day the commissioner for fair trading receives a statement under section 122, the commissioner must prepare a notice—
 - (a) containing details of—
 - (i) the name and last-known address of each person on whose behalf money is held; and
 - (ii) the amount of money held on behalf of the person; and

- (b) stating that, if the money is not paid out of the trust account in which it is held within 3 months after the day the notice is notified under the [Legislation Act](#), the person holding the money will be required to pay it to the public trustee and guardian.
- (2) The notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the [Legislation Act](#).
- (3) The commissioner for fair trading must give additional public notice as soon as practicable after preparing the notice.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (3) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

124 Payment of unclaimed money to public trustee and guardian

- (1) This section applies if—
- (a) a notice under section 123 (2) is notified under the [Legislation Act](#); and
- (b) the period of 3 months after the day the notice is notified has ended.
- (2) The commissioner for fair trading may, by written notice to a person holding money to which the notice relates, require the person, within a stated period of at least 10 business days—
- (a) to pay any of the money still being held by the person to the public trustee and guardian; and

- (b) to give the commissioner for fair trading a statement containing details of any payments made out of the money since the statement under section 122 (Content of statements) relating to the money was given.

Note 1 A person claiming to be entitled to money paid to the public trustee and guardian under this section may apply to the public trustee and guardian for payment of the money (see *Unclaimed Money Act 1950*, s 27).

Note 2 If a form is approved under s 177 for a statement, the form must be used.

- (3) A licensed property agent who is given a notice under subsection (2) must comply with the notice.
- (4) A person commits an offence if—
- (a) the person is a former licensed property agent or the personal representative of a licensed property agent; and
 - (b) the commissioner for fair trading gives the person a notice under subsection (2); and
 - (c) the person does not comply with the notice.

Maximum penalty: 20 penalty units.

- (5) An offence against subsection (4) is a strict liability offence.

Part 8 **Records**

Division 8.1 **Record keeping**

127 **What records must be kept**

- (1) A licensed agent must record the material details of every transaction the agent conducts.
- (2) A regulation may prescribe other records that a licensed agent must make.
- (3) A licensed agent must make the prescribed records.
- (4) A licensed agent commits an offence if the agent fails to comply with subsection (1) or (3).

Maximum penalty: 50 penalty units.

- (5) A person commits an offence if the person—
 - (a) is a licensed agent or a former licensed agent; and
 - (b) has made a record under subsection (1) or the regulations; and
 - (c) does not keep the record for 5 years beginning on 30 September after the making of the record.

Maximum penalty: 30 penalty units.

- (6) An offence against this section is a strict liability offence.

128 **Where records must be kept**

- (1) A licensed agent commits an offence if the agent—
 - (a) keeps a record that the agent is required to keep under section 127; and
 - (b) fails to keep the record at—
 - (i) the agent's main place of business; or

- (ii) if the commissioner for fair trading has agreed in writing that the record may be kept at another place—that place.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

129 Presumption that records made by licensed agent

An entry in a record kept under section 127 (What records must be kept) and kept in accordance with section 128 is taken, unless the contrary is proved, to have been made by the agent or under the agent's authority.

130 Receipts

- (1) If a licensed agent receives trust money (or, for an employment agent, any money) as a licensed agent, the agent must give a receipt for the money.
- (2) The receipt must—
- (a) be given to the person who gave the licensed agent the money; and
 - (b) describe the subject matter or reason why the money was given to the agent.
- (3) A licensed agent must keep a copy of a receipt given by the agent under this section.
- (4) This section does not apply to money that is credited electronically or paid directly to a licensed agent's account.

Division 8.2 Freezing accounts—licensed property agents

131 Definitions—div 8.2

In this division:

account, for a licensed property agent, means—

- (a) a trust account; or
- (b) any other account in which the licensed property agent has an interest, including an account that is not a trust account but in which trust money is held.

licensed property agent includes a former licensed property agent or the personal representative of a licensed property agent.

stop direction means a direction under section 132.

132 Commissioner may freeze accounts

- (1) If it appears to the commissioner for fair trading that trust money may have been stolen, misappropriated or misapplied, the commissioner may, in writing, direct that—
 - (a) no amount be withdrawn from a stated account without the commissioner's written approval; or
 - (b) a stated account be operated only in accordance with stated conditions; or
 - (c) if a claim has been made against the compensation fund in relation to the trust money—all or a stated part of the amount to the credit of a stated account be paid to the commissioner within a stated reasonable time.

- (2) The direction must—
- (a) identify each account to which it relates; and
 - (b) be given to—
 - (i) the holder of each account to which it relates; and
 - (ii) the authorised deposit-taking institution with which the account is kept.

133 Institutions to comply with directions

- (1) An authorised deposit-taking institution commits an offence if—
- (a) an account is kept with the institution; and
 - (b) the commissioner for fair trading gives the institution a stop direction under section 132 (1) (a) in relation to the account; and
 - (c) the institution allows an amount to be withdrawn from the account without the commissioner’s written approval.

Maximum penalty: 200 penalty units.

- (2) An authorised deposit-taking institution commits an offence if—
- (a) an account is kept with the institution; and
 - (b) the commissioner for fair trading gives the institution a stop direction under section 132 (1) (b) in relation to the account; and
 - (c) the institution allows the account to be operated otherwise than in accordance with the conditions in the direction.

Maximum penalty: 200 penalty units.

- (3) An authorised deposit-taking institution commits an offence if—
- (a) an account is kept with the institution; and
 - (b) the commissioner for fair trading gives the institution a stop direction under section 132 (1) (c) in relation to the account; and

- (c) the institution does not pay to the commissioner the amount that the commissioner has directed be paid within the time stated in the direction.

Maximum penalty: 200 penalty units.

- (4) An offence against this section is a strict liability offence.

134 Accounts to be operated only in accordance with directions

- (1) A person commits an offence if—
 - (a) the person keeps an account; and
 - (b) a stop direction is in force in relation to the account; and
 - (c) the person has been given a copy of the direction; and
 - (d) the person—
 - (i) writes a cheque on the account; or
 - (ii) withdraws money from the account; and
 - (e) the writing of the cheque or withdrawal of the money contravenes the direction.

Maximum penalty: 100 penalty units.

- (2) An offence against this section is a strict liability offence.

135 Commissioner may operate accounts

- (1) The commissioner for fair trading may operate an account in relation to which a stop direction is in force if satisfied that—
 - (a) it is necessary that the account be operated; and
 - (b) the account holder is unable or unwilling to operate the account.
- (2) Before operating an account under this section the commissioner for fair trading must give the authorised deposit-taking institution with which the account is kept a written notice to the effect that the operation of the account will be under this section.

136 Notification of withdrawal of stop directions

As soon as possible after withdrawing a stop direction the commissioner for fair trading must give written notice of the withdrawal to each entity that had been notified of the giving of the direction.

137 No liability for complying with stop directions

A person does not incur liability to anyone else because the person complies with a stop direction.

Part 9 Appointment of administrators

138 Meaning of *administrator*—pt 9

In this part:

administrator means an administrator appointed under section 139.

139 When administrators may be appointed

- (1) The commissioner for fair trading may appoint someone to administer the business of a licensed agent or former licensed agent if any of the following occurs:
 - (a) the agent's licence is suspended or cancelled;
 - (b) the agent is disqualified from holding a licence;
 - (c) the agent's licence has expired;
 - (d) the agent surrenders the licence under section 39;
 - (e) the agent is missing and cannot be located after making reasonable enquiries;
 - (f) the agent dies.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) The commissioner for fair trading may appoint someone to administer the business of a person who is not a licensed agent if the person is—
 - (a) carrying on business as an agent; or
 - (b) pretending to be a licensed agent.

140 Agents not to be involved in business under administration

While the appointment of an administrator is in force, the agent must not be involved in the direction, management or conduct of the agent's business unless the administrator otherwise directs in writing.

141 Notice to authorised deposit-taking institutions

- (1) On the appointment of an administrator for an agent, the commissioner for fair trading must give the person in charge of the branch of the authorised deposit-taking institution with which the agent maintains a trust account a written notice—
 - (a) telling the person about the appointment; and
 - (b) revoking the agent's authority to withdraw money from the account.
- (2) The revocation of the agent's authority to withdraw money from a trust account has the effect that—
 - (a) the agent may no longer withdraw money from the account; and
 - (b) any authority given by the agent to someone else to withdraw money from the account ceases to have effect; and
 - (c) only the administrator, or a person authorised by the administrator by written notice given to the authorised deposit-taking institution, is authorised to withdraw money from the account; and
 - (d) the authorised deposit-taking institution may not pay any money out of the account without the written authority of a person mentioned in paragraph (c).
- (3) The commissioner for fair trading must give a copy of a notice under subsection (1) to the agent, but a failure to comply with this subsection does not affect the validity of the notice.

- (4) In this section:

withdraw money, from a trust account, includes sign a cheque drawn on the account.

142 Functions of administrators

- (1) Anything done by an administrator appointed in relation to an agent is taken to have been done by the agent.
- (2) An administrator appointed in relation to an agent may carry on the agent's business and must carry out the agent's obligations under this Act.
- (3) An administrator is not civilly liable for anything done or omitted to be done honestly and without negligence in the exercise or purported exercise of a function as administrator.
- (4) The commissioner for fair trading and the Territory are not civilly liable for anything done or omitted to be done by an administrator in the exercise or purported exercise of a function as an administrator.
- (5) Subsection (4) applies whether or not the administrator is liable for the thing.

143 Remuneration of administrators

- (1) An administrator who is not a public servant—
 - (a) is entitled to be paid by the Territory the remuneration that the commissioner for fair trading decides; and
 - (b) is entitled to reimbursement by the Territory of the expenses reasonably incurred in carrying out the administration.
- (2) An amount paid to an administrator by the Territory under subsection (1) is recoverable by the Territory as a debt from the agent in relation to whom the administrator is appointed.

- (3) If an administrator is a public servant, the commissioner for fair trading must certify an amount that represents the amount of remuneration and expenses of the administrator that is attributable to carrying out the administration.
- (4) An amount certified under subsection (3) is recoverable by the Territory as a debt from the agent in relation to whom the administrator is appointed.

Part 10 **Consumer compensation fund— licensed property agents**

Division 10.1 **Establishment of compensation fund**

144 **Consumer compensation fund**

- (1) The director-general must keep and administer a fund to be called the consumer compensation fund.
- (2) The assets of the compensation fund may only be used in accordance with this Act.
- (3) The director-general must open and maintain under the *Financial Management Act 1996*, section 51 (Directorate trust banking accounts) a trust account with an authorised deposit-taking institution (the *compensation fund account*) to be used only for the fund.
- (4) All money of the fund not immediately needed for payments under section 151 (Claims for compensation) must be paid to the credit of the fund account.

145 **Compensation fund money**

The compensation fund consists of—

- (a) the amounts paid to the Territory under section 109 (1) (b) (Interest on trust accounts); and
- (b) any other amount that may be lawfully paid into the compensation fund.

146 **Application of compensation fund money**

The compensation fund may be used only to pay—

- (a) the amount of a claim under division 10.2, including costs, allowed or proved against the compensation fund; and

- (b) any other amount payable out of the compensation fund under this Act.

Division 10.2 Claims against compensation fund

147 Definitions—div 10.2

In this division:

claimant—see section 149 (Entitlement to claim compensation).

licensed property agent includes a former licensed property agent.

148 Application—div 10.2

This division applies in relation to a person who was a licensed property agent only in relation to anything that happened while the person was licensed.

149 Entitlement to claim compensation

- (1) A person (the *claimant*) who suffers financial loss because of a failure to account by a licensed property agent is entitled to claim compensation from the compensation fund for the loss.
- (2) The amount that the claimant is entitled to claim is the amount of the actual financial loss suffered by the claimant less any amount the claimant has recovered or can recover in relation to the loss from a source other than the compensation fund.
- (3) However, if the claim is in relation to a licensed real estate agent acting as manager of an owners corporation for a units plan, the amount that the claimant is entitled to claim is limited to \$50 000 for a single claim.
- (4) Subsection (3) does not apply to a claim if the cause of action on which the claim is based arose before the commencement of subsection (3).

- (5) Subsection (1) does not entitle an agent to claim compensation against the compensation fund for a financial loss suffered by the agent in the course of carrying on business as an agent.
- (6) If a person who has begun a proceeding in accordance with a notice under section 153 (Requirement to begin proceedings) is ordered to pay costs to another party to the proceeding, the person is entitled to claim compensation from the compensation fund for the amount of the costs paid.
- (7) This section does not apply to a failure to account for money or other property that relates to dealing in land used or to be used mainly for a commercial, business or industrial purpose.

150 Notice inviting claims

- (1) The commissioner for fair trading may give public notice inviting people entitled to claim compensation under this division in relation to a stated licensed property agent to make claims within the period (the *claim period*) stated in the notice.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (2) The public notice must be given twice with an interval of at least 1 month between the giving of each notice.
- (3) In addition to stating the name of the licensed property agent, the notice must—
 - (a) state the name under which, and the place where, the agent carries or carried on business; and
 - (b) contain any other details the commissioner for fair trading considers necessary to allow the agent to be clearly identified.
- (4) The claim period must not end earlier than 6 months after the day the notice is first published.
- (5) A proceeding does not lie against the commissioner for fair trading in relation to the honest publication of a notice under this section.

151 Claims for compensation

- (1) A claim for compensation must—
 - (a) be in the form approved under section 177 for this section; and
 - (b) be given to the commissioner for fair trading within the appropriate period; and
 - (c) be accompanied by a statement verifying the details contained in the statement.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (2) For this section, the *appropriate period* is whichever of the following periods ends earlier:
 - (a) the period of 1 year after the day the claimant becomes aware of the failure to account to which the claim relates;
 - (b) the period of 2 years after the day the failure to account happens.
- (3) However, the *appropriate period* for the claim is the claim period under section 150 (Notice inviting claims) if—
 - (a) notice is published under section 150 in relation to the agent to whom the claim relates; and
 - (b) the appropriate period under subsection (2) for the claim had not ended when the notice was published.

152 Requirement to give information and produce documents

- (1) The commissioner for fair trading may, by written notice given to a claimant, require the person to give the commissioner, within a reasonable time stated in the notice, stated information or documents that the commissioner for fair trading considers necessary to decide a claim.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (2) The notice may state in what form the information is to be given to the commissioner for fair trading.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (3) The commissioner for fair trading may—
- (a) keep a document for as long as is necessary; and
 - (b) take copies of a document.
- (4) If the commissioner for fair trading keeps a document under subsection (3)—
- (a) the commissioner must, as soon as practicable, give the person otherwise entitled to possession of the document a copy certified by the commissioner to be a true copy; and
 - (b) until the certified copy is given, the commissioner must, at the times and places the commissioner considers appropriate, allow the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.
- (5) In any proceeding in which a document kept by the commissioner for fair trading under subsection (3) is admissible in evidence, a copy of the document certified to be a true copy under subsection (4) is admissible in evidence as if it were the original.

153 Requirement to begin proceedings

The commissioner for fair trading may, by written notice, require a claimant to begin a proceeding for the recovery of the money claimed against—

- (a) the licensed property agent to whom the claim relates; or
- (b) anyone else the commissioner considers is liable in relation to the loss suffered by the claimant.

154 Decision on claims

- (1) If the commissioner for fair trading is given a claim for compensation under section 151 (Claims for compensation), the commissioner must decide whether there is financial loss for which compensation may be paid to the claimant under this division and, if so, the amount of the loss.
- (2) If the commissioner for fair trading gives a notice under section 152 (Requirement to give information and produce documents) or section 153 in relation to a claim, the commissioner need not take any further action in relation to the claim until—
 - (a) the requirement in the notice is satisfied; and
 - (b) for a requirement under section 153—the relevant proceeding is decided.

155 Payment of compensation

- (1) This section applies if the commissioner for fair trading decides that there is financial loss for which compensation may be paid to a claimant under this division.
- (2) The director-general must pay the claimant, out of the compensation fund, the amount of the financial loss decided by the commissioner for fair trading.
- (3) However, the director-general must not pay the amount until—
 - (a) the commissioner for fair trading has decided all claims for compensation made in relation to the licensed property agent whose failure to account is the subject of the claim; and
 - (b) the commissioner has found out whether the amount in the compensation fund is sufficient for the payment of all amounts payable to claimants under subsection (1) in relation to the licensed property agent.

156 Interim payment of compensation

- (1) This section applies if the commissioner for fair trading has decided that there is a financial loss for which an amount may be payable to a claimant under this division but payment of the amount cannot be made because of section 155 (3).
- (2) The director-general may make an interim payment of compensation out of the compensation fund of the amount the director-general considers reasonable, if satisfied that—
 - (a) the claimant is suffering hardship as a direct consequence of the financial loss; or
 - (b) circumstances prescribed by regulation exist.
- (3) An amount paid to the claimant under subsection (2) must be set off against the amount of compensation payable to the claimant under this division.

157 Insufficiency of compensation fund

- (1) If the amount in the compensation fund (the *available amount*) is insufficient for the payment of all amounts that would, apart from this subsection, be payable to claimants under section 155 (1) (Payment of compensation)—
 - (a) the director-general must divide the available amount among the claimants in proportion to the amounts otherwise payable; and
 - (b) pay each claimant the proportionate amount.
- (2) The balance of the amount payable to claimants must be paid out of future accumulations of the compensation fund.
- (3) On making a payment under subsection (1) (b), the director-general must tell each claimant in writing the balance payable out of future accumulations of the fund.

158 Availability of compensation fund

The compensation fund is the only property available for the satisfaction of a claim for compensation under this division.

159 Subrogation

If compensation is paid to a person in relation to a claim, the Territory is subrogated to the rights of the person against the licensed property agent in relation to whom the claim for compensation was made, to the extent of the payment.

Part 11 Administration

160 Register

- (1) The commissioner for fair trading must maintain a register for this Act.
- (2) The register must be available for public inspection at reasonable times.
- (3) The register may be kept in the form of, or as part of, 1 or more computer databases or in any other form the commissioner for fair trading considers appropriate.
- (4) The commissioner for fair trading may correct a mistake or omission in the register, subject to any requirements of the regulations.
- (5) The commissioner for fair trading may change a detail included in the register to keep the register up-to-date.

161 Register information

The commissioner for fair trading must enter and keep in the register details about the following:

- (a) each licence;
- (b) each registration;
- (c) conditions put on licences or registrations;
- (d) each application for a licence that is refused;
- (e) each application for registration that is refused;
- (f) the main place of business of each licensed agent;
- (g) any exemption under section 71 (Class 1 licensed property agent to be in charge of business—exemptions);
- (h) an audit period for a licensed agent fixed by the commissioner for fair trading under section 113 (1) (Audit period);

- (i) each prosecution taken under this Act and the result of the prosecution;
- (j) each occupational discipline order made by the ACAT;
- (k) the appointment of an administrator under this Act;
- (l) anything else prescribed by regulation.

162 Amounts received under Act

- (1) This section applies to all amounts paid to the Territory under this Act.
- (2) The director-general must pay the amounts into the ACAT trust account.

163 Determination and payment of amounts for compensation fund

- (1) As soon as practicable after the beginning of a financial year, the Minister must determine an amount for the compensation fund, if the Minister considers it necessary to increase the amount in the compensation fund to meet the likely claims against the fund during the financial year.
- (2) A determination is a notifiable instrument.
Note A notifiable instrument must be notified under the [Legislation Act](#).
- (3) If the amount paid into the ACAT trust account under this Act and available when the Minister makes the determination is at least the determined amount, the amount must be paid from the trust account into the compensation fund.
- (4) If the amount paid into the ACAT trust account under this Act and available when the Minister makes the determination is less than the determined amount, the whole amount must be paid into the compensation fund.

164 Disclosure of information

- (1) A person commits an offence if the person discloses information obtained by the person in connection with the administration of this Act.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) Subsection (1) does not apply in relation to a disclosure made—
- (a) with the consent of the person who provided the information; or
 - (b) as part of the exercise of a function under this Act; or
 - (c) for a legal proceeding arising out of this Act or a report of the proceeding; or
 - (d) to a regulatory officer or law enforcement officer, to help the officer in the exercise of the officer's functions; or
 - (e) as otherwise prescribed by regulation; or
 - (f) under another territory law or a law of the Commonwealth.
- (4) This section does not apply to the disclosure by the commissioner for fair trading to a person directly involved in a transaction with a licensed agent, of information that relates to the transaction and directly concerns the person.
- (5) This section does not apply to the disclosure of information to the commissioner for fair trading by a law enforcement officer or regulatory officer helping the commissioner in the exercise of functions under this Act if the commissioner has asked for disclosure of the information.
- (6) The commissioner for fair trading may enter into agreements and other arrangements for the sharing or exchange of information relating to the activities of agents and this section does not apply to the disclosure of information under an agreement or arrangement entered into under this subsection.

(7) In this section—

information means information that is not on the register.

law enforcement officer means—

- (a) a police officer or a member of the police service or force of a State; or
- (b) the director of public prosecutions, or the director of public prosecutions or prosecutor of the Commonwealth or a State; or
- (c) a person, or an officer of an authority, responsible for the investigation or prosecution of offences against a territory law, or the law of the Commonwealth or a State.

regulatory officer means an officer or employee of a government agency (including the government of a jurisdiction outside the ACT or outside Australia) exercising functions under a law about fair trading or a law that provides for the issue of authorities (however called) in relation to the undertaking of an activity regulated under the law.

165 Protection from liability

- (1) The commissioner for fair trading or an investigator does not incur civil liability for an act or omission done honestly for this Act.
- (2) A civil liability that would, apart from this section, attach to the commissioner for fair trading or an investigator attaches instead to the Territory.
- (3) In this section:

investigator—see the [Fair Trading \(Australian Consumer Law\) Act 1992](#), dictionary.

Part 12 Notification and review of decisions

166 Meaning of *reviewable decision*—pt 12

In this part:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

167 Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

168 Applications for review

(1) The following may apply to the ACAT for a review of a reviewable decision of a relevant person:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

(2) In this section:

relevant person means—

- (a) for a reviewable decision mentioned in schedule 1, column 3, items 1 to 20—the commissioner for fair trading; or

Part 12 Notification and review of decisions

Section 168

- (b) for a reviewable decision mentioned in schedule 1, column 3, item 21—the director-general.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

Part 13 Miscellaneous

Note Regulations about infringement notices may be made under the *Magistrates Court Act 1930* for offences against this Act.

169 False or misleading statements

(1) In this section:

relevant matter means any of the following:

- (a) an application for a licence or registration;
- (b) the making of an objection to the issue of a licence or the granting of registration;
- (c) an application for the amendment or omission of a condition on a licence or registration;
- (d) an application for renewal of a licence or registration;
- (e) a response to a requirement made by the commissioner for fair trading about information or documents in relation to an application for a licence, registration or renewal of a licence or registration;
- (f) a notification of a change in a licensed agent's main place of business under section 68;
- (g) an application for an exemption under section 71 (Class 1 licensed property agent to be in charge of business—exemptions);
- (h) information or a document required or permitted to be given under part 7 (Trust accounts—licensed property agents);
- (i) a claim for compensation under section 151;

- (j) information or a document given to the commissioner for fair trading in relation to a claim for compensation, whether or not the information or document is given in response to a requirement under section 152 (Requirement to give information and produce documents).
- (2) A person commits an offence if—
- (a) the person makes a statement (whether orally, in a document or in any other way); and
 - (b) the person does so knowing that the statement—
 - (i) is false or misleading; or
 - (ii) omits something without which the statement is misleading; and
 - (c) the statement is made in, or in relation to, a relevant matter.
- Maximum penalty: 100 penalty units, imprisonment for 1 year or both.
- (3) Subsection (2) does not apply to a person who produces a document if the document is accompanied by a signed statement—
- (a) stating that the document is, to the signing person's knowledge, false or misleading in a material particular; and
 - (b) setting out, or referring to, the material particular in which the document is, to the signing person's knowledge, false or misleading.
- (4) The statement under subsection (3) must be signed by—
- (a) the person; or
 - (b) if the person who produces the document is a corporation—by an executive officer of the corporation.

- (5) A person commits an offence if—
- (a) the person makes a statement (whether orally, in a document or in any other way); and
 - (b) the person is reckless about whether the statement—
 - (i) is false or misleading; or
 - (ii) omits something without which the statement is misleading; and
 - (c) the statement is made in, or in relation to, a relevant matter.
- Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (6) Subsections (2) (b) (i) and (5) (b) (i) do not apply if the statement is not false or misleading in a material particular.
- (7) Subsections (2) (b) (ii) and (5) (b) (ii) do not apply if the omission does not make the statement misleading in a material particular.

170 Alternative verdict for offence against s 169

- (1) This section applies if, in a prosecution for an offence against section 169 (2), the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence against section 169 (5).
- (2) The trier of fact may find the defendant guilty of the offence against section 169 (5), but only if the defendant has been given procedural fairness in relation to that finding of guilt.

171 Rules of conduct

- (1) A regulation may prescribe rules of conduct to be observed by licensed agents, licensed land auctioneers or registered assistant property agents.

- (2) A licensed agent must not contravene a rule of conduct applying to the agent.
- (3) A licensed land auctioneer must not contravene a rule of conduct applying to the auctioneer.
- (4) A registered assistant property agent must not contravene a rule of conduct applying to the assistant property agent.

173 Evidentiary certificates

- (1) In a proceeding under this Act or the *ACT Civil and Administrative Tribunal Act 2008*, a certificate signed by the commissioner for fair trading stating any of the following matters is evidence of the matter stated:
 - (a) that, on a stated day or during a stated period, a person was, or was not, the holder of a stated licence;
 - (b) that, on a stated day or during a stated period, a person was, or was not, registered as stated;
 - (c) that, on a stated day or during a stated period, a person's licence or registration was, or was not, suspended;
 - (d) that a document mentioned in the certificate is a copy of—
 - (i) a part of the register mentioned in the certificate; or
 - (ii) a document held by the commissioner under this Act.
- (2) A document purporting to be a certificate under subsection (1) is taken, unless the contrary is proved, to be such a certificate and to be evidence of the matters it states.

174 What is a *corresponding law*?

A *corresponding law* is—

- (a) a law of a State corresponding, or substantially corresponding, to this Act; or

- (b) a law of a State that is declared by regulation to be a corresponding law, whether or not the law corresponds, or substantially corresponds, to this Act.

175 Displacement of Corporations legislation

- (1) An administrator is declared to be an excluded matter for the purposes of the [Corporations Act](#), section 5F in relation to the whole of the Corporations legislation to which the [Corporations Act](#), part 1.1A (Interaction between Corporations legislation and State and Territory laws) applies.

Note This section ensures that neither the [Corporations Act](#) nor the [Australian Securities and Investment Commission Act 2001](#) (Cwlth), pt 3 (Investigations and information gathering) will apply in relation to an administrator. The [Corporations Act](#), s 5F provides that, if a State or Territory law declares a matter to be an excluded matter in relation to all or part of the Corporations legislation to which the [Corporations Act](#), pt 1.1A applies (see s 5D), that legislation does not apply, except to the extent specified, in relation to that matter in the State or Territory.

- (2) Part 9 (Appointment of administrators) is declared to be a Corporations legislation displacement provision for the purpose of the [Corporations Act](#), section 5G (Avoiding direct inconsistency arising between the Corporations legislation and State and Territory laws).

176 Determination of fees

- (1) The Minister may determine fees for this Act.

Note The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

177 Approved forms

- (1) The commissioner for fair trading may approve forms for this Act.
- (2) If the commissioner for fair trading approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

178 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may make provision in relation to—
 - (a) applications for licences or registrations; and
 - (b) renewals of licences and registrations; and
 - (c) the surrender of licences and registrations; and
 - (d) the keeping of accounts and other records by licensed agents and registered assistant property agents; and
 - (e) the transfer of a licensed agent's business to another licensed agent, including the transfer of trust money.
- (3) A regulation may prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 20 penalty units for offences against a regulation.

Part 22 Transitional—Fair Trading and Other Justice Legislation Amendment Act 2022

228 Definitions—pt 22

In this part:

additional class 1 training means the following VET course units of competency:

- (a) CPPREP5001 (Manage compliance in the property industry);
- (b) CPPREP5002 (Establish and monitor property industry trust account management practices);
- (c) CPPREP5003 (Manage ethical practice in the property industry);
- (d) CPPREP5004 (Manage a safe workplace in the property industry);
- (e) CPPREP5005 (Manage teams in the property industry);
- (f) CPPREP5006 (Manage operational finances in the property industry);
- (g) CPPREP5007 (Develop a strategic business plan in the property industry).

commencement day means the day the *Fair Trading and Other Justice Legislation Amendment Act 2022*, part 2 commences.

completes additional class 1 training—a person *completes* additional class 1 training if a registered training organisation issues the person with a statement of attainment or qualification, confirming that the person has satisfied the requirements of the additional class 1 training.

licensed property agent, of a particular kind, means a person who holds a licence to carry on business as 1 of the following agents:

- (a) a business agent;
- (b) a real estate agent;
- (c) a stock and station agent.

owners corporation managing agent—see section 109A (3).

registered training organisation—see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

statement of attainment means a VET statement of attainment under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

unqualified real estate salesperson means a person—

- (a) to whom section 49 (1) (a) and (c) as in force immediately before the commencement day applied; and
- (b) who immediately before the commencement day did not have the qualifications prescribed under section 50 as in force immediately before the commencement day.

VET course—see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

229 Licensed agents

- (1) This section applies to a person if, immediately before the commencement day, the person was a licensed agent under section 33 of the kind mentioned in table 229, column 2.

- (2) On the commencement day, the person is taken to be a class 2 licensed property agent of the kind mentioned in table 229, column 3.

Table 229

column 1 item	column 2 old kind of licensed agent	column 3 new kind and class of licensed property agent
1	licensed business agent	class 2 licensed business agent
2	licensed real estate agent	class 2 licensed real estate agent
3	licensed stock and station agent	class 2 licensed stock and station agent

- (3) This section is subject to section 231.

230 Licensed agents in charge

- (1) This section applies if—
- (a) immediately before the commencement day, a person was a licensed agent under section 33 of the kind mentioned in table 230, column 2; and
 - (b) at any time before the commencement day, the person was responsible for the day-to-day management of a place of business of the same kind of licensed agent.
- (2) On the commencement day, the person is taken to be a class 1 licensed property agent of the kind mentioned in table 230, column 3.

Table 230

column 1 item	column 2 old kind of licence—licensed agent in charge	column 3 new kind and class of licensed property agent
1	licensed business agent	class 1 licensed business agent
2	licensed real estate agent	class 1 licensed real estate agent
3	licensed stock and station agent	class 1 licensed stock and station agent

- (3) The licence of a person taken to be a class 1 licensed property agent under subsection (2) is automatically subject to the condition that the person must complete additional class 1 training before 1 July 2024.

231 Experienced property agents who elect to become class 1 licensed property agent

- (1) This section applies if a person—
- (a) is taken to be a class 2 licensed property agent of a particular kind under section 229; and
 - (b) immediately before the commencement day, had at least 2 years experience as a licensed agent of the same kind.
- (2) The person may elect to be a class 1 licensed property agent of that kind.
- (3) The licence of a person who elects to be a class 1 licensed property agent under subsection (2) is automatically subject to the condition that the person must complete additional class 1 training on or before 30 June 2024.
- (4) A person who elects to be a class 1 licensed property agent must give the commissioner for fair trading written notice about their election.
- (5) The notice must be given to the commissioner before 1 July 2023.

232 Conditional real estate agent licences—acting as auctioneer of land

- (1) This section applies to a person if, immediately before the commencement day—
- (a) the person was a licensed real estate agent under section 33; and
 - (b) the licence held by the person was subject to a condition under section 34 that the person act only as an auctioneer of land.
- (2) On the commencement day, the person is taken to be a licensed land auctioneer.

- (3) The licence of a person taken to be a licensed land auctioneer under subsection (2) is automatically subject to the condition that the person must complete additional auctioneer training before 1 July 2024.
- (4) In this section:
- additional auctioneer training* means the following VET course units of competency:
- (a) CPPREP4161 (Undertake pre-auction processes);
 - (b) CPPREP4162 (Conduct and complete sale by auction);
 - (c) CPPREP4163 (Complete post-auction process and contract execution).

completes additional auctioneer training—a person *completes* additional auctioneer training if a registered training organisation issues the person with a statement of attainment or qualification, confirming that the person has satisfied the requirements of the additional auctioneer training.

233 Conditional stock and station agent licences—acting as auctioneer of rural land

- (1) This section applies to a person if, immediately before the commencement day—
- (a) the person was a licensed stock and station agent under section 33; and
 - (b) the licence held by the person was subject to a condition under section 34 that the person act only as an auctioneer of rural land.
- (2) On the commencement day, the person is taken to be a licensed land auctioneer.

Section 234

- (3) The licence of a person taken to be a licensed land auctioneer under subsection (2) is automatically subject to the following conditions:
- (a) the person act only as an auctioneer of rural land;
 - (b) the person must complete additional auctioneer training before 1 July 2024.
- (4) In this section:
- additional auctioneer training*—see section 232 (4).
- completes*, additional auctioneer training—see section 232 (4).

234 Registered salespeople

- (1) This section applies to a person if, immediately before the commencement day, the person was a registered salesperson under section 57 of the kind mentioned in table 234, column 2.
- (2) On the commencement day, the person is taken to be a registered assistant property agent of the kind mentioned in table 234, column 3.

Table 234

column 1 item	column 2 old kind of registered salesperson	column 3 new kind of registered assistant property agent
1	registered business salesperson	registered assistant business agent
2	registered real estate salesperson	registered assistant real estate agent
3	registered stock and station salesperson	registered assistant stock and station agent

235 Unqualified real estate salespeople

- (1) This section applies to a person if, immediately before the commencement day, the person was an unqualified real estate salesperson who held registration as a real estate salesperson in the circumstances mentioned in the *Agents Regulation 2003*, section 8A (1) as in force immediately before the commencement day.
- (2) On the commencement day, the person's registration as a real estate salesperson continues, and is automatically subject to the condition that the registration ends on the earlier of—
 - (a) the day any of the circumstances mentioned in subsection (1) change; and
 - (b) 31 October 2023.
- (3) The provisions of this Act and the *Agents Regulation 2003* apply to the person as if a reference to an assistant real estate agent were a reference to a real estate salesperson.

236 Owners corporation managing agents—licensed agent in charge

- (1) This section applies to a person if—
 - (a) the person was—
 - (i) immediately before the commencement day, a licensed real estate agent under section 33; and
 - (ii) at any time before the commencement day, responsible for the day-to-day management of a place of business of an owners corporation managing agent; and
 - (b) the licence held by the person was subject to a condition under section 34 that the person act only as an owners corporation managing agent.

- (2) On the commencement day, the person is taken to be a class 1 licensed real estate agent.
- (3) The licence of a person taken to be a class 1 licensed real estate agent under subsection (2) is automatically subject to the following conditions:
 - (a) the person act only as an owners corporation managing agent;
 - (b) the person must complete additional class 1 training before 1 July 2024.

237 Owners corporation managing agents

- (1) This section applies to a person if, immediately before the commencement day—
 - (a) the person was a licensed real estate agent under section 33; and
 - (b) the licence held by the person was subject to a condition under section 34 that the person act only as an owners corporation managing agent.
- (2) On the commencement day—
 - (a) the person is taken to be a class 2 licensed real estate agent; and
 - (b) the person's licence is automatically subject to the condition that the person act only as an owners corporation managing agent.

238 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Fair Trading and Other Justice Legislation Amendment Act 2022*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.

- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

Note A transitional provision under s (1) continues to have effect after its repeal, however, a modification under s (2) has no ongoing effect after its repeal (see [Legislation Act](#), s 88).

239 Expiry—pt 22

This part expires on 30 June 2025.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Schedule 1 Reviewable decisions

(see s 166)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	33 (2) (a)	issue licence	applicant objectors
2	33 (2) (b)	refuse to issue licence	applicant objectors
3	34 (2) (a)	put condition on a licence	(a) if done on issue of licence—applicant objectors (b) if done on existing licence—licensed agent
4	34 (2) (b)	amend a licence condition	licensed agent
5	36 (2) (b)	refuse to renew licence	licensed agent
6	57 (2) (a)	register an applicant	applicant objectors
7	57 (2) (b)	refuse to register an applicant	applicant objectors
8	58 (2) (a)	put a registration condition	(a) if done on registration—applicant objectors (b) if done on existing registration—registered assistant property agent
9	58 (2) (b)	amend a registration condition	registered assistant property agent
10	60 (2) (b)	refuse to renew registration	registered assistant property agent

column 1 item	column 2 section	column 3 decision	column 4 entity
11	71 (1)	refuse to exempt person from being class 1 licensed property agent	person responsible for management of business of licensed property agent
12	71 (1)	refuse to exempt from having class 1 licensed property agent in charge of business	licensed property agent who owns business
13	71 (1)	refuse to exempt class 1 licensed property agent from requirement to manage not more than 1 business	applicant for exemption owner of each business
14	71 (1)	refuse to exempt class 1 licensed property agent in charge of a business from requirement to not provide service to another agent	applicant for exemption owner of each business
15	71 (2)	put condition on exemption from prohibition on managing, or providing services, to more than 1 business	licensed property agent exempted owner of each business
16	71 (2)	amend a condition on exemption from prohibition on managing, or providing services, to more than 1 business	licensed property agent exempted owner of each business

Schedule 1

Reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 entity
17	105A (1)	refuse to exempt licensed agent from requirement to open trust account	licensed agent
18	105A (3)	put condition on exemption from requirements of s 105	licensed agent exempted
19	105A (3)	amend condition of exemption from requirements of s 105	licensed agent exempted
20	139 (1)	appoint an administrator	licensed agent or former licensed agent
21	139 (2)	appoint an administrator	person carrying on the business to be administered
22	153	require a claimant to begin proceeding	claimant
23	154	decide about financial loss	claimant
24	156 (2)	not make interim payment	claimant

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- Act
- adult
- Australian Consumer Law (ACT)
- Australian Criminal Intelligence Commission
- authorised deposit-taking institution
- business day
- commissioner for fair trading
- corporation
- Corporations Act
- director-general (see s 163)
- entity
- financial year
- found guilty
- in relation to
- lawyer
- month
- occupational discipline order
- public trustee and guardian
- reviewable decision notice
- State
- territory law
- under.

account, for a licensed property agent, for division 8.2 (Freezing accounts—licensed property agents)—see section 131.

ACT dishonesty offence means an offence against a territory law that involves dishonesty.

ADI business day, for a trust account, for division 7.2 (Trust money and trust accounts)—see section 104.

administrator, for part 9 (Appointment of administrators)—see section 138.

agent—

- (a) for this Act generally, means a person who carries on business as any of the following:
 - (i) a business agent;
 - (ii) a land auctioneer;
 - (iii) an employment agent;
 - (iv) a real estate agent;
 - (v) a stock and station agent; and
- (b) for division 3.4 (Occupational discipline—agents)—see section 40.

agents licence means any of the following:

- (a) a business agents licence;
- (b) a land auctioneers licence;
- (c) an employment agents licence;
- (d) a real estate agents licence;
- (e) a stock and station agents licence.

assistant property agent means a person who, as an employee, provides—

- (a) a business agent service; or
- (b) a real estate agent service; or
- (c) a stock and station agent service.

audit period, for a licensed agent, means the period fixed under section 113 for the agent.

beneficial interest, in land, for division 5.6 (Land—further provisions)—see section 82.

benefit, for division 5.6 (Land—further provisions)—see section 80.

business agent service—see section 10 (2).

buyer includes a prospective buyer.

carries on business as—

- (a) **a business agent**—see section 10; or
- (b) **an employment agent**—see section 12; or
- (c) **a land auctioneer**—see section 11; or
- (d) **a real estate agent**—see section 8; or
- (e) **a stock and station agent**—see section 9.

child, of a person, means the son, daughter, grandson, granddaughter, stepson or stepdaughter of the person, or someone in relation to whom the person is acting in place of a parent.

claimant, for division 10.2 (Claims against compensation fund)—see section 149.

class 1 licensed business agent means a person who holds a class 1 licence as a business agent.

class 1 licensed property agent means—

- (a) a class 1 licensed business agent; or
- (b) a class 1 licensed real estate agent; or
- (c) a class 1 licensed stock and station agent.

class 1 licensed real estate agent means a person who holds a class 1 licence as a real estate agent.

class 1 licensed stock and station agent means a person who holds a class 1 licence as a stock and station agent.

class 2 licensed business agent means a person who holds a class 2 licence as a business agent.

class 2 licensed property agent means—

- (a) a class 2 licensed business agent; or
- (b) a class 2 licensed real estate agent; or
- (c) a class 2 licensed stock and station agent.

class 2 licensed real estate agent means a person who holds a class 2 licence as a real estate agent.

class 2 licensed stock and station agent means a person who holds a class 2 licence as a stock and station agent.

compensation fund means the consumer compensation fund kept under section 144.

corresponding law—see section 174.

details, of a trust account, for part 7 (Trust accounts—licensed property agents)—see section 103.

employ includes—

- (a) engaging a person on a contract of service; and
- (b) for a corporation, having a person as director or other member of its governing body.

employee—

- (a) means—
 - (i) any person employed, regardless of how remunerated; and
 - (ii) a person engaged on a contract of service; and
- (b) for a corporation, includes a director or other member of its governing body.

employment agent service—see section 12 (2).

estimate, for division 5.6 (Land—further provisions)—see section 80.

executive officer—see the [Corporations Act](#), section 9.

failure to account, in relation to a licensed agent, means a failure by the agent to account for money or other property entrusted to the agent in the course of carrying on the agent's business as a licensed agent.

fair trading legislation—see section 7.

family member, of a person, means—

- (a) the person's domestic partner; or
- (b) the person's parent or child; or
- (c) the person's brother, sister, half-brother or half-sister; or
- (d) the parent or child of the person's domestic partner.

ground for occupational discipline—

- (a) for an agent—see section 41; and
- (b) for a registered assistant property agent—see section 65.

land includes an interest in land.

land auctioneer means a person who carries on business as a land auctioneer.

land auctioneer service—see section 11 (2).

licence means a licence under this Act.

licensed, for division 3.1 (Agents to be licensed)—see section 17.

licensed agent means an agent who holds a licence, and includes a land auctioneer who holds a licence.

licensed business agent means—

- (a) a class 1 licensed business agent; or
- (b) a class 2 licensed business agent.

licensed employment agent means a person who holds a licence as an employment agent.

licensed land auctioneer means a person who holds a licence as a land auctioneer.

licensed property agent—

- (a) for this Act generally—see section 7A; and
- (b) for part 7 (Trust accounts—licensed property agents)—see section 101; and
- (c) for division 8.2 (Freezing accounts—licensed property agents)—see section 131; and
- (d) for division 10.2 (Claims against compensation fund)—see section 147.

licensed real estate agent means—

- (a) a class 1 licensed real estate agent; or
- (b) a class 2 licensed real estate agent.

licensed stock and station agent means—

- (a) a class 1 licensed stock and station agent; or
- (b) a class 2 licensed stock and station agent.

main place of business, for a licensed agent, means the place shown in the register as the agent's main place of business.

non-ACT offence means an offence against a law other than a territory law.

obtains a beneficial interest, in land, for division 5.6 (Land—further provisions)—see section 82.

parent, of a person, means the person's father, mother, grandfather, grandmother, stepfather or stepmother, or someone acting in place of the person's parent.

police certificate, for a person, means a written statement by the Australian Federal Police or the Australian Criminal Intelligence Commission indicating—

- (a) whether, according to the records held by the Australian Federal Police or the Australian Criminal Intelligence Commission, the person has been charged with, or convicted of, an offence against a law of—
 - (i) the Territory; or
 - (ii) the Commonwealth; or
 - (iii) a State; or
 - (iv) another country; and
- (b) if so—particulars of each offence.

Note A conviction does not include a spent conviction or an extinguished conviction (see *Spent Convictions Act 2000*, s 16 (c) (i) and s 19H (1) (c) (i)).

pre-contract information, for division 5.6 (Land—further provisions)—see section 81.

principal, of a person, does not include the person's employer.

publish—see section 78.

qualified auditor, for division 7.4 (Audit of trust accounts)—see section 112.

real estate agent service—see section 8 (2).

records includes documents and information in electronic form.

register, when used as a noun, means the register under section 160.

registered, in relation to an assistant property agent, for division 4.1 (Assistant property agents to be registered)—see section 44.

registered assistant business agent means a person registered under section 57 as an assistant business agent.

registered assistant property agent—

- (a) for this Act generally, means—
 - (i) a registered assistant business agent; or
 - (ii) a registered assistant real estate agent; or
 - (iii) a registered assistant stock and station agent; and
- (b) for division 4.4 (Occupational discipline—registered assistant property agents)—see section 64.

registered assistant real estate agent means a person registered under section 57 as an assistant real estate agent.

registered assistant stock and station agent means a person registered under section 57 as an assistant stock and station agent.

registration means registration under this Act.

relevant offence—

- (a) means—
 - (i) any of the following offences against a territory law:
 - (A) an offence involving dishonesty;
 - (B) an offence against the person;
 - (C) an offence involving violence;
 - (D) an offence against the [Criminal Code](#), chapter 6, punishable by a maximum term of imprisonment of 3 years or more (a ***serious drug offence***) or an offence against a territory law previously in force that is similar in nature to a serious drug offence; or
 - (ii) a sexual offence; and
- (b) includes a non-ACT offence that is similar in nature to an offence mentioned in paragraph (a) (i).

reviewable decision, for part 12 (Notification and review of decisions)—see section 166.

rules of conduct means rules of conduct prescribed under section 171.

rural land means land used mainly for—

- (a) agricultural or pastoral purposes; or
- (b) a purpose prescribed by regulation.

seller includes prospective seller.

selling price, for division 5.6 (Land—further provisions)—see section 80.

sexual offence—see the [Spent Convictions Act 2000](#), dictionary.

stock and station agent service—see section 9 (2).

stop direction, for division 8.2 (Freezing accounts—licensed property agents)—see section 131.

trust account—see section 105.

trust money—see section 102.

vehicle includes a ship, train or aircraft.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Agents Act 2003 A2003-20

notified LR 19 May 2003

s 1, s 2 commenced 19 May 2003

remainder commenced 1 November 2003 (s 2 and [CN2003-12](#))

as amended by

[Civil Law \(Sale of Residential Property\) Act 2003 A2003-40 sch 1 pt 1.1 \(as am by A2004-32 s 55\)](#)

notified LR 8 September 2003

s 1, s 2 commenced 8 September 2003 (LA s 75 (1))

sch 1 pt 1.1 commenced 1 July 2004 (s 2)

[Justice and Community Safety Legislation Amendment Act 2004 A2004-18 pt 2](#)

notified LR 6 April 2004

s 1, s 2 commenced 6 April 2004 (LA s 75 (1))

pt 2 commenced 20 April 2004 (s 2)

[Justice and Community Safety Legislation Amendment Act 2004 \(No 2\) A2004-32 pt 2, s 55](#)

notified LR 29 June 2004

s 1, s 2 commenced 29 June 2004 (LA s 75 (1))

pt 2 commenced 30 June 2004 (s 2 (1))

s 55 commenced 1 July 2004 (s 2 (2))

Note s 55 only amends [Civil Law \(Sale of Residential Property\) Act 2003 A2003-40](#)

[Justice and Community Safety Legislation Amendment Act 2005 A2005-5 pt 2](#)

notified LR 23 February 2005

s 1, s 2 commenced 23 February 2005 (LA s 75 (1))

pt 2 commenced 24 February 2005 (s 2 (2))

[Justice and Community Safety Legislation Amendment Act 2005 \(No 2\) A2005-11 pt 2](#)

notified LR 11 March 2005

s 1, s 2 commenced 11 March 2005 (LA s 75 (1))

pt 2 commenced 12 March 2005 (s 2)

Endnotes

3 Legislation history

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.1

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.1 commenced 2 June 2005 (s 2 (1))

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.4

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.4 commenced 12 April 2007 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2007

A2007-22 sch 1 pt 1.1

notified LR 5 September 2007

s 1, s 2 commenced 5 September 2007 (LA s 75 (1))

sch 1 pt 1.1 commenced 6 September 2007 (s 2)

Regulatory Services Legislation Amendment Act 2008 A2008-5 pt 2

notified LR 15 April 2008

s 1, s 2 commenced 15 April 2008 (LA s 75 (1))

pt 2 commenced 1 July 2008 (s 2 and [CN2008-7](#))

Justice and Community Safety Legislation Amendment

Act 2008 (No 3) A2008-29 sch 1 pt 1.2

notified LR 13 August 2008

s 1, s 2 commenced 13 August 2008 (LA s 75 (1))

sch 1 pt 1.2 commenced 27 August 2008 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment

Act 2008 A2008-36 sch 1 pt 1.3

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.3 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35](#), s 2 (1) and [CN2009-2](#))

ACT Civil and Administrative Tribunal Legislation Amendment

Act 2008 (No 2) A2008-37 sch 1 pt 1.4

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.4 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35](#), s 2 (1) and [CN2009-2](#))

Unit Titles Amendment Act 2008 (No 2) A2008-45 sch 1 pt 1.1

notified LR 10 September 2008

s 1, s 2 commenced 10 September 2008 (LA s 75 (1))

sch 1 amdt 1.3 commenced 2 February 2009 (s 2 (2))

sch 1 pt 1.1 remainder commenced 1 July 2009 (s 2 (1) and [CN2008-18](#))

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.1

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.1 commenced 22 September 2009 (s 2)

Justice and Community Safety Legislation Amendment Act 2009 (No 3) A2009-44 sch 1 pt 1.3

notified LR 24 November 2009

s 1, s 2 commenced 24 November 2009 (LA s 75 (1))

sch 1 pt 1.3 commenced 22 December 2009 (s 2 (3))

Fair Trading (Australian Consumer Law) Amendment Act 2010 A2010-54 sch 3 pt 3.1

notified LR 16 December 2010

s 1, s 2 commenced 16 December 2010 (LA s 75 (1))

sch 3 pt 3.1 commenced 1 January 2011 (s 2 (1))

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.7

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.7 commenced 1 July 2011 (s 2 (1))

Unit Titles (Management) Act 2011 A2011-41 sch 5 pt 5.1

notified LR 3 November 2011

s 1, s 2 commenced 3 November 2011 (LA s 75 (1))

sch 5 pt 5.1 commenced 30 March 2012 (s 2 and [CN2012-6](#))

Justice and Community Safety Legislation Amendment Act 2011 (No 3) A2011-49 sch 1 pt 1.1

notified LR 22 November 2011

s 1, s 2 commenced 22 November 2011 (LA s 75 (1))

sch 1 pt 1.1 commenced 12 December 2011 (s 2 (2) (a) and see [Statute Law Amendment Act 2011 \(No 3\) A2011-52 s 2](#))

Endnotes

3 Legislation history

**Justice and Community Safety Legislation Amendment Act 2013
(No 2) A2013-11 sch 1 pt 1.1**

notified LR 28 March 2013
s 1, s 2 commenced 28 March 2013 (LA s 75 (1))
sch 1 pt 1.1 commenced 4 April 2013 (s 2)

**Justice and Community Safety Legislation (Red Tape Reduction
No 1—Licence Periods) Amendment Act 2013 A2013-28 pt 2**

notified LR 21 August 2013
s 1, s 2 commenced 21 August 2013 (LA s 75 (1))
pt 2 commenced 22 August 2013 (s 2)

Statute Law Amendment Act 2013 (No 2) A2013-44 sch 3 pt 3.1

notified LR 11 November 2013
s 1, s 2 commenced 11 November 2013 (LA s 75 (1))
sch 3 pt 3.1 commenced 25 November 2013 (s 2)

**Justice and Community Safety Legislation Amendment Act 2014
A2014-17 sch 1 pt 1.1**

notified LR 13 May 2014
s 1, s 2 taken to have commenced 25 November 2013 (LA s 75 (2))
sch 1 pt 1.1 commenced 1 July 2014 (s 2 (2))

**Justice and Community Safety Legislation Amendment Act 2014
(No 2) A2014-49 pt 3**

notified LR 10 November 2014
s 1, s 2 commenced 10 November 2014 (LA s 75 (1))
pt 3 commenced 17 November 2014 (s 2)

Statute Law Amendment Act 2015 A2015-15 sch 3 pt 3.2

notified LR 27 May 2015
s 1, s 2 commenced 27 May 2015 (LA s 75 (1))
sch 3 pt 3.2 commenced 10 June 2015 (s 2)

**Red Tape Reduction Legislation Amendment Act 2015 A2015-33
sch 1 pt 1.4**

notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.4 commenced 14 October 2015 (s 2)

Spent Convictions (Historical Homosexual Convictions Extinguishment) Amendment Act 2015 A2015-45 sch 1 pt 1.1

notified LR 6 November 2015

s 1, s 2 commenced 6 November 2015 (LA s 75 (1))

sch 1 pt 1.1 commenced 7 November 2015 (s 2)

Protection of Rights (Services) Legislation Amendment Act 2016 (No 2) A2016-13 sch 1 pt 1.3

notified LR 16 March 2016

s 1, s 2 commenced 16 March 2016 (LA s 75 (1))

sch 1 pt 1.3 commenced 1 April 2016 (s 2 and see [Protection of Rights \(Services\) Legislation Amendment Act 2016 A2016-1 s 2](#))

Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 3 pt 3.3, sch 4 pt 4.2

notified LR 13 April 2016

s 1, s 2 commenced 13 April 2016 (LA s 75 (1))

sch 3 pt 3.3, sch 4 pt 4.2 commenced 27 April 2016 (s 2)

Statute Law Amendment Act 2017 A2017-4 sch 3 pt 3.4

notified LR 23 February 2017

s 1, s 2 commenced 23 February 2017 (LA s 75 (1))

sch 3 pt 3.4 commenced 9 March 2017 (s 2)

Red Tape Reduction Legislation Amendment Act 2017 A2017-17 pt 2

notified LR 14 June 2017

s 1, s 2 commenced 14 June 2017 (LA s 75 (1))

pt 2 commenced 31 August 2017 (s 2 (2))

Justice Legislation Amendment Act 2020 A2020-42 pt 3

notified LR 27 August 2020

s 1, s 2 commenced 27 August 2020 (LA s 75 (1))

pt 3 commenced 27 February 2021 (s 2 (6) and LA s 79)

Fair Trading and Other Justice Legislation Amendment Act 2022 A2022-8 pt 2

notified LR 11 May 2022

s 1, s 2 commenced 11 May 2022 (LA s 75 (1))

pt 2 commenced 1 July 2022 (s 2 (2))

Endnotes

4 Amendment history

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Application of Act

s 6 am [A2016-13](#) amdt 1.5

Meaning of *fair trading legislation*

s 7 sub [A2007-3](#) amdt 3.21
am [A2010-54](#) amdt 3.1

Meaning of *licensed property agent*

s 7A ins [A2022-8](#) s 4

Carrying on business as real estate agent

s 8 am [A2008-45](#) amdt 1.1; pars renum R15 LA; [A2022-8](#) s 5, s 6;
pars renum R37 LA

People not taken to carry on business as real estate agent

s 8A ins [A2008-45](#) amdt 1.2

Carrying on business as stock and station agent

s 9 am [A2015-15](#) amdt 3.2; [A2022-8](#) s 7

Carrying on business as land auctioneer

s 11 om [A2014-17](#) amdt 1.1
ins [A2022-8](#) s 8

Employees not taken to carry on business as agents

s 13 am [A2014-17](#) amdt 1.2; pars renum R26 LA

Application—div 3.1

s 16 sub [A2022-8](#) s 9

Meaning of *licensed*—div 3.1

s 17 sub [A2022-8](#) s 9

Land auctioneers must be licensed

s 21 om [A2014-17](#) amdt 1.3
ins [A2022-8](#) s 10
(2), (4) exp 30 June 2024 (s 21 (4))

Employment agents must be licensed

s 22 am [A2007-22](#) amdt 1.1

Classes of property agent licence

s 23A ins [A2022-8](#) s 11

Property agents must have correct class of licence

s 23B ins [A2022-8](#) s 11

Eligibility, qualifications and disqualification—agents

div 3.2 hdg sub [A2022-8](#) s 12

Eligibility for licences

s 24 am [A2004-32](#) s 4, s 5; ss renum R3 LA (see [A2004-32](#) s 6);
[A2005-11](#) s 4; [A2014-17](#) amdt 1.4, amdt 1.5; ss renum
R26 LA; [A2022-8](#) s 13, s 14; ss renum R37 LA

Qualifications and experience for licences

s 25 sub [A2022-8](#) s 15

Additional eligibility grounds for travel agents

s 26 am [A2005-11](#) s 5, s 6
om [A2014-17](#) amdt 1.6

People disqualified from being licensed

s 27 am [A2008-5](#) s 4, s 5; [A2008-36](#) amdt 1.39; [A2020-42](#) s 5; pars
renum R36 LA; [A2022-8](#) s 16

Suitability—real estate agents

s 27A ins [A2020-42](#) s 6
am [A2022-8](#) s 17

Licence procedures and details—agents

div 3.3 hdg sub [A2022-8](#) s 18

Advertising intended licence applications

s 28 am [A2009-20](#) amdt 3.1; [A2015-33](#) amdt 1.6; [A2022-8](#) s 19,
s 20

Licence applications

s 29 am [A2008-5](#) s 6; [A2022-8](#) s 21; ss renum R37 LA

Decisions on licence applications

s 33 am [A2008-36](#) amdt 1.17; [A2022-8](#) s 22; ss renum R37 LA

Licence conditions

s 34 am [A2008-36](#) amdt 1.39

Term of licences

s 35 am [A2013-28](#) s 4

Renewal of licences

s 36 am [A2008-36](#) amdt 1.17

Continuation of existing licences until renewal applications decided

s 37 hdg sub [A2013-44](#) amdt 3.1
s 37 am [A2013-28](#) s 5; [A2013-44](#) amdt 3.2

Occupational discipline—agents

div 3.4 hdg sub [A2008-36](#) amdt 1.18
div 3.4 hdg note am [A2010-54](#) amdt 3.2

Endnotes

4 Amendment history

Grounds for occupational discipline—agents

s 41 hdg sub [A2008-36](#) amdt 1.19
s 41 am [A2005-11](#) s 7; [A2008-5](#) s 7; [A2008-36](#) amdt 1.20,
amdt 1.39; [A2014-17](#) amdt 1.7; pars renum R26 LA

Application to ACAT for occupational discipline—agents

s 42 sub [A2008-36](#) amdt 1.21

Occupational discipline orders—agents

s 43 am [A2008-5](#) s 8
sub [A2008-36](#) amdt 1.21
am [A2008-45](#) amdt 1.3; [A2011-41](#) amdt 5.1

Registration of assistant property agents

pt 4 hdg am [A2022-8](#) s 100

Assistant property agents to be registered

div 4.1 hdg am [A2022-8](#) s 100

Meaning of *registered*—div 4.1

s 44 sub [A2022-8](#) s 23

Assistant real estate agents must be registered

s 45 hdg sub [A2022-8](#) s 24
s 45 am [A2014-49](#) s 7, s 8; [A2022-8](#) s 25, s 26

Assistant stock and station agents must be registered

s 46 hdg sub [A2022-8](#) s 27
s 46 am [A2014-49](#) s 9, s 10; [A2022-8](#) s 28, s 29

Assistant business agents must be registered

s 47 hdg sub [A2022-8](#) s 30
s 47 am [A2014-49](#) s 11, s 12; [A2022-8](#) s 31, s 32

Assistant property agents must be registered to recover fees etc

s 48 sub [A2022-8](#) s 33

Eligibility, qualifications and disqualification—assistant property agents

div 4.2 hdg sub [A2022-8](#) s 34

Eligibility for registration

s 49 am [A2022-8](#) s 35; ss renum R37 LA

Qualifications and experience for registration

s 50 sub [A2022-8](#) s 36

People disqualified from being registered

s 51 am [A2008-5](#) s 9, s 10; [A2008-36](#) amdt 1.39; [A2020-42](#) s 7;
pars renum R36 LA; [A2022-8](#) s 37, s 38, s 101

Suitability—assistant real estate agents

s 51A hdg sub [A2022-8](#) s 39
s 51A ins [A2020-42](#) s 8; [A2022-8](#) ss 40-42

Registration procedures and details—assistant property agents

div 4.3 hdg sub [A2022-8](#) s 43

Advertising intended registration applications

s 52 am [A2009-20](#) amdt 3.1; [A2015-33](#) amdt 1.7; [A2022-8](#) s 44, s 45

Registration applications

s 53 am [A2008-5](#) s 11; [A2022-8](#) s 46; ss renum R37 LA

Decisions on registration applications

s 57 am [A2008-36](#) amdt 1.22

Registration conditions

s 58 am [A2008-36](#) amdt 1.39; [A2022-8](#) s 101

Term of registration

s 59 am [A2013-28](#) s 6

Renewal of registrations

s 60 am [A2008-36](#) amdt 1.22; [A2022-8](#) s 101

Continuation of existing registrations until renewal applications decided

s 61 am [A2013-28](#) s 7; [A2013-44](#) amdt 3.2; [A2022-8](#) s 100, s 101

Registration certificates

s 62 am [A2022-8](#) s 101

Surrender of registration

s 63 am [A2022-8](#) s 101

Occupational discipline—registered assistant property agents

div 4.4 hdg sub [A2008-36](#) amdt 1.23

am [A2022-8](#) s 100

div 4.4 hdg note am [A2010-54](#) amdt 3.3

Meaning of *registered assistant property agent*—div 4.4

s 64 sub [A2022-8](#) s 47

Grounds for occupational discipline—assistant property agents

s 65 hdg sub [A2008-36](#) amdt 1.24

am [A2022-8](#) s 100

s 65 am [A2008-5](#) s 12; [A2008-36](#) amdt 1.25, amdt 1.39; [A2022-8](#) s 48, s 101

Application to ACAT for occupational discipline—assistant property agents

s 66 hdg am [A2022-8](#) s 100

s 66 sub [A2008-36](#) amdt 1.26

am [A2022-8](#) s 101

Endnotes

4 Amendment history

Occupational discipline orders—assistant property agents

s 67 hdg am [A2022-8](#) s 100
s 67 am [A2008-5](#) s 13
sub [A2008-36](#) amdt 1.26
am [A2022-8](#) s 48, s 101

Conduct of licensed agents and registered assistant property agents

pt 5 hdg am [A2022-8](#) s 100

Main place of business

s 68 am [A2008-5](#) s 14

Licensed agent in charge to have class 1 property agent licence

s 68A ins [A2022-8](#) s 49

Property agent place of business to have class 1 licensed property agent in charge

s 69 sub [A2022-8](#) s 49

Class 1 licensed property agent to be in charge of 1 place of business

s 70 am [A2007-22](#) amdt 1.2; [A2014-17](#) amdt 1.8
sub [A2022-8](#) s 49

Class 1 licensed property agent to be in charge of business—exemptions

s 71 hdg sub [A2022-8](#) s 50
s 71 am [A2022-8](#) s 51, s 102

Licensed property agent must not share commission etc with unlicensed person

s 72 hdg am [A2022-8](#) s 102
s 72 am [A2005-20](#) amdt 3.1; [A2022-8](#) s 101, s 102

Agreements between licensed agents to share commission etc

s 73 am [A2015-15](#) amdt 3.3

Offences—assistant property agents

div 5.3 hdg sub [A2022-8](#) s 52

Licensed property agent may only employ licensed property agent or registered assistant property agent

s 75 hdg sub [A2022-8](#) s 53
s 75 am [A2022-8](#) s 54, s 102; ss renum R37 LA

Assistant property agents must not sign agency agreements

s 75A ins [A2022-8](#) s 55
(2), (4) exp 30 June 2023 (s 75A (4))

Conflicts of interest—real estate and stock and station agents

div 5.4 hdg sub [A2022-8](#) s 56

Licensed real estate and stock and station agents must not act for buyer and seller of land

s 77 hdg sub [A2022-8](#) s 57
 s 77 am [A2022-8](#) s 58

When is a statement *published*?

s 78 am [A2013-44](#) amdt 3.3

Meaning of *pre-contract information* for div 5.6

s 81 am [A2005-20](#) amdt 3.2

Meaning of *beneficial interest* and *obtains a beneficial interest* for div 5.6

s 82 am [A2022-8](#) s 101

Assistant property agents must disclose certain information

s 85 hdg sub [A2022-8](#) s 59
 s 85 am [A2022-8](#) s 60, s 61

Agents must not obtain beneficial interest in land

s 86 am [A2004-18](#) s 4

Assistant property agents must not obtain beneficial interest in land

s 87 hdg sub [A2022-8](#) s 62
 s 87 am [A2004-18](#) s 5; [A2022-8](#) s 63, s 64, s 101

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s 88 am [A2022-8](#) s 65, s 101

Requirement to substantiate selling price estimates

s 89 am [A2022-8](#) s 65, s 101

Proposed contracts for sale of residential property

s 89A ins [A2003-40](#) amdt 1.1 (as am [A2004-32](#) s 55)
 am [A2022-8](#) s 66, s 101

Contracts for sale of residential property

s 89B ins [A2003-40](#) amdt 1.1
 am [A2022-8](#) s 101

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div 5.7 hdg om [A2014-17](#) amdt 1.9

Meaning of *compensation scheme* for div 5.7

s 90 am [A2005-11](#) s 8
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s 91 am [A2005-11](#) s 9
 om [A2014-17](#) amdt 1.9

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s 92 om [A2014-17](#) amdt 1.9

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s 94 om [A2014-17](#) amdt 1.9

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Other offences—agents and assistant property agents

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s 98 am [A2022-8](#) s 68, s 101

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s 100 am [A2022-8](#) s 102

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pt 7 hdg sub [A2022-8](#) s 69

Meaning of *licensed property agent*—pt 7

s 101 **orig**
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What is *trust money*?

s 102 am [A2022-8](#) s 102

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s 104A (prev s 101) sub [A2015-15](#) amdt 3.4
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s 105 am [A2009-44](#) amdt 1.13; [A2016-18](#) amdt 4.2, amdt 4.3;
[A2022-8](#) s 102

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s 105A ins [A2009-44](#) amdt 1.14
am [A2022-8](#) s 102

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s 106 am [A2022-8](#) s 102

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s 107 am [A2004-32](#) s 7; ss renum R3 LA (see [A2003-32](#) s 8);
[A2013-44](#) amdt 3.4; [A2022-8](#) s 102

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s 107A ins [A2022-8](#) s 72

Licensed property agents to notify of overdrawn trust accounts

s 108 hdg sub [A2022-8](#) s 73
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s 109 am [A2005-5](#) s 4

Change of owners corporation managing agent—former agent to give statement and records

s 109A ins [A2008-45](#) amdt 1.4
am [A2015-15](#) amdt 3.6

Quarterly statements by licensed property agents

s 111 hdg sub [A2022-8](#) s 73
s 111 am [A2022-8](#) s 102

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div 7.4 hdg note am [A2015-15](#) amdt 3.7

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s 113 am [A2022-8](#) s 102

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s 114 am [A2013-44](#) amdt 3.5

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s 115 am [A2005-20](#) amdt 3.3; [A2017-17](#) ss 5-7; ss renum R35 LA;
[A2022-8](#) s 102

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s 116 am [A2013-44](#) amdt 3.6;
om [A2014-49](#) s 13

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s 117 am [A2022-8](#) s 102

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s 118 am [A2022-8](#) s 102

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s 119 hdg am [A2022-8](#) s 102
s 119 am [A2022-8](#) s 102

Trust money held by former licensed property agents

s 120 hdg am [A2022-8](#) s 102
s 120 am [A2022-8](#) s 102

Trust money held by personal representatives of licensed property agents

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s 121 am [A2022-8](#) s 102

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s 123 am [A2009-20](#) amdt 3.1; [A2015-33](#) amdt 1.8; [A2016-13](#) amdt 1.5; [A2017-4](#) amdt 3.5

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s 124 hdg am [A2016-13](#) amdt 1.5
s 124 am [A2005-20](#) amdt 3.4; [A2013-11](#) amdt 1.1; [A2016-13](#) amdt 1.5; [A2022-8](#) s 74

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def **account** sub [A2022-8](#) s 76
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s 138 sub [A2015-15](#) amdt 3.8

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s 139 sub [A2008-5](#) s 15

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s 150 am [A2009-20](#) amdt 3.1; [A2015-33](#) amdt 1.9; [A2022-8](#) s 102

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s 152 am [A2013-44](#) amdt 3.9; [A2016-18](#) amdt 3.13

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s 155 am [A2011-22](#) amdt 1.31; [A2022-8](#) s 102

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s 177 am [A2013-44](#) amdt 3.10

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div 14.2 hdg exp 1 November 2005 (s 201)

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s 180 exp 1 November 2005 (s 201)

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s 181 exp 1 November 2005 (s 201)

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s 191 exp 1 November 2005 (s 201)

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s 220 ins [A2008-45](#) amdt 1.6
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s 221 ins [A2008-45](#) amdt 1.6
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s 222 ins [A2008-45](#) amdt 1.6
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Transitional—Justice and Community Safety Legislation Amendment Act 2014

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- s 224 ins [A2014-17](#) amdt 1.11
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- s 225 ins [A2014-17](#) amdt 1.11
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- s 226 ins [A2014-17](#) amdt 1.11
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- s 227 ins [A2014-17](#) amdt 1.11
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- pt 22 hdg ins [A2022-8](#) s 83
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def **unqualified real estate salesperson** ins [A2022-8](#) s 228
[exp 30 June 2025 \(s 239\)](#)

def **VET course** ins [A2022-8](#) s 228
[exp 30 June 2025 \(s 239\)](#)

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s 229 ins [A2022-8](#) s 83
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s 230 ins [A2022-8](#) s 83
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s 231 ins [A2022-8](#) s 83
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s 235 ins [A2022-8](#) s 83
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Owners corporation managing agents—licensed agent in charge

s 236 ins [A2022-8](#) s 83
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s 237 ins [A2022-8](#) s 83
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s 238 ins [A2022-8](#) s 83
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Reviewable decisions

sch 1 am [A2008-5](#) s 16; items renum R12 LA; [A2008-36](#) amdt 1.32; [A2009-44](#) amdt 1.15; items renum R17 LA; [A2022-8](#) s 84, s 85, s 101; items renum R37 LA

Instruments repealed

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Dictionary

dict am [A2008-36](#) amdts 1.33-1.35; [A2009-20](#) amdt 3.2; [A2010-54](#) amdt 3.4; [A2011-22](#) amdt 1.30; [A2011-49](#) amdt 1.1; [A2015-33](#) amdt 1.10; [A2016-13](#) amdt 1.6; [A2016-18](#) amdt 3.14; [A2017-4](#) amdt 3.7, amdt 3.8; [A2020-42](#) s 9

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def **ACT dishonesty offence** ins [A2020-42](#) s 10

def **agency agreement** om [A2015-15](#) amdt 3.10

def **agent** sub [A2008-36](#) amdt 1.36

am [A2014-17](#) amdt 1.12; [A2017-4](#) amdt 3.9

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def **agent**, for div 3.4 om [A2008-36](#) amdt 1.36

def **agents licence** am [A2014-17](#) amdt 1.13

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def **compensation scheme** om [A2014-17](#) amdt 1.15

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def **ground for occupational discipline** ins [A2008-36](#) amdt 1.37
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def **investigator** sub [A2007-3](#) amdt 3.22
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def **kind of licence** am [A2014-17](#) amdt 1.16
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def **licensed agent** sub [A2015-15](#) amdt 3.16; [A2022-8](#) s 93

def **licensed business agent** sub [A2022-8](#) s 93

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def **licensed travel agent** om [A2014-17](#) amdt 1.17

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def **non-ACT offence** ins [A2020-42](#) s 10

def **owners corporation managing agent** ins [A2008-45](#) amdt 1.7
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om [A2015-15](#) amdt 3.18

def **police certificate** ins [A2008-5](#) s 17
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def **registered assistant business agent** ins [A2022-8](#) s 96

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def **stock and station agent service** sub [A2022-8](#) s 98

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def **travel agents board of trustees** om [A2014-17](#) amdt 1.17
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def **travel agents trust deed** om [A2014-17](#) amdt 1.17
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5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Nov 2003	1 Nov 2003- 19 Apr 2004	A2003-40	new Act
R2 20 Apr 2004	20 Apr 2004- 29 June 2004	A2004-18	amendments by A2004-18
R3 30 June 2004	30 June 2004- 30 June 2004	A2004-32	amendments by A2004-32
R4 1 July 2004	1 July 2004- 23 Feb 2005	A2004-32	amendments by A2003-40
R5 24 Feb 2005	24 Feb 2005- 11 Mar 2005	A2005-5	amendments by A2005-5
R6 12 Mar 2005	12 Mar 2005- 1 June 2005	A2005-11	amendments by A2005-11
R7 2 June 2005	2 June 2005- 1 Nov 2005	A2005-20	amendments by A2005-20
R8 2 Nov 2005	2 Nov 2005- 11 Apr 2007	A2005-20	commenced expiry
R9 12 Apr 2007	12 Apr 2007- 5 Sept 2007	A2007-3	amendments by A2007-3
R10 6 Sept 2007	6 Sept 2007- 1 Nov 2007	A2007-22	amendments by A2007-22
R11 2 Nov 2007	2 Nov 2007- 30 June 2008	A2007-22	commenced expiry
R12 1 July 2008	1 July 2008- 26 Aug 2008	A2008-5	amendments by A2008-5

Republication No and date	Effective	Last amendment made by	Republication for
R13 27 Aug 2008	27 Aug 2008– 1 Feb 2009	A2008-29	amendments by A2008-29
R14 2 Feb 2009	2 Feb 2009– 30 June 2009	A2008-45	amendments by A2008-36 , A2008-37 and A2008-45
R15 1 July 2009	1 July 2009– 21 Sept 2009	A2008-45	amendments by A2008-45
R16 22 Sept 2009	22 Sept 2009– 21 Dec 2009	A2009-20	amendments by A2009-20
R17 22 Dec 2009	22 Dec 2009– 1 July 2010	A2009-44	amendments by A2009-44
R18 2 July 2010	2 July 2010– 31 Dec 2010	A2009-44	commenced expiry
R19 1 Jan 2011	1 Jan 2011– 30 June 2011	A2010-54	amendments by A2010-54
R20 1 July 2011	1 July 2011– 11 Dec 2011	A2011-22	amendments by A2011-22
R21 12 Dec 2011	12 Dec 2011– 29 Mar 2012	A2011-49	amendments by A2011-49
R22 30 Mar 2012	30 Mar 2012– 3 Apr 2013	A2011-49	amendments by A2011-41
R23 4 Apr 2013	4 Apr 2013– 21 Aug 2013	A2013-11	amendments by A2013-11
R24 22 Aug 2013	22 Aug 2013– 24 Nov 2013	A2013-28	amendments by A2013-28
R25 25 Nov 2013	25 Nov 2013– 30 June 2014	A2013-44	amendments by A2013-44
R26 1 July 2014	1 July 2014– 16 Nov 2014	A2014-17	amendments by A2014-17
R27 17 Nov 2014	17 Nov 2014– 9 June 2015	A2014-49	amendments by A2014-49
R28 10 June 2015	10 June 2015– 13 Oct 2015	A2015-15	amendments by A2015-15

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5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R29 14 Oct 2015	14 Oct 2015– 6 Nov 2015	A2015-33	amendments by A2015-33
R30 7 Nov 2015	7 Nov 2015– 31 Dec 2015	A2015-45	amendments by A2015-45
R31 1 Jan 2016	1 Jan 2016– 31 Mar 2016	A2015-45	expiry of transitional provisions (pt 21)
R32 1 Apr 2016	1 Apr 2016– 26 Apr 2016	A2016-13	amendments by A2016-13
R33 27 Apr 2016	27 Apr 2016– 8 Mar 2017	A2016-18	amendments by A2016-18
R34 9 Mar 2017	9 Mar 2017– 30 Aug 2017	A2017-4	amendments by A2017-4
R35 31 Aug 2017	31 Aug 2017– 26 Feb 2021	A2017-17	amendments by A2017-17
R36 27 Feb 2021	27 Feb 2021– 30 June 2022	A2020-42	amendments by A2020-42

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