



Australian Capital Territory

Fair Trading and Other Justice Legislation Amendment Act 2022

A2022-8

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 2
Part 2	Agents Act 2003
4	New section 7A 3
5	Carrying on business as real estate agent Section 8 (2) (a) 3
6	New section 8 (2) (ca) 3

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Contents

	Page	
7	Carrying on business as stock and station agent	
	Section 9 (2)	3
8	New section 11	5
9	Sections 16 and 17	5
10	New section 21	6
11	New sections 23A and 23B	7
12	Division 3.2 heading	8
13	Eligibility for licences	
	Section 24 (1)	8
14	Section 24 (2) and (3)	9
15	Section 25	9
16	People disqualified from being licensed	
	Section 27 (1)	10
17	Suitability—real estate agents	
	Section 27A (3) (e)	10
18	Division 3.3 heading	10
19	Advertising intended licence applications	
	Section 28 (1)	11
20	Section 28 (2)	11
21	Licence applications	
	New section 29 (1A)	11
22	Decisions on licence applications	
	New section 33 (3A)	11
23	Section 44	12
24	Section 45 heading	12
25	Section 45 (1) (a)	12
26	Section 45 (3)	12
27	Section 46 heading	13
28	Section 46 (1) (a)	13
29	Section 46 (3)	13
30	Section 47 heading	13
31	Section 47 (1) (a)	13
32	Section 47 (3)	14
33	Section 48	14

Contents

	Page	
34	Division 4.2 heading	14
35	Eligibility for registration Section 49 (1)	15
36	Section 50	15
37	People disqualified from being registered Section 51 (1)	16
38	Section 51 (1) (a) and (b)	16
39	Section 51A heading	16
40	Section 51A (2)	17
41	Section 51A (3) (d)	17
42	Section 51A (3) (e)	17
43	Division 4.3 heading	17
44	Advertising intended registration applications Section 52 (1)	18
45	Section 52 (2)	18
46	Registration applications New section 53 (1A)	18
47	Section 64	18
48	Sections 65 (1) (c) and (f) and 67 (1)	19
49	Sections 69 and 70	19
50	Section 71 heading	22
51	Section 71 (1)	22
52	Division 5.3 heading, except note	22
53	Section 75 heading	23
54	Section 75 (1)	23
55	New section 75A	23
56	Division 5.4 heading	24
57	Section 77 heading	24
58	Section 77 (1)	24
59	Section 85 heading	24
60	Section 85 (1)	24
61	Section 85 (3)	25
62	Section 87 heading	25

Contents

	Page
63	Section 87 (1) 25
64	Section 87 (2) 25
65	Sections 88 (2) (b) and 89 (1) 25
66	Proposed contracts for sale of residential property Section 89A (2) 26
67	Division 5.9 heading 26
68	Lending registration certificate Section 98 (1), (2) and (4) 26
69	Part 7 heading 26
70	New section 101 27
71	Meaning of <i>licensed agent</i> —divs 7.2 and 7.3 Section 104A 27
72	New section 107A 27
73	Sections 108 and 111 headings 28
74	Payment of unclaimed money to public trustee and guardian Section 124 (3) and (4) 28
75	Division 8.2 heading 28
76	Section 131 28
77	Part 10 heading 29
78	Sections 147 and 148 29
79	Register information Section 161 (g) 30
80	False or misleading statements Section 169 (1) (g) and (h) 30
81	Rules of conduct Section 171 (1) 30
82	New section 171 (2A) 30
83	New part 22 31
84	Reviewable decisions Schedule 1, item 5 39
85	Schedule 1, items 11 to 15 40
86	Dictionary, definition of <i>account</i> etc 42
87	Dictionary, new definition of <i>assistant property agent</i> 43
88	Dictionary, definition of <i>carries on business as</i> 43

	Page	
89	Dictionary, new definitions	43
90	Dictionary, definition of <i>details</i>	44
91	Dictionary, definition of <i>ground for occupational discipline</i> , paragraph (b)	44
92	Dictionary, new definitions	45
93	Dictionary, definitions of <i>licensed agent</i> and <i>licensed business agent</i>	45
94	Dictionary, new definitions	45
95	Dictionary, definition of <i>licensed real estate agent etc</i>	46
96	Dictionary, new definitions	46
97	Dictionary	47
98	Dictionary, definition of <i>stock and station agent service</i>	47
99	Dictionary, definition of <i>stop direction</i>	47
100	Further amendments, mentions of <i>salespeople</i>	48
101	Further amendments, mentions of <i>salesperson</i>	48
102	Further amendments, mentions of <i>licensed</i>	49
Part 3	Agents Regulation 2003	
103	Act, s 28, s 29 (1) and s 45 do not apply in relation to owners corporation managing agent—Act, s 6 (l) Section 5D (1)	51
104	Section 5D (2)	51
105	Section 5D (2) (b)	51
106	Sections 6 and 7	51
107	Section 7A heading	51
108	Section 7A (1)	52
109	Section 7A (2)	52
110	Sections 8A and 8B	52
111	Qualifications for registration as salesperson—Act, s 50 Section 9	52
112	Sections 10 and 10A headings	52
113	Part 4 heading	53
114	Section 13	53
115	Part 6	56
116	Schedules 1 and 2	56

Contents

	Page	
117	Schedule 8, section 8.1	57
118	Schedule 8, part 8.2 heading	57
119	Knowledge of Act and other laws Schedule 8, section 8.2	58
120	Schedule 8, section 8.2	58
121	To act in accordance with client authority Schedule 8, section 8.9	58
122	Agency agreements must comply with regulation Schedule 8, new section 8.19 (2)	58
123	Schedule 8, part 8.3 heading	59
124	Schedule 8, part 8.4 heading	59
125	Cooperation about records, access and transfer Schedule 8, section 8.53 (1)	59
126	Schedule 8, part 8.5 heading	60
127	Confirmation of specific instructions Schedule 8, new section 8.60 (3)	60
128	Dictionary, note 3	60
129	Dictionary, note 3	61
130	Dictionary, new definition of <i>agency agreement</i>	61
131	Dictionary, definitions of <i>ANTA</i> and <i>approved</i>	61
132	Dictionary, definition of <i>business</i> , paragraph (b)	61
133	Dictionary, new definitions	62
134	Dictionary	62
Part 4	Gaming Machine Act 2004	
135	Eligibility of individuals Section 6 (2) (d) (iii) and (iv)	63
136	Section 7	63
137	Computer cabinet access register Section 71 (2)	65
138	Section 72	66
139	Giving copy of certificate about approved supplier Section 73 (1)	67
140	Section 73 (3)	67

Contents

	Page	
141	Cancellation etc of supplier's approval Section 73A (1)	68
142	Application for approval as technician Section 74 (1) and notes	68
143	Section 74 (2) (b)	68
144	Section 74 (2) (d)	68
145	Approval of technicians Section 75 (1)	68
146	Section 75 (1) (c)	69
147	Section 75 (4)	69
148	Section 75 (5)	69
149	Section 78	69
150	Cancellation etc of technician's approval Section 79 (1) (a)	70
151	Section 79 (1) (b)	70
152	Section 79 (6), definition of <i>approved supplier</i>	70
153	Giving copy of certificate about approved technician or identity card Section 81 (1)	71
154	Section 81 (2) and (3)	71
155	Section 82	72
156	Renewal of technician's approval Section 84 (1) and note	72
157	Approval for repossession—application Section 107 (1)	72
158	Conditions on approval to repossess gaming machine Section 109 (1)	73
159	Repossessed gaming machines—amendment of authorisation schedule Section 109A (1)	73
160	Section 109A (2)	73
161	Contravention of repossession approval conditions Section 110 (1)	73
162	Section 110 (2)	74
163	Section 121	74

	Page	
164	Operation to be subject to correct percentage payout Section 125 (1) (a)	74
165	Section 127	75
166	Section 128	75
167	Interference with gaming machines Section 129 (5)	76
168	Opening computer cabinets Section 130 (1) (b)	76
169	Reviewable decisions Schedule 1, items 22 to 24, column 4	77
170	Schedule 1, items 27 to 29, column 4	77
171	Dictionary, definition of <i>approved supplier</i>	77
Part 5	Gaming Machine Regulation 2004	
172	CMS Access Section 26 (2) (a)	78
173	Link equipment in single-user approvals Section 51 (2) and (3)	78
174	Link equipment Section 61 (2)	78
175	Section 61 (4)	79
176	Dictionary, note 3	79
Part 6	Race and Sports Bookmaking Act 2001	
177	Offences against Act—application of Criminal Code etc Section 4A, note 1	80
178	Section 19	80
179	Maximum number of sports bookmaking licences etc Section 24 (1)	81
180	Section 25	81
181	Issue or refusal of sports bookmaking licence Section 26 (1) and (2)	82
182	Section 26 (3)	82
183	Section 26 (4)	83
184	Section 26 (5)	83

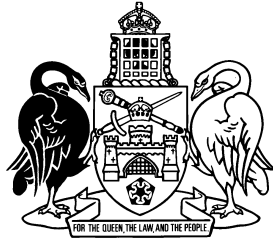
Contents

	Page	
185	Conditions of sports bookmaking licence Section 27 (2)	83
186	Sports bookmaking licence—entry of particulars in register Section 28	83
187	Surrender of sports bookmaking licence Section 31 (1)	84
188	Sections 32 and 33	84
189	Effect of cancellation, surrender or suspension of sports bookmaking licence on agent licence Section 40 (1) and (2)	84
190	Section 40 (3) (b)	84
191	Section 45 heading	84
192	Section 45 (1) (b)	85
193	How disputes about bets may be resolved Section 55 (1)	85
194	Section 55 (2)	85
195	Mandatory cancellation of licence Section 68 (5) and note	85
196	Discretionary penalties Section 69 (4) and note	86
197	Section 69 (6)	86
198	Unsigned licences—race bookmakers and race bookmaker’s agents Section 74	86
199	Section 80 heading	87
200	Section 80 (1) (a) to (c)	87
201	Section 80 (3)	87
202	Section 80 (5) to (7)	88
203	Evidence of licences Section 85 (1) (b)	88
204	Application of this Act if licence is held by syndicate Section 86	89
205	Meaning of <i>suitability requirements</i> and <i>security guarantee</i> Section 92 (1) (i)	89
206	Section 92 (2) and (3)	89

	Page	
207	Internally reviewable decisions Schedule 1, item 32, column 2	90
208	Dictionary, note 2	90
209	Dictionary, definitions of <i>licensee</i> and <i>person</i>	90
210	Dictionary, definition of <i>security guarantee</i> , paragraph (b)	90
211	Dictionary, definition of <i>sports bookmaker</i>	90
212	Dictionary, new definition of <i>sports bookmaker's agent</i>	90
Part 7	Race and Sports Bookmaking Regulation 2001	
213	Section 3	91
214	Corresponding laws—Act, s 92 (1) (d) Section 7 (b)	92
215	Section 7 (j)	92
Part 8	Retirement Villages Act 2012	
216	Annual management meeting—chair Section 109 (2), except note	93
217	Meetings of residents New section 112 (1A)	93
218	Attendance at meetings of residents Section 113 (4)	93
219	Certain limitations on proxies Section 117 (1)	93
220	Method of voting Schedule 1, section 1.3 (1)	94
221	Result of vote Schedule 1, section 1.4 (2)	94
222	Schedule 1, section 1.5	94
223	How special resolution is carried Schedule 1, section 1.6	94
Part 9	Retirement Villages Regulation 2013	
224	Appointment of proxies—Act, s 116 (2) Section 23	95

Contents

	Page	
225	Part 11	95
226	Schedule 4, section 4.2	96
227	Election of returning officer Schedule 4, section 4.3 (1) and (2)	96
228	Conduct of written ballot Schedule 4, section 4.4 (1) and (2)	96
229	Schedule 4, part 4.3 heading	97
230	Special resolution—notice Schedule 4, section 4.8 (1)	97
Schedule 1	Consequential amendments	98
Part 1.1	ACT Civil and Administrative Tribunal Regulation 2009	98
Part 1.2	Civil Law (Sale of Residential Property) Act 2003	99
Part 1.3	Fair Trading (Australian Consumer Law) Act 1992	99
Part 1.4	Legal Profession Act 2006	100
Part 1.5	Magistrates Court (Agents Infringement Notices) Regulation 2003	100



Australian Capital Territory

Fair Trading and Other Justice Legislation Amendment Act 2022

A2022-8

An Act to amend fair trading legislation, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Fair Trading and Other Justice Legislation Amendment Act 2022*.

2 Commencement

- (1) The following provisions commence on the day after this Act's notification day:
- section 3
 - section 110
 - parts 4 to 9.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) The remaining provisions commence on 1 July 2022.

3 Legislation amended

This Act amends the following legislation:

- [Agents Act 2003](#)
- [Agents Regulation 2003](#)
- [Gaming Machine Act 2004](#)
- [Gaming Machine Regulation 2004](#)
- [Race and Sports Bookmaking Act 2001](#)
- [Race and Sports Bookmaking Regulation 2001](#)
- [Retirement Villages Act 2012](#)
- [Retirement Villages Regulation 2013](#).

Note This Act also amends other legislation (see sch 1).

Part 2 Agents Act 2003

4 New section 7A

insert

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.

5 Carrying on business as real estate agent Section 8 (2) (a)

substitute

- (a) buying, selling (other than by auction), exchanging, leasing, assigning or otherwise disposing of land;

6 New section 8 (2) (ca)

insert

- (ca) managing property under a lease;

7 Carrying on business as stock and station agent Section 9 (2)

substitute

- (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.

8 New section 11

insert

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.

9 Sections 16 and 17

substitute

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.

10 New section 21*insert***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.

11 New sections 23A and 23B

in division 3.1, insert

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.

12 Division 3.2 heading

substitute

Division 3.2 Eligibility, qualifications and disqualification—agents

13 Eligibility for licences Section 24 (1)

substitute

- (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).
- (1A) 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.

14 Section 24 (2) and (3)

after

licensed

insert

as an agent

15 Section 25

substitute

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).

**16 People disqualified from being licensed
Section 27 (1)**

after 1st mention of

licensed

insert

as an agent

**17 Suitability—real estate agents
Section 27A (3) (e)**

omit

salesperson

substitute

assistant real estate agent

18 Division 3.3 heading

substitute

**Division 3.3 Licence procedures and details—
agents**

**19 Advertising intended licence applications
Section 28 (1)**

after 1st mention of

licence

insert

as an agent

20 Section 28 (2)

substitute

- (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.

**21 Licence applications
New section 29 (1A)**

insert

- (1A) 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.

**22 Decisions on licence applications
New section 33 (3A)**

insert

- (3A) If the licence is a property agent licence, the licence must state the class of licence.

23 Section 44

substitute

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.

24 Section 45 heading

substitute

45 Assistant real estate agents must be registered**25 Section 45 (1) (a)**

omit

real estate salesperson

substitute

assistant real estate agent

26 Section 45 (3)

substitute

- (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).

27 Section 46 heading

substitute

46 Assistant stock and station agents must be registered**28 Section 46 (1) (a)**

omit

stock and station salesperson

substitute

assistant stock and station agent

29 Section 46 (3)

substitute

- (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).

30 Section 47 heading

substitute

47 Assistant business agents must be registered**31 Section 47 (1) (a)**

omit

business salesperson

substitute

assistant business agent

32 Section 47 (3)

substitute

- (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).

33 Section 48

substitute

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.

34 Division 4.2 heading

substitute

Division 4.2 Eligibility, qualifications and disqualification—assistant property agents

**35 Eligibility for registration
Section 49 (1)**

substitute

- (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).
- (1A) 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.

36 Section 50

substitute

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).

**37 People disqualified from being registered
Section 51 (1)**

after 1st mention of

registered

insert

as an assistant property agent

38 Section 51 (1) (a) and (b)

omit

a real estate salesperson

substitute

an assistant real estate agent

39 Section 51A heading

substitute

51A Suitability—assistant real estate agents

40 Section 51A (2)*omit*

a real estate salesperson

substitute

an assistant real estate agent

41 Section 51A (3) (d)*omit*

a salesperson

substitute

an assistant real estate agent

42 Section 51A (3) (e)*omit*

salesperson

substitute

assistant real estate agent

43 Division 4.3 heading*substitute***Division 4.3 Registration procedures and details—
assistant property agents**

**44 Advertising intended registration applications
Section 52 (1)**

*after 1st mention of
registration*

insert

as an assistant property agent

45 Section 52 (2)

substitute

- (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.

**46 Registration applications
New section 53 (1A)**

insert

- (1A) An application must be in writing and state the kind of registration applied for.

47 Section 64

substitute

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.

48 Sections 65 (1) (c) and (f) and 67 (1)

omit

salesperson's

substitute

assistant property agent's

49 Sections 69 and 70

substitute

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).

50 Section 71 heading

substitute

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

51 Section 71 (1)

substitute

- (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).

52 Division 5.3 heading, except note

substitute

Division 5.3 Offences—assistant property agents

53 Section 75 heading

substitute

75 Licensed property agent may only employ licensed property agent or registered assistant property agent**54 Section 75 (1)**

omit

55 New section 75A

insert

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).

56 **Division 5.4 heading**

substitute

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

57 **Section 77 heading**

substitute

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

58 **Section 77 (1)**

omit

An agent

substitute

A licensed real estate agent or licensed stock and station agent

59 **Section 85 heading**

substitute

85 **Assistant property agents must disclose certain
information**

60 **Section 85 (1)**

omit everything before paragraph (a), substitute

- (1) An assistant property agent commits an offence if the assistant property agent—

61 Section 85 (3)

omit everything before paragraph (a), substitute

- (3) An assistant property agent commits an offence if the assistant property agent—

62 Section 87 heading

substitute

87 Assistant property agents must not obtain beneficial interest in land**63 Section 87 (1)**

omit

A salesperson

substitute

An assistant property agent

64 Section 87 (2)

omit

a salesperson

substitute

an assistant property agent

65 Sections 88 (2) (b) and 89 (1)

omit

salesperson's

substitute

assistant property agent's

**66 Proposed contracts for sale of residential property
Section 89A (2)**

omit

A salesperson

substitute

An assistant property agent

67 Division 5.9 heading

substitute

**Division 5.9 Other offences—agents and assistant
property agents**

**68 Lending registration certificate
Section 98 (1), (2) and (4)**

omit

salesperson's

substitute

assistant property agent's

69 Part 7 heading

substitute

**Part 7 Trust accounts—licensed
property agents**

70 New section 101

in division 7.1, insert

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.

**71 Meaning of *licensed agent*—divs 7.2 and 7.3
Section 104A**

omit

72 New section 107A

insert

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).

73 Sections 108 and 111 headings*substitute***108 Licensed property agents to notify of overdrawn trust accounts****111 Quarterly statements by licensed property agents****74 Payment of unclaimed money to public trustee and guardian
Section 124 (3) and (4)***after*

licensed

insert

property

75 Division 8.2 heading*substitute***Division 8.2 Freezing accounts—licensed property agents****76 Section 131***substitute***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.

77 Part 10 heading

substitute

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

78 Sections 147 and 148

substitute

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.

**79 Register information
Section 161 (g)**

substitute

- (g) any exemption under section 71 (Class 1 licensed property agent to be in charge of business—exemptions);

**80 False or misleading statements
Section 169 (1) (g) and (h)**

substitute

- (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);

**81 Rules of conduct
Section 171 (1)**

omit

or registered salespeople

substitute

, licensed land auctioneers or registered assistant property agents

82 New section 171 (2A)

insert

- (2A) A licensed land auctioneer must not contravene a rule of conduct applying to the auctioneer.

83 New part 22*insert***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.
- (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 4 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).

84 Reviewable decisions Schedule 1, item 5

substitute

5	36 (2) (b)	refuse to renew licence	licensed agent
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85 Schedule 1, items 11 to 15*substitute*

10A	71 (1)	refuse to exempt person from being class 1 licensed property agent	person responsible for management of business of licensed property agent
11	71 (1)	refuse to exempt from having class 1 licensed property agent in charge of business	licensed property agent who owns business
12	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

13	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
14	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
15	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

86 Dictionary, definition of *account* etc

substitute

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

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.

87 Dictionary, new definition of *assistant property agent*

insert

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.

88 Dictionary, definition of *carries on business as*

substitute

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.

89 Dictionary, new definitions

insert

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.

90 Dictionary, definition of *details*

omit

(Trust accounts)

substitute

(Trust accounts—licensed property agents)

91 Dictionary, definition of *ground for occupational discipline*, paragraph (b)

substitute

- (b) for a registered assistant property agent—see section 65.

92 Dictionary, new definitions

insert

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

land auctioneer service—see section 11 (2).

93 Dictionary, definitions of *licensed agent* and *licensed business agent*

substitute

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.

94 Dictionary, new definitions

insert

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.

95 Dictionary, definition of *licensed real estate agent* etc

substitute

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.

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

96 Dictionary, new definitions

insert

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.

97 Dictionary

omit the definitions of

registered business salesperson

registered real estate salesperson

registered salesperson

registered stock and station salesperson

salesperson

98 Dictionary, definition of *stock and station agent service*

substitute

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

99 Dictionary, definition of *stop direction*

omit

(Freezing accounts)

substitute

(Freezing accounts—licensed property agents)

100 Further amendments, mentions of *salespeople*

omit

salespeople

substitute

assistant property agents

in

- part 4 heading
- division 4.1 heading
- section 61 (4)
- division 4.4 heading
- sections 65, 66 and 67 headings
- part 5 heading
- section 178 (2) (d)

101 Further amendments, mentions of *salesperson*

omit

salesperson

substitute

assistant property agent

in

- section 51 (1) (d) and (j)
- section 58 (3) (a)
- section 60 (1)
- section 61 (1) and (3)
- section 62 (2)
- section 63
- sections 65 and 66

- section 67 (2)
- section 72 (1) (b)
- section 82, definition of *obtains a beneficial interest*
- section 87 (1) (a) and (c), (2) (a) (i) and (b)
- section 88 (2)
- section 89 (1)
- section 89A (2) and (3) and examples
- section 89B
- section 98
- section 171 (3)
- schedule 1, items 8 to 10

102 Further amendments, mentions of *licensed*

after

licensed

insert

property

in

- section 71 (3)
- section 72 heading
- section 72 (1) (1st mention)
- section 72 (3)
- section 75 (2) (1st mention)
- section 100
- section 102 (1) (a) (1st mention)
- section 102 (2)
- sections 105 to 108
- section 111

- section 113
- sections 115 to 122
- section 124 (3) and (4)
- section 149 (1)
- section 150 (1) and (3)
- section 153 (a)
- section 155 (3)
- section 159

Part 3 Agents Regulation 2003

**103 Act, s 28, s 29 (1) and s 45 do not apply in relation to owners corporation managing agent—Act, s 6 (l)
Section 5D (1)**

omit

to only act

substitute

that is subject to the condition that the person act only

104 Section 5D (2)

omit

Real estate salespeople

substitute

Assistant real estate agents

105 Section 5D (2) (b)

substitute

(b) the real estate agent's licence is subject to the condition that the person act only as an owners corporation managing agent.

106 Sections 6 and 7

omit

107 Section 7A heading

substitute

**7A Licence conditions—professional development—Act,
s 34 (1) (a)**

108 Section 7A (1)*omit*

licensee

substitute

licensed agent

109 Section 7A (2)*omit*

licensees

substitute

licensed agents

110 Sections 8A and 8B*omit***111 Qualifications for registration as salesperson—Act, s 50
Section 9***omit***112 Sections 10 and 10A headings***substitute***10 Information to be included in advertisement of intention
to apply for registration—Act, s 52 (2) (b)****10A Registration conditions—professional development—Act,
s 58 (1) (a)**

113 Part 4 heading*substitute***Part 4 Conduct of licensed agents and registered assistant property agents****114 Section 13***substitute***13 Class 1 licensed property agent to be in charge of business—exemptions—Act, s 71 (3)**

- (1) In deciding whether to exempt a person from the [Act](#), section 68A (Licensed agent in charge to have class 1 property agent licence), or amend or revoke an exemption, the commissioner for fair trading must consider the following matters:
- (a) the reasons for the exemption;
 - (b) the period of the exemption;
 - (c) the person's experience as a licensed property agent;
 - (d) fiduciary safeguards and office systems established, or to be established, to provide for accountability to the licensed property agent in charge;
 - (e) staffing and office management arrangements established, or to be established, at the place of business;
 - (f) the person's record in relation to compliance with the Act or the repealed Act, including compliance with any condition of a licence or registration during the previous 5 years;

- (g) employer references (if any) in relation to the person's experience as a licensed property agent.
- (2) In deciding whether to exempt a class 1 licensed property agent from the [Act](#), section 69 (Property agent place of business to have class 1 licensed property agent in charge), or amend or revoke an exemption, the commissioner for fair trading must consider the following matters:
- (a) the reasons for the exemption;
 - (b) the licensed property agent's experience as a licensed property agent in charge at a place of business of a licensed property agent;
 - (c) the licensed property agent's capacity to properly supervise the conduct of business at more than 1 place of business;
 - (d) office systems or arrangements established, or to be established, at each place of business;
 - (e) staffing and office management arrangements at each place of business;
 - (f) whether there is a centralised trust account for the deposit of trust money received in connection with the businesses for which the licensed property agent would be the licensed property agent in charge under the exemption;
 - (g) the licensed property agent's record in relation to compliance with the Act or the repealed Act, including compliance with any condition of a licence or registration during the previous 5 years;
 - (h) employer references (if any) in relation to the licensed property agent's experience as a licensed property agent in charge.

- (3) In deciding whether to exempt a class 1 licensed property agent from the [Act](#), section 70 (Class 1 licensed property agent to be in charge of 1 place of business), or amend or revoke an exemption, the commissioner for fair trading must consider the following matters:
- (a) the reasons for the exemption;
 - (b) the licensed property agent's experience as a licensed property agent in charge at a place of business of a licensed property agent;
 - (c) the licensed property agent's capacity to properly supervise the conduct of business of more than 1 licensed property agent;
 - (d) fiduciary safeguards and office systems established, or to be established, to provide for accountability to the licensed property agent in charge;
 - (e) whether separate trust accounts are in place for the deposit of trust money received in connection with the business of each licensed property agent for whom the licensed property agent would act under the exemption;
 - (f) the licensed property agent's record in relation to compliance with the Act or the repealed Act, including compliance with any condition of a licence or registration during the previous 5 years;
 - (g) employer references (if any) in relation to the licensed property agent's experience as a licensed property agent in charge.

115 Part 6*substitute***Part 6 Miscellaneous****17 Rules of conduct for licensed agents—Act, s 171 (1)**

- (1) Schedule 8 sets out the rules of conduct to be observed by licensed agents and registered assistant property agents.
- (2) Schedule 8 applies as follows:
 - (a) part 8.2 applies to all licensed agents and registered assistant property agents (in addition to any other schedule applicable to a particular kind of licensed agent or registered assistant property agent);
 - (b) part 8.3 applies to licensed real estate agents and registered assistant real estate agents they employ;
 - (c) part 8.4 applies to licensed stock and station agents and registered assistant stock and station agents they employ;
 - (d) part 8.5 applies to licensed business agents and registered assistant business agents they employ.

18 Rules of conduct for licensed land auctioneers—Act, s 171 (1)

A licensed land auctioneer who advertises an auction must include the auctioneer's name and licence number in the advertisement.

116 Schedules 1 and 2*omit*

117 Schedule 8, section 8.1

substitute

8.1 Definitions—sch 8

In this schedule:

agent includes a registered assistant property agent.

property manager means—

- (a) for part 8.2 (General rules applying to all licensed agents and registered assistant property agents)—a person employed by an agent in relation to the management of property to which division 8.3.3 or division 8.4.2 applies; and
- (b) for division 8.3.3 (Property management—real estate agents)—a person employed by an agent in relation to the management of property to which the division applies; and
- (c) for division 8.4.2 (Property management—stock and station agents)—a person employed by an agent in relation to the management of property to which the division applies.

registered assistant property agent includes a property manager.

118 Schedule 8, part 8.2 heading

substitute

Part 8.2 General rules applying to all licensed agents and registered assistant property agents

**119 Knowledge of Act and other laws
Schedule 8, section 8.2**

omit

kind of licence or certificate of registration

substitute

kind and class of licence or kind of registration

120 Schedule 8, section 8.2

omit

his or her

substitute

their

**121 To act in accordance with client authority
Schedule 8, section 8.9**

omit

himself or herself

substitute

themselves

**122 Agency agreements must comply with regulation
Schedule 8, new section 8.19 (2)**

insert

(2) In this section:

agent does not include a registered assistant property agent.

Note A registered assistant property agent includes a property manager (see s 8.1).

123 Schedule 8, part 8.3 heading*substitute***Part 8.3** Rules specific to licensed real estate agents and registered assistant real estate agents**124** Schedule 8, part 8.4 heading*substitute***Part 8.4** Rules specific to licensed stock and station agents and registered assistant stock and station agents**125** Cooperation about records, access and transfer
Schedule 8, section 8.53 (1)*omit*

and agent

substitute

an agent

126 Schedule 8, part 8.5 heading

substitute

Part 8.5 Rules specific to licensed business agents and registered assistant business agents**127 Confirmation of specific instructions
Schedule 8, new section 8.60 (3)**

insert

(3) In this section:

agent does not include a registered assistant property agent.

Note A registered assistant property agent includes a property manager (see s 8.1).

128 Dictionary, note 3

omit

- agency agreement
- owners corporation managing agent

129 Dictionary, note 3*insert*

- class 1 licensed property agent
- land auctioneer
- licensed agent
- licensed business agent
- licensed land auctioneer
- licensed real estate agent
- licensed stock and station agent
- registered assistant business agent
- registered assistant real estate agent
- registered assistant stock and station agent

130 Dictionary, new definition of *agency agreement**insert*

agency agreement—see the [Act](#), section 100 (1) (a).

131 Dictionary, definitions of *ANTA* and *approved**omit***132 Dictionary, definition of *business*, paragraph (b)***substitute*

- (b) for schedule 8, part 8.5 (Rules specific to licensed business agents and registered assistant business agents)—see schedule 8, section 8.57.

133 Dictionary, new definitions

insert

owners corporation managing agent—see the [Act](#), section 109A (3).

registered assistant property agent—

- (a) for this regulation generally—see the [Act](#), dictionary; and
- (b) for schedule 8 (Rules of conduct)—see schedule 8, section 8.1.

134 Dictionary

omit the definitions of

registered salesperson

registered training organisation

statement of attainment

unqualified real estate salesperson

Part 4 Gaming Machine Act 2004

135 Eligibility of individuals Section 6 (2) (d) (iii) and (iv)

omit

136 Section 7

substitute

7 Eligibility of corporations

- (1) For this Act, a corporation is an *eligible person* if—
 - (a) each influential person of the corporation is an eligible person; and
 - (b) if the corporation is a club—it is an eligible club; and
 - (c) there is not a disqualifying ground in relation to the corporation.
- (2) Each of the following is a *disqualifying ground* for a corporation:
 - (a) the corporation is, or at any time in the last 3 years has been, the subject of a winding-up order;
 - (b) at any time in the last 3 years a controller or administrator has been appointed for the corporation;
 - (c) the corporation is the subject of an auditor’s opinion that it is not able to pay all of its debts as and when they become due and payable;
 - (d) the corporation is the subject of an auditor’s adverse opinion or disclaimer of opinion, within the meaning of Auditing Standard ASA 705;

- (e) at any time in the last 12 months the corporation had—
 - (i) an application for approval as a supplier refused, on the basis that the corporation provided false or misleading information, under section 72 (Application and approval of corporation as supplier); or
 - (ii) approval as a supplier cancelled under section 73A (Cancellation etc of supplier’s approval).
- (3) Despite subsection (2), the commission may decide that the corporation is an *eligible person* even though there is a disqualifying ground in relation to the corporation if satisfied that—
 - (a) the operation of gaming machines by the corporation would not adversely affect the public; and
 - (b) it is otherwise in the public interest that the corporation be treated as an eligible person.

- (4) In this section:

AUASB—see the *Australian Securities and Investments Commission Act 2001* (Cwlth), section 5.

Auditing Standard ASA 705 means Auditing Standard ASA 705 *Modifications to the Opinion in the Independent Auditor’s Report* made by the AUASB under the *Corporations Act*, section 336 (1) (Auditing standards).

Note The standard is accessible at www.legislation.gov.au.

137 Computer cabinet access register
Section 71 (2)

substitute

- (2) If an approved technician or other person authorised in writing by the commission opens or replaces the computer cabinet in a gaming machine on authorised premises, the technician or other person must enter the access details in the computer cabinet access register.
- (3) If an authorised officer opens the computer cabinet in a gaming machine on authorised premises, the authorised officer must enter the access details in the computer cabinet access register.
- (4) In this section:

access details means the following details:

- (a) information that clearly identifies the gaming machine, including the machine's serial number;
- (b) the date when the computer cabinet was opened or replaced;
- (c) a description of why the computer cabinet was opened or replaced;
- (d) the new computer cabinet seal number that was applied;
- (e) the name and signature of the approved technician, other person or authorised officer;
- (f) the name and signature of the licensee;
- (g) any other information prescribed by regulation.

138 Section 72*substitute***71A Offence—supply gaming machine etc without supplier approval**

A person commits an offence if the person—

- (a) supplies any of the following to another person:
 - (i) a gaming machine;
 - (ii) peripheral equipment for a gaming machine;
 - (iii) a system (including a CMS) designed for use with a gaming machine; and
- (b) is not an approved supplier.

Maximum penalty: 100 penalty units.

72 Application and approval of corporation as supplier

- (1) A corporation may apply, in writing, for approval as a supplier.
- (2) The commission may approve the corporation as a supplier (an *approved supplier*) if satisfied that—
 - (a) the corporation intends to supply, install or maintain any of the following:
 - (i) a gaming machine;
 - (ii) peripheral equipment for a gaming machine;
 - (iii) a system (including a CMS) designed for use with a gaming machine; and
 - (b) each influential person for the corporation is an eligible person; and

- (c) the corporation has not, in the last 12 months, provided false or misleading information in an application under subsection (1); and
 - (d) the corporation satisfies any other requirement prescribed by regulation.
- (3) If the commission approves a corporation as a supplier, the commission must give the corporation a certificate stating that the corporation is an approved supplier.

**139 Giving copy of certificate about approved supplier
Section 73 (1)**

omit

person

substitute

corporation

140 Section 73 (3)

omit

to supplier

substitute

to the supplier

**141 Cancellation etc of supplier's approval
Section 73A (1)**

substitute

- (1) This section applies if the commission—
- (a) stops being satisfied that an approved supplier meets the conditions for approval stated in section 72 (2); or
 - (b) is satisfied that an approved supplier has contravened this Act.

**142 Application for approval as technician
Section 74 (1) and notes**

substitute

- (1) An individual may apply, in writing, for approval as a technician for 1 or more approved suppliers.

143 Section 74 (2) (b)

omit

144 Section 74 (2) (d)

substitute

- (d) a recent passport-size photograph of the applicant.

**145 Approval of technicians
Section 75 (1)**

before

suppliers

insert

approved

146 Section 75 (1) (c)

substitute

- (c) the applicant is employed, or will be employed, by each supplier.

147 Section 75 (4)

omit

a supplier

substitute

an approved supplier

148 Section 75 (5)

omit

149 Section 78

substitute

78 Transfer etc of technician's approval

- (1) An approved technician may apply, in writing, to the commission—
- (a) for approval as a technician for another approved supplier (the *new supplier*); or
 - (b) to transfer their approval as a technician from 1 approved supplier to another approved supplier (the *new supplier*).
- (2) The application must be accompanied by a written statement by the new supplier stating that the supplier employs, or has offered to employ, the applicant as a technician.

- (3) The commission may—
- (a) for an application under subsection (1) (a)—approve the technician for the new supplier; or
 - (b) for an application under subsection (1) (b)—transfer the approval of the technician to the new supplier.

**150 Cancellation etc of technician’s approval
Section 79 (1) (a)**

before

supplier

insert

approved

151 Section 79 (1) (b)

omit

is not an approved supplier and

152 Section 79 (6), definition of *approved supplier*

substitute

approved supplier does not include an approved supplier whose approval is suspended.

**153 Giving copy of certificate about approved technician or identity card
Section 81 (1)**

substitute

- (1) This section applies if—
- (a) an approved supplier tells the commission, in writing, about the loss, theft or destruction of a certificate given to the supplier under section 80 (2) (a); or
 - (b) an approved technician tells the commission, in writing, about the loss, theft or destruction of an identity card given to the technician under section 80 (2) (b).

154 Section 81 (2) and (3)

omit

person

substitute

supplier or technician

155 Section 82*substitute***82 Approved supplier to notify commission if technician no longer employed**

- (1) An approved supplier commits an offence if the supplier—
- (a) stops employing an approved technician; and
 - (b) does not tell the commission, in writing, within 1 week after the day the supplier stops employing the technician.

Maximum penalty: 5 penalty units.

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

**156 Renewal of technician's approval
Section 84 (1) and note***substitute*

- (1) An approved technician may apply to the commission for renewal of their approval not later than 1 month, and not earlier than 3 months, before the approval expires.

**157 Approval for repossession—application
Section 107 (1)***omit*

a supplier

substitute

an approved supplier

**158 Conditions on approval to repossess gaming machine
Section 109 (1)**

omit

person given the approval

substitute

approved reposessor

**159 Repossessed gaming machines—amendment of
authorisation schedule
Section 109A (1)**

omit

a person enforcing a financial agreement or a supplier

substitute

an approved reposessor

160 Section 109A (2)

omit

person

substitute

approved reposessor

**161 Contravention of repossession approval conditions
Section 110 (1)**

substitute

- (1) An approved reposessor must not contravene a requirement of a condition on the approval.

Maximum penalty: 50 penalty units.

162 Section 110 (2)

omit

person

substitute

approved reposessor

163 Section 121

substitute

121 Offence to install gaming machines etc

- (1) A person commits an offence if the person—
- (a) installs any of the following on authorised premises:
 - (i) a gaming machine;
 - (ii) peripheral equipment for a gaming machine;
 - (iii) a system (including a CMS) designed for use with a gaming machine; and
 - (b) is not an approved technician.
- Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.

**164 Operation to be subject to correct percentage payout
Section 125 (1) (a)**

omit

approved supplier or

165 Section 127*substitute***127 Offences—maximum stake amount**

- (1) An approved supplier commits an offence if the supplier—
- (a) supplies a gaming machine; and
 - (b) intentionally sets the stake amount for the gaming machine higher than the amount prescribed by regulation under section 49 (Maximum stake amount).

Maximum penalty: 50 penalty units.

- (2) An approved technician commits an offence if the technician—
- (a) installs a gaming machine; and
 - (b) intentionally sets the stake amount for the gaming machine higher than the amount prescribed by regulation under section 49.

Maximum penalty: 50 penalty units.

166 Section 128*substitute***128 Maintaining gaming machines etc on authorised premises**

- (1) A person commits an offence if the person—
- (a) maintains any of the following on authorised premises:
 - (i) a gaming machine;
 - (ii) peripheral equipment for a gaming machine;

- (iii) a system (including a CMS) designed for use with a gaming machine; and
 - (b) is not an approved technician.
- Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.

**167 Interference with gaming machines
Section 129 (5)**

substitute

- (5) Subsection (1) does not apply in relation to anything done honestly for the maintenance of a gaming machine by—
- (a) an approved technician; or
 - (b) an authorised officer; or
 - (c) someone else authorised in writing by the commission.

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

**168 Opening computer cabinets
Section 130 (1) (b)**

substitute

- (b) is not—
- (i) an approved technician; or
 - (ii) an authorised officer; or
 - (iii) someone else authorised in writing by the commission.

**169 Reviewable decisions
Schedule 1, items 22 to 24, column 4**

omit

supplier

substitute

approved supplier

170 Schedule 1, items 27 to 29, column 4

omit

technician

substitute

approved technician

171 Dictionary, definition of *approved supplier*

substitute

approved supplier—see section 72 (Application and approval of corporation as supplier).

Part 5 Gaming Machine Regulation 2004

172 CMS Access Section 26 (2) (a)

omit

173 Link equipment in single-user approvals Section 51 (2) and (3)

substitute

- (2) If the link equipment malfunctions, the licensee of the premises must, as soon as practicable, take reasonable steps to arrange for the repair of the equipment by—
- (a) an approved technician; or
 - (b) an authorised officer; or
 - (c) someone else authorised in writing by the commission.

174 Link equipment Section 61 (2)

substitute

- (2) If link equipment on authorised premises malfunctions, the permit-holder must, as soon as practicable, take reasonable steps to arrange for the repair of the equipment by—
- (a) an approved technician; or
 - (b) an authorised officer; or
 - (c) someone else authorised in writing by the commission.

175 Section 61 (4)

omit

176 Dictionary, note 3

omit

- approved supplier

Part 6 Race and Sports Bookmaking Act 2001

177 Offences against Act—application of Criminal Code etc Section 4A, note 1

insert

- s 19 (Engage in sports bookmaking without licence)

178 Section 19

substitute

19 Engage in sports bookmaking without licence

- (1) A person commits an offence if the person engages in sports bookmaking.

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

- (2) Subsection (1) does not apply if the person—
- (a) is a sports bookmaker; or
 - (b) is acting in the course of the person's duties as a director, officer or employee of a sports bookmaker; or
 - (c) is a sports bookmaker's agent acting for the sports bookmaker who applied for their licence.

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

- (3) For subsection (1), a race bookmaker does not engage in sports bookmaking only because the race bookmaker receives or negotiates bets on, or in relation to, sports betting events that are races.

**179 Maximum number of sports bookmaking licences etc
Section 24 (1)**

substitute

- (1) The Minister may, in writing, determine the maximum number of sports bookmaking licences that may be issued by the commission.

180 Section 25

substitute

25 Application for sports bookmaking licence

- (1) A corporation may apply to the commission for a sports bookmaking licence.
- (2) The application must—
 - (a) be in writing; and
 - (b) state the name and business address of the corporation; and
 - (c) state the period for which the licence is sought; and
 - (d) include a suitability authorisation for each director of the corporation; and
 - (e) if required under subsection (3)—include a suitability authorisation for any influential shareholder of the corporation; and
 - (f) be approved by each director of the corporation; and
 - (g) include anything else prescribed by regulation.
- (3) The commission may, in writing, require the corporation to provide a suitability authorisation for an influential shareholder of the corporation.

- (4) The commission must not decide the application until the commission has received and considered a police report about the corporation's directors and any influential shareholder for whom a suitability authorisation has been required under subsection (3).
- (5) In this section:
- suitability authorisation*, for a person, means a written authorisation by the person authorising a police officer to make inquiries, and make a written report to the commission, about the character, and any criminal record, of the person.

**181 Issue or refusal of sports bookmaking licence
Section 26 (1) and (2)**

substitute

- (1) This section applies if the commission receives a licence application from a corporation under section 25.
- (2) The commission must issue a sports bookmaking licence to the corporation if satisfied that the corporation and each director of the corporation meets the suitability requirements.

Note *Suitability requirements*—see s 92.

182 Section 26 (3)

omit

in relation to

substitute

of

183 Section 26 (4)

omit

anyone mentioned in subsection (2) in relation to the application

substitute

the corporation or a director of the corporation

184 Section 26 (5)

omit

personally or

**185 Conditions of sports bookmaking licence
Section 27 (2)**

omit

the holder of a sports bookmaking licence

substitute

a sports bookmaker

**186 Sports bookmaking licence—entry of particulars in
register
Section 28**

omit

person

substitute

corporation

**187 Surrender of sports bookmaking licence
Section 31 (1)**

omit

The holder of a sports bookmaking licence may surrender the licence

substitute

A sports bookmaker may surrender their licence

188 Sections 32 and 33

omit

**189 Effect of cancellation, surrender or suspension of sports
bookmaking licence on agent licence
Section 40 (1) and (2)**

omit

holder of the sports bookmaking licence

substitute

sports bookmaker

190 Section 40 (3) (b)

substitute

(b) if practicable, the sports bookmaker or former sports bookmaker.

191 Section 45 heading

substitute

**45 Cancellation of licence on death of licensee or
dissolution etc of corporation**

192 Section 45 (1) (b)

omit

**193 How disputes about bets may be resolved
Section 55 (1)**

omit

(the *bookmaker*)

194 Section 55 (2)

before

bookmaker

insert

race

**195 Mandatory cancellation of licence
Section 68 (5) and note**

substitute

- (5) If the licensee holds a sports bookmaking licence, the following criteria apply to the licensee:
- (a) the corporation, any director of the corporation, or any influential shareholder of the corporation, does not meet the suitability requirements;
 - (b) the corporation, or any director of the corporation, has engaged in a prohibited act;
 - (c) the licensee has not paid a fee payable under this Act in relation to the licence within the period it is required to be paid.

Note For *prohibited act* for this subsection, see s (7).

**196 Discretionary penalties
Section 69 (4) and note**

substitute

- (4) However, the criterion mentioned in subsection (3) (f) does not apply to a sports bookmaking licence.

Note For a sports bookmaking licence, see s (6) (b).

197 Section 69 (6)

substitute

- (6) If the licensee holds a sports bookmaking licence, the following criteria also apply:
- (a) the licensee has failed to give to the commission a suitability authorisation required under section 80 (5), (6) or (7) (Sports bookmaker to tell commission about certain changes);
 - (b) the corporation, any director of the corporation, or any influential shareholder of the corporation, has contravened a provision of this Act or a corresponding law, if contravention of the provision is not an offence.

**198 Unsigned licences—race bookmakers and race bookmaker's agents
Section 74**

omit

his or her

substitute

their

199 Section 80 heading

substitute

80 Sports bookmaker to tell commission about certain changes**200 Section 80 (1) (a) to (c)**

substitute

- (a) the name or business address of the sports bookmaker;
- (b) the directors of the sports bookmaker;
- (c) the name or business address of any director, or the secretary, of the sports bookmaker;
- (d) if the sports bookmaker is a proprietary company—the people who are influential shareholders of the sports bookmaker;
- (e) if another corporation is an influential shareholder of the sports bookmaker—the directors, or the people who are influential shareholders, of the other corporation.

201 Section 80 (3)

substitute

- (3) After receiving a notice under subsection (1), the commission may, in writing, require the sports bookmaker to give to the commission, within 14 days or any longer period allowed by the commission, further information in writing about—
 - (a) the directors, or any stated director, of the sports bookmaker; or
 - (b) the secretary of the sports bookmaker; or
 - (c) any stated shareholder who is an influential shareholder of the sports bookmaker.

202 Section 80 (5) to (7)

substitute

- (5) A notice under subsection (1) stating that a person has become a director of the sports bookmaker must include a suitability authorisation for the director.
- (6) If a sports bookmaker gives the commission a notice under subsection (1) stating that a person has become an influential shareholder of the sports bookmaker, the commission may, in writing, require the sports bookmaker to provide a suitability authorisation for the influential shareholder.
- (7) If a sports bookmaker gives the commission a notice under subsection (1) stating that another corporation (the ***incoming corporation***) has become an influential shareholder of the sports bookmaker, the commission may, in writing, require the sports bookmaker to provide a suitability authorisation for each director of the incoming corporation.
- (8) In this section:

suitability authorisation, for a person, means a written authorisation by the person authorising a police officer to make inquiries, and make a written report to the commission, about the character, and any criminal record, of the person.

**203 Evidence of licences
Section 85 (1) (b)**

substitute

- (b) a stated person was, or was not—
 - (i) a director of a sports bookmaker; or
 - (ii) the secretary of a sports bookmaker; or
 - (iii) an influential shareholder of a sports bookmaker.

**204 Application of this Act if licence is held by syndicate
Section 86**

omit

**205 Meaning of *suitability requirements* and *security guarantee*
Section 92 (1) (i)**

omit

holder of a sports bookmaking licence

substitute

sports bookmaker

206 Section 92 (2) and (3)

substitute

- (2) For subsection (1), each of the following people is a ***relevant person***:
- (a) an applicant for a sports bookmaking licence, and any director or influential shareholder of the applicant;
 - (b) a sports bookmaker, and any director or influential shareholder of the sports bookmaker;
 - (c) a person nominated in an application for a sports bookmaker's agent licence;
 - (d) a sports bookmaker's agent.
- (3) A ***security guarantee***, for the suitability requirements applying to a corporation that applies for, or holds, a sports bookmaking licence, means 1 or more documents that satisfy the commission about the corporation's ability to cover the corporation's sports bookmaking losses to the amount applying to the corporation under a determination under section 90.

**207 Internally reviewable decisions
Schedule 1, item 32, column 2**

omit

68 (7)

substitute

68 (8)

208 Dictionary, note 2

insert

- person (see s 160)

209 Dictionary, definitions of *licensee* and *person*

omit

210 Dictionary, definition of *security guarantee*, paragraph (b)

omit

person who

substitute

corporation that

211 Dictionary, definition of *sports bookmaker*

substitute

sports bookmaker means a corporation that holds a sports bookmaking licence.

212 Dictionary, new definition of *sports bookmaker's agent*

insert

sports bookmaker's agent means a person who holds a sports bookmaker's agent licence.

Part 7 Race and Sports Bookmaking Regulation 2001

213 Section 3

substitute

2 Prescribed particulars for register—Act, s 9 (a)

- (1) If the commission issues a race bookmaking licence to a person, the commission must enter the following particulars in the register:
 - (a) the name and address of the person;
 - (b) the licence number;
 - (c) the date the licence was issued;
 - (d) the period for which the licence was issued;
 - (e) any conditions imposed on the licence.
- (2) If the commission suspends or cancels a race bookmaking licence, the commission must enter details of the suspension (including the period of suspension) or cancellation in the register.

3 Prescribed particulars for register—Act, s 28 (a)

- (1) If the commission issues a sports bookmaking licence to a corporation, the commission must enter the following particulars in the register:
 - (a) the name and business address of the corporation;
 - (b) the licence number;
 - (c) the date the licence was issued;
 - (d) the period for which the licence was issued;
 - (e) any conditions imposed on the licence.

- (2) If the commission suspends or cancels a sports bookmaking licence, the commission must enter details of the suspension (including the period of suspension) or cancellation in the register.

**214 Corresponding laws—Act, s 92 (1) (d)
Section 7 (b)**

substitute

- (b) *Betting and Racing Act 1998* (NSW);

215 Section 7 (j)

substitute

- (j) *Racing and Betting Act 1983* (NT).

Part 8 Retirement Villages Act 2012

216 Annual management meeting—chair Section 109 (2), except note

substitute

- (2) If the operator or representative is required to leave any part of the meeting under section 113 (4), that part of the meeting must be chaired by a resident agreed to by the residents at the meeting.

217 Meetings of residents New section 112 (1A)

insert

- (1A) A meeting of residents of a retirement village (other than an annual management meeting) must be chaired by a resident agreed to by the residents at the meeting.

218 Attendance at meetings of residents Section 113 (4)

substitute

- (4) An operator or representative who is attending a meeting of the residents (with the residents' consent), or attending an annual management meeting of the village, must leave the meeting during any vote that is taken by the residents at the meeting, but may return to the meeting after the vote.

219 Certain limitations on proxies Section 117 (1)

omit

(the *appointor*)

**220 Method of voting
Schedule 1, section 1.3 (1)**

omit

including

substitute

other than

**221 Result of vote
Schedule 1, section 1.4 (2)**

omit

subsection (1)

substitute

subsection (1) (b)

222 Schedule 1, section 1.5

substitute

1.5 Written ballot required for special resolution

A vote in relation to a measure or action that requires a special resolution must be taken by means of a written ballot conducted in the way prescribed by regulation.

**223 How special resolution is carried
Schedule 1, section 1.6**

before

ballot

insert

written

Part 9 Retirement Villages Regulation 2013

224 Appointment of proxies—Act, s 116 (2) Section 23

omit

chairperson

substitute

chair

225 Part 11

substitute

Part 11 Consent of residents

59 Conduct of written ballots generally—Act, sch 1, s 1.3 (1) (b)

A written ballot must be conducted in accordance with schedule 4, part 4.2 (Conducting a written ballot).

60 When written ballot required—Act, sch 1, s 1.3 (2)

- (1) The residents of a retirement village may decide, by a show of hands at any meeting at which a particular measure or action is discussed, whether the vote on the measure or action is to be taken by a written ballot.
- (2) If 50% or more of the residents present at the meeting decide that the vote is to be taken by a written ballot, the vote must be taken by a written ballot.

Note A written ballot is also required if a measure or action requires a special resolution (see [Act](#), sch 1, s 1.5).

60A Conduct of written ballots for special resolutions—Act, sch 1, s 1.5

A written ballot in relation to a measure or action requiring a special resolution must be conducted in accordance with schedule 4—

- (a) part 4.2 (Conducting a written ballot); and
- (b) part 4.3 (Additional requirements for special resolution).

226 Schedule 4, section 4.2

substitute

4.2 Application—pt 4.2

This part applies if a written ballot is required at a meeting of residents of a retirement village.

Note A written ballot may be required under s 60 and is required for a special resolution (see [Act](#), sch 1, s 1.5).

**227 Election of returning officer
Schedule 4, section 4.3 (1) and (2)**

substitute

- (1) The residents of a retirement village must elect a returning officer for a written ballot by a show of hands at a meeting of the residents.

**228 Conduct of written ballot
Schedule 4, section 4.4 (1) and (2)**

substitute

- (1) The returning officer for a written ballot must prepare enough ballot papers so that a ballot paper can be given to each qualified voter.

229 **Schedule 4, part 4.3 heading**

substitute

Part 4.3 **Additional requirements for
special resolution**

230 **Special resolution—notice
Schedule 4, section 4.8 (1)**

omit

an action or measure

substitute

a measure or action

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 ACT Civil and Administrative Tribunal Regulation 2009

[1.1] Section 9 (1) (a) and (b)

omit

salespeople

substitute

assistant property agents

[1.2] Section 9 (1) (e)

omit

salesperson

substitute

assistant property agent

[1.3] Section 9 (4), definition of *registered salesperson*

substitute

registered assistant property agent—see the [Agents Act](#), dictionary.

Part 1.2 Civil Law (Sale of Residential Property) Act 2003

[1.4] Dictionary, definition of *agent*, paragraph (b)

omit

a real estate salesperson

substitute

an assistant real estate agent

Part 1.3 Fair Trading (Australian Consumer Law) Act 1992

[1.5] Section 44 (1) (d)

substitute

(d) the person is a licensed property agent who has contravened, or appears to have contravened, the [Agents Act 2003](#), part 7 (Trust accounts—licensed property agents).

[1.6] Section 44 (5), new definition of *licensed property agent*

insert

licensed property agent—see the [Agents Act 2003](#), section 7A.

Part 1.4 Legal Profession Act 2006

[1.7] Section 16 (4) (b)

omit

salesperson

substitute

assistant property agent

Part 1.5 Magistrates Court (Agents Infringement Notices) Regulation 2003

[1.8] Schedule 1, new item 3A

insert

3A	21 (1) (b) (i)	100	1000
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[1.9] Schedule 1, items 5 to 8

substitute

5	68A (1)	50	500
6	69 (1)	50	500
7	69 (2)	50	500
8	69 (3)	50	500
8A	70 (1)	50	500
8B	70 (2)	50	500

[1.10] Schedule 1, new item 10A

insert

10A	75A (1)	100	1000
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[1.11] Schedule 1, new item 14A

insert

14A	107A (1)	100	500
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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 April 2022.

2 Notification

Notified under the [Legislation Act](#) on 11 May 2022.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Fair Trading and Other Justice Legislation Amendment Bill 2022, which was passed by the Legislative Assembly on 5 May 2022.

Clerk of the Legislative Assembly

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