

Australian Capital Territory

# Agents Act (Qualifications and experience for Registration – Assistant Property Agents) Declaration 2022 (No 1)

Disallowable instrument DI2022–148

made under the

**Agents Act 2003, section 50 (Qualifications and experience for registration) and Agents Regulation 2003, section 10AA (Registration conditions – additional qualifications required after registration – Act, s 58 (1) (a))**

## EXPLANATORY STATEMENT

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Section 50 of the *Agents Act 2003* provides the Commissioner for Fair Trading with the power to declare the qualification and experience requirements necessary for a person to be registered and have their registration renewed as an assistant property agent.

Section 10AA provides the Commissioner for Fair Trading with the power to declare conditions on the registration of registered assistant property agents (real estate, stock and station and business) to undertake additional qualifications, and that these additional qualifications must be completed within a certain period of time.

The purpose of this instrument is to declare the qualifications and experience necessary for an individual to be eligible to be registered as an assistant agent.

Specifically, this instrument:

- declares the qualification and experience requirements for new entrants to the industry to be registered as an assistant property agent (real estate, stock and station and business)
- declares the qualification and experience requirements for renewal of registration as an assistant agent (real estate, stock and station and business), including for those who held a registration immediately prior to 1 July 2022
- prescribes the units of competency required for each qualification
- defines relevant terms for the instrument.

### Background

Artibus Innovation were commissioned by the Australian Government to support the Industry Reference Committee for Property Services in their work to develop and

review training packages such as the real estate training package. The technical review of the existing CPP07 Property Services Training Package identified:

- duplication of content across qualifications and competencies,
- obsolete qualifications which did not reflect current occupational roles
- a gap between qualifications and jurisdictional licensing requirements.

Artibus consulted representatives from States and Territories state and territory training authorities, the real estate industry and the Technical Advisory Group across Australia to develop a new set of units of competency and skill sets for the qualification of real estate industry professionals.

In 2019, Artibus released the updated National Real Estate Training Package. The updated training package was designed to eliminate ambiguity around qualification outcomes, clearly define skills, ensure qualifications reflect industry roles and future proof qualifications where possible.

In May 2022, the ACT Legislative Assembly passed the *Fair Trading and Other Justice Legislation Amendment Act 2022* to amend the *Agents Act 2003* and *Agents Regulation 2003* to establish a new licensing and registration framework for the real estate industry which supports the implementation of the updated training requirements.

As a result of the reforms, from 1 July 2022, to be eligible for registration as an assistant property agent, an applicant must have completed 5 core subjects within the Certificate IV in Real Estate Practice and then must complete a further 5 elective units from the Certificate within 12 months of registration.

As part of these reforms, the qualification requirements for registration as an assistant agent were moved from the *Agents Regulation 2003* to a declaration by the Commissioner for Fair Trading via disallowable instrument.

### **Regulatory Impact Statement (RIS)**

Section 34 of the *Legislation Act 2001* provides that if a proposed subordinate law or disallowable instrument (the proposed law) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the Minister administering the authorising law (the administering Minister) must arrange for a regulatory impact statement to be prepared for the proposed law.

A RIS is not required for this instrument as it is not expected to impose appreciable costs on the community or part of the community. The declaration introduces updated qualification requirements which align with the national training standards for new entrants to the industry from 1 July 2022. Communications of these changes were provided to registered training organisations, the real estate industry and the Real Estate Institute of the ACT in advance of the declaration. The qualification requirements of assistant agents registered prior to 1 July 2022 are not impacted under the declaration.

### **Human Rights**

There are no human rights impacts related to this instrument.

The instrument prescribes qualification pathways for applicants which align with the nationally agreed standards and are appropriate for the consumer risks associated with the responsibility of an assistant agent.

## **CLAUSE NOTES**

### **Clause 1      Name of the instrument**

This clause provides that the name of the instrument is *Agents (Qualifications and Experience for Registration – Assistant Property Agents) Declaration 2022 (No 1)*.

### **Clause 2      Commencement**

This is a technical clause specifying the commencement of the instrument. The instrument commences on 1 July 2022.

### **Clause 3      Declaration for registration of assistant property agents**

Section 49 (1) of the *Agents Act 2003* provides that an individual must meet qualification and experience requirements to be eligible to be registered as an assistant property agent.

Section 50 of the *Agents Act 2003* provides the Commissioner for Fair Trading with the power to declare the qualification and experience requirements necessary for a person to be registered as an assistant property agent. However, this power does not extend to requiring a person to complete additional qualifications as a condition of registration or to complete these within a particular period of time.

Section 10AA of the *Agents Regulations 2003* provides that it is a condition of registration that a registered assistant property agent must complete additional qualifications, as declared by the commissioner for fair trading, after registration.

This clause states that the qualification and experience requirements that an individual must meet to be registered as an assistant property agent are provided for in Schedule 1 to this instrument.

### **Clause 4      Declaration for renewal of registration of assistant property agents**

This clause states that the qualification and experience requirements that an individual must satisfy to be eligible to renew a registration as an assistant property agent are provided for in Schedule 1 to this instrument.

This clause also includes a note, which explains that the *Agents Act 2003* includes transitional provisions for a person who was a registered salesperson, or an unqualified salesperson on 1 July 2022 at sections 234 and 235.

## **Clause 5 Requirements if more than 1 qualification declared**

This clause provides that where two or more qualifications for the attainment or renewal of a particular registration are declared under this instrument (for example, see column 3, items 1, 2 and 3), an individual is only required to obtain one of these qualifications.

## **Clause 6 Relevant law for qualifications**

This clause provides that any VET course unit of competency for a qualification declared under this instrument, must be based upon the legislative context in the Territory, rather than another jurisdiction.

The policy intent of this clause is to ensure that an individual who hold a licence will have qualifications that will equip them to undertake their role in compliance with Territory laws.

## **Clause 7 Definitions**

This clause inserts *complete* (with respect to VET course units of competency), *pre-amendment Act*, *registered training organisation*, *VET course* and *VET statement of attainment* as defined terms for the purposes of the instrument.

## **Schedule 1**

Schedule 1 sets out the qualification requirements that an individual must meet to be registered as an assistant property agent, including the additional qualifications that an assistant property agent is required to obtain after registration.

## **Schedule 2**

Schedule 2 provides the qualification and experience requirements that an individual must meet to have their registration as an assistant property agent renewed.

## **Schedule 3**

Schedule 3 sets out the VET course units of competency from CPP41419 Certificate V in Real Estate Practice, as referenced in schedules 1 and 2.