

Agents (Qualifications and Experience for Licences) Declaration 2022 (No 1)

Disallowable instrument DI2022–149

made under the

Agents Act 2003, section 25 (Qualifications and experience for licences)

EXPLANATORY STATEMENT

Section 25 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 licensed as an agent including the requirements for each class of property agent.

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

Specifically, this instrument:

- declares the qualification and experience requirements for new entrants to the industry to be licensed as a class 1 agent and class 2 agent (real estate, conditional real estate to manage an owners' corporation, stock and station and business)
- declares the qualification and experience requirements for renewal of a licence as a class 1 or class 2 agent (real estate, conditional real estate to manage an owners' corporation, conditional real estate to only sell land via auction, stock and station and business), including for agents who held an agent licence immediately prior to 1 July 2022
- declares the qualification requirements to be licensed as a land auctioneer
- prescribes the units of competency required for each qualification
- defines relevant terms for the instrument.

Background

Artibus Innovation (Artibus) 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, and
- 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* which amends 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 part of these reforms, the qualification and experience requirements to be licensed as an 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 for individuals who hold an agent licence 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 agent.

CLAUSE NOTES

Clause 1 Name of the instrument

This clause provides that the name of the instrument is *Agents (Qualifications and Experience for Licences) 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 agents licences

Section 24 (1) of the *Agents Act 2003* provides that an individual must meet qualification and experience requirements to be eligible to be licensed as an agent.

Section 25 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 licensed as an agent, including the requirements for each class of property agent.

This clause states that the qualification and experience requirements that an individual must satisfy are provided for in Schedule 1 to this instrument.

Clause 4 Declaration for renewal of agents licences

This clause states that the qualification and experience requirements that an individual must satisfy to be eligible to renew an agents licence are provided for in Schedule 1 to this instrument.

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 licence are declared under this instrument, 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 and experience requirements that an individual must satisfy to obtain each class and kind of property agent licence.

Schedule 2

Schedule 2 provides the VET course units of competency from CPP41419 Certificate IV in Real Estate Practice, as referenced in Schedule 1.