

**REIA SUBMISSION TO THE AUSTRALIAN AND NEW ZEALAND
COMPETITION AND CONSUMER PROTECTION REGIMES STUDY**

BACKGROUND

1. The Productivity Commission has been asked to undertake a study examining the potential for greater cooperation, coordination and integration of the general competition and consumer protection regimes in Australia and New Zealand, and to furnish a report to the Treasurer.
2. The Real Estate Institute of Australia (REIA) is the national professional association for the real estate industry in Australia. REIA has eight members, comprised of the State and Territory Real Estate Institutes, through which about 75 per cent of real estate firms and licensed agents are collectively represented. Close links are maintained with the REIA's New Zealand counterpart, the Real Estate Institute of New Zealand.
3. The real estate industry is highly regulated, both at State/Territory level, and at Commonwealth level under a range of competition and consumer protection legislation. As such, these regimes impact significantly on the industry, particularly where legislation and regulations differ and/or are in conflict.

PURPOSE

4. The purpose of this Submission is to put forward the Real Estate Institute of Australia's views on the general competition and consumer protection regime in Australia, as it impacts on the real estate industry.

ISSUES

Globalisation

5. The real estate industry, like other industries in Australia, is becoming increasingly globalised. The Closer Economic Relations Act provides significant opportunity and impetus for Australians and New Zealanders to buy and sell property on both sides of the Tasman. The increasing mobility of the Australian population, access to the internet to facilitate interstate and international purchases of property either for investment or owner occupation, and the national and global view of superannuation funds and property trusts, are drivers of the globalisation of Australia's real estate sector. It is imperative therefore that the competition and consumer protection regimes of both Australia and New Zealand reflect the global nature of this industry sector.

Conduct of business

6. During 2003/04 the REIA has been working with the ACCC to develop guidelines for the real estate industry to facilitate the development of industry standards which are consistent with the requirements of the Trade Practices Act. The ACCC has confirmed its agreement with these guidelines. In particular, the guidelines focus on issues raised by the ACCC as being of concern and on an additional item (subparagraph g below) noted by REIA. These include:

- a. dummy bidding
- b. price ranges for properties
- c. price offering
- d. photographic representations
- e. full and accurate disclosure
- f. rebates (buyer discounts) on advertising

7. The REIA believes the guidelines take into account the requirements of the State/Territory regulatory regime, and comply with the requirements of the Trade Practice Act, particularly Section 52. However, it remains concerned that there are significant differences in the legislation and regulations governing the real estate industry amongst the Australian states and territories, e.g. vendor bidding is treated in different ways in several states. The extent of these differences can be seen in the attached matrix of state and territory legislation governing real estate practice (Attachment 1). It is not clear which jurisdiction's regulations, Commonwealth or state/territory, would prevail where there were such differences.

8. Acceptance of the REIA's ACCC-agreed guidelines by State/Territory consumer protection agencies would result in further harmonisation of consumer protection laws as they pertain to the real estate industry. An extension of this arrangement to include New Zealand would be highly desirable.

9. It should be noted that the ACCC is currently proposing voluntary codes of conduct for industry. In some States/Territories, mandatory codes of conduct exist for the real estate industry. The dilemma regarding voluntary versus mandatory codes of conduct must be resolved. While the REIA recognises, in principle, the value of a co-regulation approach to industry codes of conduct, it is concerned that mechanisms for ensuring consumer protection should not result in a heavy cost burden being shifted from government to industry. In its submission responding to the ACCC discussion paper, Guidelines for developing effective voluntary codes, the REIA noted its concern that the substantial costs associated with management of co-regulatory compliance would be an onerous impost for many industry associations, including the REIA.

Education and licensing of real estate agents

10. The REIA advocates consistent, if not uniform, legislation across all States and Territories as being essential for real estate best practice, business development and consumer protection. This has previously been highlighted in the REIA's submission to the Productivity Commission's review of Mutual Recognition Arrangements.

11. The industry supports regulation by way of licensing/registration and associated educational qualifications. Education standards must be an integral part of licensing and registration. There should be agreed competency-based education levels for both licensing and registration that will be consistent among all jurisdictions and comply with mutual recognition arrangements.
12. This approach should build on the considerable progress that has been made through the national training reform agenda over the last few years.
13. A review of State and Territory legislation has revealed that there are major differences in real estate practice across Australia. For example, there are differences in licence categories, licence qualifications and education.
14. As an outcome of a proposal by REIA to Federal and State government regulators, it has been agreed that a review of education and licensing in real estate practice will be undertaken by the Standing Committee of Consumer Affairs Official (SCOCA) in consultation with the REIA in 2004. The review process is now under way. The aim of the review is to:
 - a. undertake an analysis of current land/property/estate agents legislation in Australian states and territories and other relevant material to determine the knowledge and skills for which training needs to be mandatory (either prior to entry to the industry as an employee or as a licensing criterion) in order to meet the objectives of the legislation; and
 - b. identify other areas for priority in future work to harmonise requirements across jurisdictions, including but not limited to licensing criteria.
15. It would be desirable for this review process to be extended to include consideration of the New Zealand education and licensing requirements for real estate agents, to enhance consumer protection, labour mobility and the conduct of business across Australia and New Zealand, particularly in an environment of closer economic ties between the two countries.

Regulatory differences

16. Currently, the real estate industry is faced with a range of regulations at State and Commonwealth level. These do not always reflect or complement each other. The industry requires clear guidance on which regulatory regime will prevail - State/Territory or Commonwealth? Guidance is also needed on how the New Zealand regulatory regime fits with the Australian regime. For business practitioners, the lack of such guidance increases the difficulty in determining complying business practices. This increases the regulatory cost burden to real estate businesses, the majority of which are small businesses, and potentially negatively impacts on consumer protection.

Policy options

17. In its Issues Paper, the Productivity Commission detailed as one of the broad policy options for government, ‘the further harmonisation of competition and consumer protection laws’. The Commission’s preliminary interpretation is that this might include ‘changes to Australian and New Zealand competition and consumer protection laws that further harmonise those laws’. A number of potential examples were cited, including ‘mutual recognition of compliance with the other country’s laws’.

18. The REIA supports the policy option of mutual recognition of compliance with the other country’s laws as a pathway towards achieving further harmonisation of the real estate industry across Australia and New Zealand. This evolutionary approach allows for respect of national and State/Territory autonomy, while providing for the development of an environment conducive to trans-border business. The REIA does not believe identical laws administered by either a local regulator or a single trans-Tasman regulator are practicable.

19. Much work remains to be done however to achieve greater harmonisation between Australia’s States and Territories in the real estate sector before such harmonisation can be extended to include New Zealand. As noted in Attachment 1, the variations in State/Territory legislation governing the real estate sector in Australia are significant.

20. With reference to the further extraterritorial application of competition and consumer protection laws, such potential already exists under the Free Trade Agreements with the United States, Thailand and Singapore. However, as noted in Paragraph 19 above, unless further harmonisation of legislation regulating the real estate sector across Australia is achieved, the potential for further extraterritorial application is limited.

SUMMARY

21. The REIA advocates consistent, if not uniform, legislation across all States and Territories as being essential for real estate best practice, business development and consumer protection. The extension of this consistent legislation to include New Zealand is desirable given the Australia New Zealand Closer Economic Relations Trade Agreement. Issues of concern to the real estate industry include the Trade Practices Act and voluntary codes of conduct, education and licensing for real estate agents, and the regulatory differences across Commonwealth, State/Territory and New Zealand regulatory regimes.

RECOMMENDATIONS

22. To manage the issues described in this submission, the REIA recommends:

- a. Acceptance of REIA’s ACCC-agreed guidelines for the real estate industry by State/Territory consumer protection agencies would result in further harmonisation of consumer protection laws as they pertain to the real estate

industry. An extension of this arrangement to include New Zealand would be highly desirable.

- b. Subsequent to the real estate education and licensing review currently being undertaken by SCOCA, further reviews be undertaken to examine opportunities for harmonisation of broader aspects of real estate regulation, and for such reviews to be extended to include the New Zealand real estate regulatory regime.
- c. Guiding principles should be developed which clearly indicate the relationship between, and the overriding legislation and regulations (Commonwealth, State/Territory, New Zealand) to allow business practitioners to make appropriate decisions about complying business practices.

Prepared by:

Secretariat
Real Estate Institute of Australia

12 August 2004

Attachment:

- 1. Matrix of State Legislation

AS AT 30 JUNE 2004

In addition to various Commonwealth legislation: Corporations Act, Tax Acts, Insurance Acts, Discrimination Acts, Privacy Act, Trade Practices Act, ASIC Act, First Home Owners Act, Financial Services Reform Act, etc.

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	QLD	NSW	VIC	SA	WA	
Other relevant legislation cont...		Act 1899 Landlord & Tenant (Rental Bonds) Act 1977 Occupational Health & Safety Act 2000 Real property Act 1900 Retail Leases Act 1994 (various other Retail Acts) Retirement Villages Act 1999 Strata Titles Act 1973 Strata Titles (Leasehold) Act 1986 Strata Schemes Management Act 1996 (various other Strata Acts) Trustee Act 1925 Various Insurance Related Acts Valuers Registration Act 1975 Valuation of Land Act 1916			Grant Regulations 2000 Heritage of WA Act 1990 Land Administration Act 1997 Land Administration Regulations 1998 Licensed Surveyors Act 1909 Licensed Surveyors Amendment Act 1996 Local Government Act 1995 Native Title (State Provisions) Act 1999 Property Law Act 1969 Occupational Safety and Health Act 1984 Occupational Safety and Health Regulations 1996 Residential Tenancies Act 1987 Residential Tenancies Regulations 1989 Retirement Villages Act 1992 Retirement Villages Regulations 1992 Sale of Land 1970 Settlements Agent's Code of Conduct 1982 Soil and Land Conservation Act 1945 Swan River Trust Act 1988 Strata Titles Act 1985 Strata Titles Regulations 1996 Transfer of Land Act 1993 Transfer of Land Amendment Act 1996 Transfer of Land Regulations 1997 Transfer of Land (Surveys) Regulations 1995	
Other relevant legislation cont...						

	QLD	NSW	VIC	SA	WA	
	15% or more interest in a property otherwise they must appoint a licensed real estate agent.				<u>required to conduct Strata</u> Deleted: agent.	
Advertising application for licence	Not publicly advertised	Not applicable	Not publicly advertised	Advertising application for registration is not a prerequisite	Must be advertised	
Issuing authority	Office of Fair Trading.	Office of Fair Trading	Business Licensing Authority.	Office of Consumer and Business Affairs	Real Estate and Business Agents Supervisory Board - <u>Department of Consumer and Employment Protection (DOCEP)</u>	
Term of licence	1 or 3 years.	1 year.	Reviewed annually	Annual.	<u>Licence Licence is continuous but must also have Triennial Certificate to operate as an agent, which is renewed every three years.</u> <u>Registration</u> <u>Three years</u>	
Suitability for all classes of licences <i>Suitability for all classes of licences cont..</i>	<ul style="list-style-type: none"> • Must not be affected by bankruptcy. • 18 years of age or older. • Cannot have a conviction in previous 5 years. • Not currently disqualified. • Must satisfy educational requirements. <p>To be eligible, must complete specified modules from the national real estate curriculum approved by ANTA.</p>	<ul style="list-style-type: none"> • Fame and character of person or if corporation the directors and secretary and whether corporation fit and proper • Been deemed competent in prescribed competencies • Attained 18 years of age 	<ul style="list-style-type: none"> • 18 years of age or older; and • Passed a prescribed course or examinations; and • * Been engaged as an agent's representative for not less than 1 year or periods amounting to one year whether full or part-time, during the 3 years immediately prior to applying for a licence; or • * Has held an estate agent's licence within the period of 5 years immediately preceding application; or • * Has completed the relevant standards of competency 	<ul style="list-style-type: none"> • For land agents/salespersons must hold necessary qualifications as prescribed under regulations • For property managers no formal qualification requirements • For land agents/real estate salespersons not to have been convicted of an offence of dishonesty in the 10 years prior to application • Is not suspended or disqualified from practicing • Is not an 	<ul style="list-style-type: none"> • <input type="checkbox"/> <u>Real estate and business agents licence (individual):</u> • <u>18 years of age or older.</u> • <u>Minimum 2 years work experience in real estate and business broking industry</u> • <input type="checkbox"/> good character and repute and a fit and • <input type="checkbox"/> proper person to hold a licence; • <u>National Police clearance (max 1 month old)</u> • <input type="checkbox"/> <u>have access to sufficient assets</u> and financial resources available comply 	

	QLD	NSW	VIC	SA	WA	
Suitability for all classes of licences cont..			required by the Estate Agents Council (Council not made a determination).	undischarged bankrupt (only agent) <ul style="list-style-type: none"> For agents under Strata Titles Act/Community Titles Act no formal qualification requirement 	with the requirements of this Act; and <ul style="list-style-type: none"> (d) understands fully the duties and obligations imposed by this Act on agents. <u>Real estate and business agents licence (firm/partnership):</u> <ul style="list-style-type: none"> All parties are of good character and repute All parties are proper persons to hold a licence Have access to sufficient assets and financial resources to comply with the requirements of this Act Partnership of no more than three, at least one person must be a licensed agent Partnership of more than three, then at least two persons must be licensed The person responsible for day to day operations must be licensed Changes to partnership holding a licence must advise REBA of any changes in management structure <u>Real estate and business agents licence (Body corporate):</u> <ul style="list-style-type: none"> All directors are of good character and repute and fit and proper to hold a licence Body corporate has access to sufficient assets and financial 	
Suitability for all classes of licences cont..						

	QLD	NSW	VIC	SA	WA	
Suitability for all classes of licences cont..					<p><u>resources to comply with the requirements of this Act</u></p> <ul style="list-style-type: none"> • <u>Company of no more than three, at least one must be a licensed agent</u> • <u>Company of more than three, then at least two persons must be licensed</u> • <u>The person responsible for day to day operations must be licensed</u> • <u>Changes to partnership holding a licence must advise REBA of any changes in management structure</u> • <u>If the triennial certificate holder is not an owner of the company, then there must be an employment contract in place with an annual remuneration, exclusive of sales commission, for \$30,000 (REBA policy)</u> <p><u>Registration:</u></p> <ul style="list-style-type: none"> • <u>Must work under the supervision of a licensed real estate and business agent</u> • <u>18 years of age or older</u> • <u>Be a person of suitably good character to hold a certificate of registration; and</u> • <u>Have a full understanding of the duties and obligations of a real estate and business sales representative as is imposed by the Act</u> • <u>National Police</u> 	
Suitability for all						

	QLD	NSW	VIC	SA	WA	
<i>classes of licences cont..</i>					Clearance (max 3 months old)	
Eligibility for Real Estate Agent's Licence	<p>Completion of a Certificate IV course consisting of 23 modules from the current ACTRAC curriculum:</p> <p>ABH500, 501, 502, 504, 505, 507, 508, 510, 511, 512, 513, 514, 515, 516, 522, 523, 524, 525, 526, NAP750, NCS009, 001, and NGMS114; or</p> <p>5 years experience as a real estate salesperson between 1 July 1994 and 30 June 2003 (valid only until 18 December 2005).</p> <p>May be required to do extra training if unable to prove ability in certain areas, eg. ABH504 Trust Accounting.</p>	<p>Completed 16 identified units from PRD01</p> <p>Complete Land Economics Degree: sales, property management, business agent, strata manager, stock & station.</p>	<p>Education Certificate IV in Business Agency Practice Course consisting of 17 competencies (3 state-based, 14 from PRERE01 Cert IV; and</p> <p>Twelve months industry experience.</p>	<p>Training is competency based, no industry experience time required.</p> <p>1109 contact hours</p> <p>Must have completed Cert IV as a prerequisite</p> <p>Agent must complete</p> <p>ABH504, ABH508, Property and Planning Law, ABH512, ABH532, ABH533, ABH534, NAP750, NGMS110, NGMS111, NGMS112, NGMS118, Real Estate Law for SA, NGMS114, NGMS115, NGMS113, NAP719, ABH503, ABH514, ABH516, ABH517, ABH518, ABH519, ABH520, ABH521, ABH529, ABH530, ABH531, ABH527, NAP723</p>	<p>Until 1/1/2006 only</p> <p>Diploma of Business Management (Real Estate); - TAFE</p> <p>Currently:</p> <p>PRD50101 Diploma of Property (Real Estate)</p> <p>REIWA or TAFE</p>	
<i>Eligibility for Real Estate Agent's Licence cont..</i>						

	QLD	NSW	VIC	SA	WA	
<i>Eligibility for Real Estate Agent's Licence cont..</i>						
Eligibility for Auctioneer's Licence <i>Eligibility for Auctioneer's Licence cont..</i>	ABH501, 504, 508, and 522. Conduct 5 auctions when employed as a trainee auctioneer under the supervision of an auctioneer.	Must have a real estate or stock and station agent's licence endorsed; must hold unit of competency PRDRE26A or PRDSS23A	No licence required. Any licensed estate agent or an agent's representative can conduct auctions.	No equivalent licence. No licence is required in SA only salesperson qualification to auction land.	Deleted: Apply to Magistrate's Court. Only police check. Deleted: s "Cd Squad" – WA Police Department. Application is made through the Court of Petty Sessions. Auction licence is granted through a court hearing. To conduct Real Estate auction: Deleted: and be working for a licensed agent. Formatted: Bullets and Numbering • Auctioneer conducts the auction through and on behalf of a Real Estate Agent • Any person may obtain a chattels auctioneer's Deleted: s Renewed annually	
Eligibility for Business Agent's licence	No equivalent licence.	Specified units of competency from Business Broking Training Package	No equivalent licence	No separate licence or qualifications required.	<u>No separate licence</u>	
Eligibility for Property Developer's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	
Eligibility for Restricted Letting Agent's Licence	ABH500, 502, 504, 508, 512 and 518.	Specified units of competency from PRD01	No equivalent licence.	No equivalent licence.	No equivalent licence.	
Eligibility for Pastoral House	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	

	QLD	NSW	VIC	SA	WA	
Licence						
Eligibility for Pastoral House Director's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	
Eligibility for Pastoral House Manager's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	
Eligibility for Pastoral House Auctioneer's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	
Real Estate Salespersons <i>Real Estate Salespersons cont..</i>	Must be registered. <ul style="list-style-type: none"> • At least 18 years of age • Completed ABH500, 501, 502, 508 and either ABH 512 or 522. Employees do not have to be registered if they perform clerical duties only such as collecting and banking rent.	Must be registered: 3 specified units of competency; 5 different registration categories	Eligibility for Estate Agent's Licence 3 state-based competencies * See requirements under "Suitability for all classes of licences", and * has not been convicted of any offence involving fraude, dishonesty, drug trafficking or violence punishable by 3 months or more imprisonment; and * is not an insolvent under administration; and * has not been disqualified from holding an Estate Agent's Licence; and * has not had a claim upheld against the Estate Agent's Guarantee Fund; and * is not a represented person under the Guardianship and Administration Act 1986.	<ul style="list-style-type: none"> • Not registered but must • Hold necessary qualifications • Not been convicted of an offence of dishonesty in the last 10 years prior to application • Not suspended or disqualified from practising <ul style="list-style-type: none"> • Sales Representative s must have completed Cert IV in Business (Real Estate Sales) • Modules: • ABH511, ABH510, ABH522, ABH501, ABH525, ITF304, ABH524, ABH507, ABH509, NCS009, NCS005, NCS004, ABH529, ABH506, ABH513, ABH502, ABH531, ABH530, NCS015, ABH526, ABH523 • 520 contact hours 	Must be registered. Sales Representatives Registration: ABH500, ABH501, ABH502, ABH510, ABH522, ABH523, ABH524 TAFE Certificate for Real Estate Sales Representatives; or REIWA Certificate for Real Estate Sales Representative; or Certificate in Real Estate Business and Property Management (Curtin University of Technology) Sales Representatives Registration (Property Management) ABH500, ABH502, ABH510, ABH514, ABH512, ABH515 TAFE Certificate for Real Estate Property Management; or REIWA Certificate for Real Estate Property Management	
Property Developer Salesperson <i>Real Estate Salespersons cont..</i>	Must be registered. ABH500, 501, 508 and 522.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	

	QLD	NSW	VIC	SA	WA	
Trainee Auctioneer	ABH501, 508, and 522.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	
Licence lending	Prohibited.	Prohibited	Prohibited	May be the "nominated" manager of a corporate registered "land agent" and as such is personally liable for the activities of the "agency". No attendance.	<u>Prohibited. Licence and triennial not transferable.</u>	
Substitute licensee <i>Substitute licensee cont..</i>	< 30 days, licensee may appoint in writing. > 30 days Chief Executive must approve another licensee.	An executor may act for not more than 3 months where a licensee has died. Department of Fair Trading may appoint a receiver.		Not applicable	<u>Must have a licensee on the premises. If licensee leaves, the corporate entity can obtain three months approval to operate without a licensee until a new one is appointed. Under approval by the Real Estate and Business Agents Supervisory Board.</u>	
Professional indemnity insurance	Discretionary.	Mandated but not yet implemented.		No requirement in legislation	<u>No requirement in legislation. Compulsory for REIWA membership.</u>	
Supervision of business	A principal licensee or an employed licensee must be in charge each place of business.	A principal licensee or an employed licensee must be in charge each place of business.	A licensed estate agent must manage an estate agency office.	A natural registered land agent must manage a real estate office	A licensed estate agent must manage an estate agency office. <u>They must be on site for a significant amount of time. They must be able to show that they give adequate supervision and are in bona fide control.</u>	
Prohibited Practices	Only licensees or registered salespersons can make representations to the public regarding properties for sale or for rent. Only a licensed person can be paid a fee or commission for letting or selling real estate. Only a licensed property developer or real estate agent can make an "unsolicited" invitation to another person to attend a property information	Only licensees or registered employees can make representations to the public Can only share commission with partners/employees and other registered agents Must not publish false or misleading information Must have Contract for Sale of Land available before marketing		A land agent and any person in a prescribed relationship to that land agent as defined in legislation is not allowed to undertake any conveyancing. Can only share commission with partners/employees and other registered agents	Only licensees or registered salespersons can make representations to the public regarding properties for sale or for rent. Only a licensed person can be paid a fee or commission for letting or selling real estate. <u>Must make disclosures if you are a party to the deal.</u>	

	QLD	NSW	VIC	SA	WA	
<i>Prohibited Practices cont..</i>	session.	commences			<u>An agent must not demand, retain or receive a discount or rebate which relates to a service in connection to the transaction unless the agent has disclosed and obtained written consent to the retaining of the discount or rebate.</u>	
Agency appointments	<p>Must be in writing. Form 22 required in every circumstance. Form 21 must be completed if appointment is an exclusive or sole agency appointment.</p> <p>Agents must observe statutory procedures when listing.</p> <p><u>Form 21</u></p> <p>Agents must make clients aware of the legal implications of entering into a sole or exclusive agency sales agreements.</p> <p>Form 21 notice required for all sole or exclusive agency appointments before accepting agency appointment on Form 22.</p> <p>Exclusive and sole agency appointments are limited to a maximum of 60 days but may be renewed not earlier than 14 days prior to expiry.</p> <p><u>Form 22</u></p> <p>All appointments are to be made on the Government approved document (Form 22).</p> <p>Use of the proper forms is critical as agency appointments will be rendered ineffective if non-complying documentation is used.</p> <p>Agents must disclose any rebates, business referrals and any perceived conflict of interest.</p>	<p>Terms prescribed in P, S & BA Act and Regulations.</p> <p>Must be in writing to claim commission.</p> <p>Written appointment signed by Principal</p> <p>Specifies term, period of duration and means of termination</p> <p>Circumstances in which fees are payable</p> <p>The amount of the fee or the way it is to be calculated</p> <p>If residential, agreement must also state the terms specifying both the way in which the licensee's remuneration is to be calculated together with the dollar amount of that remuneration in relation to the licensee's estimate of the selling price of the land; and an estimate of the amount of the expenses or charges the licensee expects to incur and for which they claim to be entitled under the agreement to be reimbursed.</p> <p>Must state for rural and residential" This fee has been negotiated between the parties."</p> <p>Terms specifying how licensee is to be reimbursed for expenses and charges</p> <p>The Principal must be served with a signed copy of the written agreement within 48 hours</p>	<p>Must be in writing to claim commission and outgoings; and</p> <p>* written appointment signed by Principal</p> <p>* before Principal signs written appointment Principal advised commission and outgoings negotiable</p> <p>* written appointment contains details of:</p> <ol style="list-style-type: none"> 1. Commissions and outgoings 2. Fee as percentage and dollar amount if fee calculated on percentage basis 3. Identification of source of any rebate 4. Statement regarding venue for complaint <p>* the Principal must be given a signed copy of the written appointment</p>	<p>Must be in writing (offence if not) and must be in writing to recover commission.</p>	<p>Deleted: Verbal is legal</p> <p>to claim commission and outgoings; and</p> <p>* written appointment signed by Principal</p> <p>* before Principal signs written appointment Principal advised commission and outgoings negotiable</p> <p>* written appointment contains details of:</p> <ol style="list-style-type: none"> 1. Commissions and outgoings 2. Fee as percentage and dollar amount if fee calculated on percentage basis 3. Identification of source of any rebate 4. Statement regarding venue for complaint <p>* the Principal must be given a signed copy of the written appointment</p>	
<i>Agency appointments cont..</i>						

	QLD	NSW	VIC	SA	WA	
Limitation on sole / exclusive agencies	60 days maximum for residential property. May be renewed not more than 14 days prior to expiry.	Nil but vendor can terminate agreement after 90 days, with 30 days written notice	No limit but deemed to be 60 days from date of agreement or 30 days after date of auction if no end date inserted in agreement.		Nil	
Remuneration and Recovery of Monies <i>Remuneration and Recovery of Monies cont..</i>	An agent may only recover a commission or any other financial reward or benefit if they are: <ul style="list-style-type: none"> • licensed; • the licence authorises performance of the particular activity; and • the appointment is in writing on the approved form. 	Must be licensed. Only entitled to commission if the appointment is in writing and as prescribed (see Agency Agreement above). No action or other proceedings for recovery until the expiration of 28 days after a statement of claim has been served on the principal.	See under "Agency Appointments"	As per written sales agency agreement between land agent and consumer	Subject to written authority. Selling fee payable only at settlement.	
Commissions	Regulated maximum for residential sales, residential property management, and rural transactions. Commission must be specified in the agency appointment as a dollar amount or a percentage of the final sale price. The maximum commission scale is exclusive of GST. Commission on commercial or business transactions is not regulated.	Deregulated.	Deregulated.	Deregulated.	Deregulated.	
Fees, charges and expenses <i>Fees, charges and expenses cont..</i>	An agent may recover specific fees, charges and expenses to be incurred by the agent on behalf of the client. These can be paid in advance or reimbursed by the client upon receipt of an itemised statement of expenditure, and must be detailed in the Appointment to Act (Form 22). Fees A fee is the cost of a service provided by an agent. A fee can be charged for a service not normally considered a part of a real estate agent's prescribed	Only entitled if in Agency Agreement (see above).	Managing expenses (the expenses relating to the managing of a property and accounting to a Principal) are claimable by the Agent in accordance with the procedures for Agency Appointments.	Not applicable	<u>All fees and recoupment of expenses must be by written agreement and each fee or expense must be initialled by the Principal.</u> <u>Property Management – authority to approve essential repairs (limited)</u>	

	QLD	NSW	VIC	SA	WA	
	<p>activities when selling, managing or renting properties.</p> <p>A fee could be charged for the following services:</p> <ul style="list-style-type: none"> * supervising and inspecting major repairs and renovations; * lodging building plans, and overseeing building applications; * reading meters; * coordinating advertising consultants, copywriters, photographers, graphic artists and designers; * coordinating a marketing campaign that involves detailed market analysis, project or development feasibility; * coordinating sales agents who are not employees of the Licensee; • consulting with architects, engineers and designers on behalf of a client; and * providing written reports that do not involve the sale, management or rental of a property. 					
<i>Fees, charges and expenses cont..</i>						
<i>Fees, charges and expenses cont..</i>	<p>A fee cannot be charged or recovered for any additional agency service unless the client</p>					

	QLD	NSW	VIC	SA	WA	
<i>Fees, charges and expenses cont..</i>	<p>has authorised the agent in writing on the approved Appointment to Act form.</p> <p>An agent is not permitted to charge a consumer a fee relating to the preparation of documents relating to a real estate transaction. This includes tenancy applications, lease agreements, management agreements, sales contracts, written market appraisals (relating to the sale or rental of a property) or listing documentation fees.</p> <p>Charges</p> <p>A charge is a cost incurred by the agent whilst performing duties on behalf of the client.</p> <p>A charge or cost is fully recoverable by the agent if authorised by the client and provision is made on the Appointment to Act document.</p> <p>Charges are common in a continuing agency. An example of charges might be: * bank fees; * telephone, fax, and postage; * courier services; * photocopying; and* travelling costs for the collection of rent or inspection of properties.</p> <p>Expenses</p> <p>An expense is where the agent has incurred a financial liability on behalf of the client. An expense could be: * promotional fees which include advertising and marketing costs; * searches; * other consultancy fees such as decorators, tradespeople, pest control, building inspectors etc; and* appointment of an Auctioneer. All fees, charges and expenses must be quoted on the Appointment to Act form as GST inclusive.</p> <p><i>marketing fee without proof of itemised expenditure on behalf of the client.</i></p>					

	QLD	NSW	VIC	SA	WA	
Publishing business names in property advertisements	No requirement.	Licensee must publish business name	Mandatory – must specify name of business and registered office	Not in legislation	Mandatory	

	QLD	NSW	VIC	SA	WA	
Disclosure of Rebates (to seller)	Any benefit or rebate must be fully disclosed on the Appointment to Act agreement (Form 22).	Disclosure required under Sec 47 to all parties	Any benefit or rebate must be fully disclosed. See under "Agency Appointments"		Mandatory	
Disclosure to buyers	<p>Agents must disclose:</p> <ul style="list-style-type: none"> • any relationship and the nature of the relationship (whether personal or commercial) with any party to whom the agent refers the buyer for professional services. • Whether the agent will benefit from this referral or business relationship, either financially or through other means; and • The amount of the financial gain or other benefit to be paid to the agent including any commission or fees to be received from the seller. 	Licensee must disclose beneficial interest in property	Agents must adhere to legal requirements concerning "secret" commissions and conflicts of interest.		<p><u>An agent who recommends to a party to a transaction a service provider, the agent must make written disclosure to the party of any significant relationship, connection or affinity between the agency and the supplier.</u></p> <p><u>Where the relationship, connection or affinity between the agency and supplier is capable of producing a conflict between the interests of a party to the transaction and the agent, the agent shall include in such a written disclosure an explanation of the nature of the potential conflict</u></p>	

	QLD	NSW	VIC	SA	WA	
Beneficial interest	Beneficial interest must be declared if a real estate agent or salesperson buys a property listed with the agency. No commission is payable by the seller. Real estate agents selling their own properties are not required to declare beneficial interest.	Sec 49 – disclosure required to all parties	Prohibited from purchasing property for which an agency appointment is held, except in circumstances set out in S.55 of the Estate Agents Act 1980	Prohibited from purchasing property for which an agency appointment is held, unless exempted by the Minister	Must have client's written agreement to pay commission. <u>Where there is a conflict of interest (the agent or sales representative is the prospective purchaser of the agent's listing), the agent must disclose the conflict of interest, gain consent to the transaction proceeding. The seller can agree to pay the agent's commission providing the seller understands they have no obligation to pay that fee.</u>	
Residential Contracts of sale	Usually prepared by real estate agents.	Usually prepared by solicitor or conveyancer	Estate agents and solicitors prepare	Prepared by land agents/salespersons	Estate agency prepare	
Contract warning statement	Must be first page of any residential sales contract.	Yes. Vendors prescribed warranties per Conveyancing Act. Other warnings in Contract for Sale of Land (NSW)	Contained in Contract Note . Refer to Estate Agents (Contracts) Regulations 1997.		<u>No statutory requirements</u>	

	QLD	NSW	VIC	SA	WA	
Cooling-off periods	<p>A 5 business days cooling-off period applies to all residential sales except sales at public auction (i.e. "under the hammer").</p> <p>Cooling-off period commences from the time the buyer is notified that the seller has accepted the contract.</p> <p>Buyer may waive or shorten cooling-off period only with a lawyer's certificate.</p>	<p>5 business days unless waived (s.66W Conveyancing Act requirement).</p> <p>No cooling off at sale by auction or if negotiated subsequent to auction but on the same day.</p> <p>Agency agreements have 1 day cooling off period</p>	<p>A 3 clear business days cooling-off period applies <u>except</u> where:</p> <ul style="list-style-type: none"> • * The price of the property (including chattels) exceeds \$250,000. • • The property is purchased at or within 3 business days before or after a publicly advertised auction. • • The buyer receives independent advice from a solicitor before signing the contract. • • The property is used mainly for commercial or industrial purposes. • • The property is more than 20 hectares in size and used mainly for farming. • • The buyer previously signed a contract for the same property. • • The buyer is an estate agent or body corporate. 	2 clear business days from date of issue of Form 1	No statutory requirements	
Discipline	<p>Property Agents and Motor Dealers Tribunal.</p> <p>Current licensees and executive officers of licensed corporations prohibited from appointment to Tribunal</p>	Office of Fair Trading	<p>Estate Agents Council.</p> <p>3 of the 8 members must be appointed from a panel of names submitted by REIV.</p>	Judge of the District Court	<p>Currently</p> <p>Real Estate and Business Agents Supervisory Board (REBAs) undertakes hearings and disciplinary functions.</p> <p>As from late 2004:</p> <p>All disciplinary functions will be undertaken by State Administrative Tribunal (SAT).</p> <p>REIWA provides an arbitration and disciplinary service accessible to members and the public.</p>	
Appeals	To the courts <u>only on matters of law</u> .	Appeals may be made in relation to the non-issue or renewal			Currently:	Appeals from

		of license, to the Court.			<u>disciplinary hearings or refusals of registration or licensing undertaken by District Court.</u> <u>As from late 2004:</u> <u>Appeals after SAT will be undertaken by higher authority within SAT.</u>	
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	QLD	NSW	VIC	SA	WA	
Codes of Conduct	<p>Prescribed by Regulations.</p> <p>Separate codes for:</p> <ul style="list-style-type: none"> • Real Estate Agents; • Auctioneers; • Property Managers; • Property Developers; and • Restricted letting agents. <p>Penalties up to \$15,000 apply for each and every breach.</p>	<p>Prescribed by Regulations</p>	<p>Estate Agents (Professional Conduct) Regulations 1997.</p> <p>REIV –</p> <ul style="list-style-type: none"> * Code of Conduct * Auction Code of Conduct * Commercial Leasing Code * Body Corporate Code of Conduct * Rules of Practice * Rules of Conduct of an Auction 	<p>No code of conduct in legislation;</p> <p>REISA has Code of Conduct</p>	<p>Issued in terms of REBA Act</p> <p>Code of Conduct for Agents and Sales Representatives</p> <p>REIWA has Code of Conduct</p>	
Fidelity Funds	<p>Claims Fund.</p> <p>Non-contributory.</p> <p>Persons dealing with licensed property developers are precluded from claiming.</p>	<p>Property Services Compensation Fund</p> <p>Contributory.</p>	<p>Estate Agents Guarantee Fund.</p> <p>Non-contributory.</p>		<p>Fidelity Guarantee Fund</p> <p>Managed by Real Estate and Business Agents Supervisory Board (REBAs)</p> <p>All applicants of Sales Registration pay \$45, including each renewal.</p> <p>All applicants for licence pay \$150, including each renewal.</p>	

ATTACHMENT 1
SUMMARY OF STATE LEGISLATION
REGULATING REAL ESTATE AGENCY PRACTICE
AS AT 30 JUNE 2004

In addition to various Commonwealth legislation: Corporations Act, Tax Acts, Insurance Acts, Discrimination Acts, Privacy Act, Trade Practices Act, ASIC Act, First Home Owners Act, Financial Services Reform Act, etc.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Principal legislation	<i>Property Agents and Motor Dealers Act 2000</i>	<i>Property, Stock and Business Agents Act 2002</i> <i>Regulations 2003</i>	<i>Estate Agents Act 1980</i>	<i>Land Agents Act 1994</i>	<i>Real Estate and Business Agents Act 1978</i> <i>Real Estate and Business Agents Regulations 1979</i> <i>Code of Conduct for Agents and Sales Representatives</i>	<i>Auctioneers and Real Estate Agents Act 1991</i> <i>Auctioneers and Real Estate Agents Regulations 1992</i>	<i>Agents Licensing Act</i>	<i>Agents Act 2003</i> <i>Residential Tenancies Act 1997</i>
Administration	Office of Fair Trading.	Office of Fair Trading	Consumer & Business Affairs Victoria	Office of Consumer and Business Affairs.	Real Estate and Business Agents Supervisory Board – Department of Consumer Employment Protection	Auctioneers And Real Estate Agents Council of Tasmania	Agents Licensing Board of the Northern Territory	Agents Board at Office of Fair Trading
Other relevant legislation	<i>Residential Tenancies Act 1994</i> <i>Body Corporate and Community Management Act 1997</i> <i>Land Sales Act 1984</i>	Residential Tenancies Act 1987 Agricultural Tenancies Act 1990 Anti-Discrimination Act 1975 Consumer, Trader & Tenancy Tribunal Act 2001 Community Land Management Act	<i>Residential Tenancies Act 1997</i> <i>Retail Tenancies Reform Act 1998</i> <i>Sale of Land Act 1992</i>	Land and Business (Sale and Conveyancing) Act 1994 Strata Titles Act 1988 Community Titles Act 1996 Residential Tenancies Act	State Legislation: Auction Sales Act 1973 Auction Sales Regulations 1974 Caravan Parks and Camping Grounds Act 1995 Caravan Parks and Camping Grounds Regulations 1997	- Residential Tenancy Amendment Act 2003 - Door to Door Trading Act 1986 - Strata Title Act 1998 and Amend-	Residential Tenancy Act Building Act Unit Titles Act Commercial Leasing Act Law of Property Act Real Property Act	

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Other relevant legislation cont...</i>		1989 (plus other Community Acts) Contracts Review Act 1980 Conveyancing Act 1919 (various) Conveyancing (Strata Titles) Act 1961 Crimes Act (various) Dividing Fences Act 1991 Environmental Planning & Assessment Act 1979 Fair Trading Act 1987 Land Tax Act 1956 Land Tax Management Act 1956 Local Government Act 1993 Landlord & Tenant Act 1899 Landlord & Tenant (Rental Bonds) Act 1977 Occupational Health & Safety Act 2000 Real property Act 1900 Retail Leases Act 1994 (various other		1995 Sale of Goods Act 1895 Fair Trading Act 1987 Real Property Act 1886 Retail & Commercial Leases Act 1995 Land Valuers Act 1994 Conveyancers Act 1994	Commercial Tenancies (Retail Shops) Agreement Act 1985 Commercial Tenancy (Retail Shops) Agreement Regulations 1985 Conservation and Land Management Act 1984 Conservation and Land Management Regulations 2002 Consumer Affairs Act 1983 Fair Trading Act 1987 Fair Trading (Retirement Villages Act) Regulations 2003 First Home Owners Grant Act 2000 First Home Owners Grant Regulations 2000 Heritage of WA Act 1990 Land Administration Act 1997 Land Administration Regulations 1998 Licensed Surveyors	ments 2001 - Duties Act 2001 - Fair Trading Act 1990 - Acts Interpretation Act 1931 - Residential Tenancy Act 1997		

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Other relevant legislation cont...</i>		Retail Acts) Retirement Villages Act 1999 Strata Titles Act 1973 Strata Titles (Leasehold) Act 1986 Strata Schemes Management Act 1996 (various other Strata Acts) Trustee Act 1925 Various Insurance Related Acts Valuers Registration Act 1975 Valuation of Land Act 1916			Act 1909 Licensed Surveyors Amendment Act 1996 Local Government Act 1995 Native Title (State Provisions) Act 1999 Property Law Act 1969 Occupational Safety and Health Act 1984 Occupational Safety and Health Regulations 1996 Residential Tenancies Act 1987 Residential Tenancies Regulations 1989 Retirement Villages Act 1992 Retirement Villages Regulations 1992 Sale of Land 1970 Settlements Agent's Code of Conduct 1982 Soil and Land Conservation Act 1945 Swan River Trust			

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Other relevant legislation cont...</i>					Act 1988 Strata Titles Act 1985 Strata Titles Regulations 1996 Transfer of Land Act 1993 Transfer of Land Amendment Act 1996 Transfer of Land Regulations 1997 Transfer of Land (Surveys) Regulations 1995 Valuation of Land Act 1978 Valuation of Land Regulations 1979			
Scope	<ul style="list-style-type: none"> • • Real estate agents; • Registered sales person • • Auctioneers, • • Property developers, • • Restricted letting agents, • • Pastoral houses, • • Motor dealers, 	<ul style="list-style-type: none"> • • Real estate agents, • • Stock and station agents, • • Business agents, • • Strata managing agents • Community managing agents • • On-site residential property 	Estate Agents which includes: <ul style="list-style-type: none"> • auctioneers • stock and station agents • agents representatives 	<ul style="list-style-type: none"> • • Registered land agents • • Sales representative • business agents • commercial leasing agents 	<ul style="list-style-type: none"> • • Real estate agents • Sales representatives • Sales representative (property management) 	<ul style="list-style-type: none"> • • Real estate agents. • • Auctioneers • Sales consultants (includes property managers) 	<ul style="list-style-type: none"> • • Real estate agents • Stock & Station • Business Agents • Auctioneers 	<ul style="list-style-type: none"> • • Real estate agents • • Stock and station agents • • Business Agents • • Travel agents • Employment agents

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Scope cont..</i>	<ul style="list-style-type: none"> • Commercial agents. 	managers <ul style="list-style-type: none"> • Buyers agents • On site residential property managers • Auctioneers 						
Exemptions	Nil. Binds the Crown.	Does not bind the crown, a Council under Local Government Act 1993, public statutory authority prescribed by the regulations, Public Trustee, executor etc, solicitor when carrying out functions, sale by auction under the Charitable Fundraising Act 1991	Does not bind the crown	Property manager engaged in residential leasing working for a registered agent	Pastoral companies (limited)	Does not bind the crown	Does not bind the crown	Nil.
Licence categories	<ul style="list-style-type: none"> • Real estate agent • Registered sales person • Auctioneer. • Property developer. • Restricted letting agent. • Pastoral house. • Pastoral house director. • Pastoral house manager. • Pastoral house 	<ul style="list-style-type: none"> • Real estate agent. • Stock and station agent. • Business agent. • Strata managing agent. • on-site Residential property manager. 	<ul style="list-style-type: none"> • Estate agent. • Rural branch manager. 	<ul style="list-style-type: none"> • Land agent (not licensed in SA, 'registered') 	<ul style="list-style-type: none"> • Real estate and business agents licence (individual) • Real estate and business agents licence (firm/partnership) • Real estate and business agents licence (body corporate) • Sales representatives registration 	<ul style="list-style-type: none"> • Real estate auctioneer. • General auctioneer. • Employed auctioneer. • Probationary auctioneer • Temporary auctioneer. • Real estate agent. 	Real Estate & Business Agents Auctioneer Stock & Station agents	<ul style="list-style-type: none"> • Real estate agent. • Stock and station agent. • Business agent. • Travel agent • Employment agent

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Licence categories cont..</i>	auctioneer. <ul style="list-style-type: none"> Property developers must be licensed if they sell more than 6 residential properties per year and have 15% or more interest in a property otherwise they must appoint a licensed real estate agent. 				<ul style="list-style-type: none"> Sales representatives registration (property management) <i>** Currently no licence is required to conduct Strata Management transactions</i> 	<ul style="list-style-type: none"> Real estate manager. Real estate sales consultant. 		
Advertising application for licence	Not publicly advertised	Not applicable	Not publicly advertised	Advertising application for registration is not a prerequisite	Must be advertised	Must be advertised	Must be advertised	Must be advertised
Issuing authority	Office of Fair Trading.	Office of Fair Trading	Business Licensing Authority.	Office of Consumer and Business Affairs	Real Estate and Business Agents Supervisory Board – <i>Department of Consumer and Employment Protection (DOCEP)</i>	Auctioneers and Real Estate Agents Council of Tasmania	Agents Licensing Board of the Northern Territory	ACT Office of Consumer Affairs
Term of licence	1 or 3 years.	1 year.	Reviewed annually	Annual.	Licence Licence is continuous <u>but must</u> also have Triennial Certificate to operate as an agent, which is renewed every three years. Registration Three years	Annual.	Annual.	Annual.
Suitability for all classes of	<ul style="list-style-type: none"> Must not be affected by 	<ul style="list-style-type: none"> Fame and character of person or if 	<ul style="list-style-type: none"> 18 years of age or older; and 	<ul style="list-style-type: none"> For land agents/salespersons must 	<ul style="list-style-type: none"> <input type="checkbox"/> Real estate and business agents licence 	<ul style="list-style-type: none"> holds the prescribed educational 	<ul style="list-style-type: none"> * 18 years of age or older. 	<ul style="list-style-type: none"> Is an adult; holds the

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
licences <i>Suitability for all classes of licences cont..</i>	<p>bankruptcy.</p> <ul style="list-style-type: none"> • 18 years of age or older. • Cannot have a conviction in previous 5 years. • Not currently disqualified. • Must satisfy educational requirements. <p>To be eligible, must complete specified modules from the national real estate curriculum approved by ANTA.</p>	<p>corporation the directors and secretary and whether corporation fit and proper</p> <ul style="list-style-type: none"> • Been deemed competent in prescribed competencies • Attained 18 years of age 	<ul style="list-style-type: none"> • Passed a prescribed course or examinations; and • * Been engaged as an agent's representative for not less than 1 year or periods amounting to one year whether full or part-time, during the 3 years immediately prior to applying for a licence; or • * Has held an estate agent's licence within the period of 5 years immediately preceding application; or • * Has completed the relevant standards of competency required by the Estate Agents Council (Council not made a determination). 	<p>hold necessary qualifications as prescribed under regulations</p> <ul style="list-style-type: none"> • For property managers no formal qualification requirements • For land agents/real estate salespersons not to have been convicted of an offence of dishonesty in the 10 years prior to application • Is not suspended or disqualified from practicing • Is not an undischarged bankrupt (only agent) • For agents under Strata Titles Act/Community Titles Act no formal qualification requirement 	<p>(individual):</p> <ul style="list-style-type: none"> • 18 years of age or older. • Minimum 2 years work experience in real estate and business broking industry • <input type="checkbox"/> good character and repute and a fit and • <input type="checkbox"/> proper person to hold a licence; • National Police clearance (max 1 month old) • <input type="checkbox"/> have access to sufficient assets and financial resources available comply with the requirements of this Act; and • (d) understands fully the duties and obligations imposed by this Act on agents. <p>Real estate and business agents licence</p>	<p>qualifications</p> <ul style="list-style-type: none"> • must not have been convicted of an indictable offence. 	<ul style="list-style-type: none"> • * fit and proper person; • * holds the prescribed educational qualifications for the class of licence which is the subject of the application or has other prescribed qualifications or experience; • competent by reason of qualifications and experience to carry on business as a licensed agent; and • will, when licensed, be carrying on business as a licensed agent within the Territory. • in the case of an applicant for a conveyancing agent's licence, experience gained for the prescribed period in the employ of - <ul style="list-style-type: none"> (a) a person authorised to act as a legal practitioner under the law of a State or Territory of the Commonwealth and who was during the period of that 	<p>educational qualifications required;</p> <ul style="list-style-type: none"> • is not disqualified

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Suitability for all classes of licences cont..</i>					<p>(firm/partnership):</p> <ul style="list-style-type: none"> • All parties are of good character and repute • All parties are proper persons to hold a licence • Have access to sufficient assets and financial resources to comply with the requirements of this Act • Partnership of no more than three, at least one person must be a licensed agent • Partnership of more than three, then at least two persons must be licensed • The person responsible for day to day operations must be licensed • Changes to partnership holding a licence must advise REBA of any changes in management 		<p>employment engaged from time to time in the sale and transfer of real property;</p> <p>(b) a conveyancing agent licensed under this Act;</p> <p>(c) a person authorised under the law of the State of South Australia to act as a land broker;</p> <p>(d) a person authorised under the law of the State of Western Australia to act as a settlement agent; or</p> <p>(e) such other person or body as may be prescribed.</p>	

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Suitability for all classes of licences cont..</i>					<p>structure</p> <p>Real estate and business agents licence (Body corporate):</p> <ul style="list-style-type: none"> • All directors are of good character and repute and fit and proper to hold a licence • Body corporate has access to sufficient assets and financial resources to comply with the requirements of this Act • Company of no more than three, at least one must be a licensed agent • Company of more than three, then at least two persons must be licensed • The person responsible for day to day operations must be licensed • Changes to partnership holding a licence must advise 			

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Suitability for all classes of licences cont..</i>					<p>REBA of any changes in management structure</p> <ul style="list-style-type: none"> If the triennial certificate holder is not an owner of the company, then there must be an employment contract in place with an annual remuneration, exclusive of sales commission, for \$30,000 (REBA policy) <p>Registration:</p> <ul style="list-style-type: none"> Must work under the supervision of a licensed real estate and business agent 18 years of age or older Be a person of suitably good character to hold a certificate of registration; and Have a full understanding of the duties and obligations of a real estate and business sales 			

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Suitability for all classes of licences cont..</i>					<p>representative as is imposed by the Act</p> <ul style="list-style-type: none"> National Police Clearance (max 3 months old) 			
Eligibility for Real Estate Agent's Licence	<p>Completion of a Certificate IV course consisting of 23 modules from the current ACTRAC curriculum:</p> <p>ABH500, 501, 502, 504, 505, 507, 508, 510, 511, 512, 513, 514, 515, 516, 522, 523, 524, 525, 526, NAP750, NCS009, 001, and NGMS114; or</p> <p>5 years experience as a real estate salesperson between 1 July 1994 and 30 June 2003 (valid only until 18 December 2005).</p> <p>May be required to do extra training if unable to prove ability in certain areas, eg. ABH504 Trust Accounting.</p>	<p>Completed 16 identified units from PRD01</p> <p>Complete Land Economics Degree: sales, property management, business agent, strata manager, stock & station.</p>	<p>Education Certificate IV in Business Agency Practice Course consisting of 17 competencies (3 state-based, 14 from PRERE01 Cert IV; and</p> <p>Twelve months industry experience.</p>	<p>Training is competency based, no industry experience time required.</p> <p>1109 contact hours</p> <p>Must have completed Cert IV as a prerequisite</p> <p>Agent must complete</p> <p>ABH504, ABH508, Property and Planning Law, ABH512, ABH532, ABH533, ABH534, NAP750, NGMS110, NGMS111, NGMS112, NGMS118, Real Estate Law for SA, NGMS114, NGMS115, NGMS113, NAP719, ABH503, ABH514, ABH516, ABH517, ABH518, ABH519, ABH520, ABH521, ABH529, ABH530, ABH531,</p>	<p>Until 1/1/2006 only</p> <p>Diploma of Business Management (Real Estate); - TAFE</p> <p>Currently:</p> <p>PRD50101 Diploma of Property (Real Estate)</p> <p>REIWA or TAFE</p> <p>(</p>	<p>(i) Completed the prescribed educational qualifications (Diploma in Property (Real Estate) or Diploma in Business (Real Estate Management); and</p> <p>(ii) been engaged full time as a real estate sales consultant for a total period of at least 2 years during the 5 years immediately preceding the application for the licence; or</p> <p>(b) has held a real estate agents licence or a real estate managers licence at any time during the 5 years immediately</p>	<p>Completed the Agent's representative Course plus a further 18 ACTAC modules. (Approximately equivalent to Diploma)</p> <p>Three years experience in the industry or equivalent.</p> <p>Certificate IV</p>	<p>Completion of:</p> <p>(a) the educational program in Real Estate</p>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<p><i>Eligibility for Real Estate Agent's Licence cont..</i></p>				ABH527, NAP723		<p>preceding the application for the licence; or</p> <p>(c) has -</p> <p>(i) at any time during the 5 years immediately preceding the application, been authorized under the law of another State or Territory of Australia to carry on the business of a real estate agent in that State or Territory; and</p> <p>(ii) been engaged full time as a real estate agent in another State or Territory of Australia for a total period of at least 2 years during the 5 years immediately preceding the application for the licence; and</p> <p>(iii) satisfied the Council, on examination or inquiry, that he or she has</p>		

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Eligibility for Real Estate Agent's Licence cont..</i>						sufficient knowledge and experience of the real estate agency business to be granted a real estate agents licence.		
Eligibility for Auctioneer's Licence	<p>ABH501, 504, 508, and 522.</p> <p>Conduct 5 auctions when employed as a trainee auctioneer under the supervision of an auctioneer.</p>	<p>Must have a real estate or stock and station agent's licence endorsed; must hold unit of competency PRDRE26A or PRDSS23A</p>	<p>No licence required. Any licensed estate agent or an agent's representative can conduct auctions.</p>	<p>No equivalent licence.</p> <p>No licence is required in SA only salesperson qualification to auction land.</p>	<p>Obtain a real estate auctioneer's licence through the "Commercial Agents Squad" – WA Police Department. Application is made through the Court of Petty Sessions. Auction licence is granted through a court hearing.</p> <p>To conduct Real Estate auction:</p> <ul style="list-style-type: none"> • No formal training is required • Auctioneer conducts the auction through and on behalf of a Real Estate Agent • Any person may obtain a chattels auctioneer's licence and 	<p>License issued based on satisfying issuing authority by exam that applicant has the relevant knowledge to auction.</p>	<p>Hold either a real estate agent's license or an agent's representative registration.</p>	<p>Has educational qualification or is a licenced agent</p>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Eligibility for Auctioneer's Licence cont..</i>					auction chattels. Renewed annually			
Eligibility for Business Agent's licence	No equivalent licence.	Specified units of competency from Business Broking Training Package	No equivalent licence	No separate licence or qualifications required.	No separate licence			As for Agents licence
Eligibility for Property Developer's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
Eligibility for Restricted Letting Agent's Licence	ABH500, 502, 504, 508, 512 and 518.	Specified units of competency from PRD01	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	Property Management Licence – restricted.	No equivalent licence.
Eligibility for Pastoral House Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
Eligibility for Pastoral House Director's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
Eligibility for Pastoral House Manager's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
Eligibility for Pastoral House Auctioneer's Licence	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
Real Estate Salespersons	Must be registered. <ul style="list-style-type: none">• At least 18 years of age	Must be registered: 3 specified units of competency;	Eligibility for Estate Agent's Licence 3 state-based	<ul style="list-style-type: none">• Not registered but must• Hold necessary	Must be registered. Sales Representatives	Must be licenced Must have prescribed	Must have Certificate III in Business (Real Estate Practice) as prescribed in regulations to the ALB	Must be registered. Police check and educational qualifications required.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Real Estate Salespersons cont..</i>	<ul style="list-style-type: none"> Completed ABH500, 501, 502, 508 and either ABH 512 or 522. <p>Employees do not have to be registered if they perform clerical duties only such as collecting and banking rent.</p>	5 different registration categories	<p>competencies</p> <ul style="list-style-type: none"> * See requirements under "Suitability for all classes of licences", and * has not been convicted of any offence involving fraude, dishonesty, drug trafficking or violence punishable by 3 months or more imprisonment; and * is not an insolvent under administration; and * has not been disqualified from holding an Estate Agent's Licence; and * has not had a claim upheld against the Estate Agent's Guarantee Fund; and * is not a represented person under the Guardianship and Administration Act 1986. 	<p>qualifications</p> <ul style="list-style-type: none"> Not been convicted of an offence of dishonesty in the last 10 years prior to application Not suspended or disqualified from practising Sales Representatives must have completed Cert IV in Business (Real Estate Sales) Modules: ABH511, ABH510, ABH522, ABH501, ABH525, ITF304, ABH524, ABH507, ABH509, NCS009, NCS005, NCS004, ABH529, ABH506, ABH513, ABH502, ABH531, ABH530, NCS015, ABH526, 	<p>Registration:</p> <p>ABH500, ABH501, ABH502, ABH510, ABH522, ABH523, ABH524</p> <p>TAFE Certificate for Real Estate Sales Representatives; or</p> <p>REIWA Certificate for Real Estate Sales Representative; or</p> <p>Certificate in Real Estate Business and Property Management (Curtin University of Technology)</p> <p>Sales Representatives Registration (Property Management)</p> <p>ABH500, ABH502, ABH510, ABH514, ABH512, ABH515</p> <p>TAFE Certificate for Real Estate Property Management; or</p> <p>REIWA Certificate for Real Estate Property Management</p>	<p>qualifications (REIT Sales Licensing Course or sit exam with Auctioneers and Real Estate Agents Council)</p> <p>Must maintain licence with 8 hours training per year</p>		

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Real Estate Salespersons cont..</i>				ABH523 • 520 contact hours				
Property Developer Salesperson	Must be registered. ABH500, 501, 508 and 522.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	No equivalent.
Trainee Auctioneer	ABH501, 508, and 522.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	Probationary auctioneer must undertake course and exam with licensing authority	No equivalent.	No equivalent.
Licence lending	Prohibited.	Prohibited	Prohibited	May be the "nominated" manager of a corporate registered "land agent" and as such is personally liable for the activities of the "agency". No attendance.	Prohibited. Licence and triennial not transferable.	Must be able to satisfy substantial attendance in the office	Prohibited	Is an offence
Substitute licensee	< 30 days, licensee may appoint in writing. > 30 days Chief Executive must approve another licensee.	An executor may act for not more than 3 months where a licensee has died. Department of Fair Trading may appoint a receiver.		Not applicable	Must have a licensee on the premises. If licensee leaves, the corporate entity can obtain three months approval to operate without a licensee until a new one is appointed. Under approval by the Real Estate and Business Agents		60 days in any twelve month period (5.111 ALA)	

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Substitute licensee cont..</i>					Supervisory Board.			
Professional indemnity insurance	Discretionary.	Mandated but not yet implemented.		No requirement in legislation	No requirement in legislation. Compulsory for REIWA membership,	Discretionary but required for REIT membership	A requirement of the ALA - mandatory	Discretionary
Supervision of business	A principal licensee or an employed licensee must be in charge each place of business.	A principal licensee or an employed licensee must be in charge each place of business.	A licensed estate agent must manage an estate agency office.	A natural registered land agent must manage a real estate office	A licensed estate agent must manage an estate agency office. They must be on site for a significant amount of time. They must be able to show that they give adequate supervision and are in bona fide control.	A licensed real estate agent, real estate manager or authorised sales consultant must manage an estate agency office.	A fully licenced agent as the manager is mandatory	Licensed agent must manage business
Prohibited Practices	<p>Only licensees or registered salespersons can make representations to the public regarding properties for sale or for rent.</p> <p>Only a licensed person can be paid a fee or commission for letting or selling real estate.</p> <p>Only a licensed property developer or real estate agent can make an "unsolicited" invitation to another person to attend a property information session.</p>	<p>Only licensees or registered employees can make representations to the public</p> <p>Can only share commission with partners/employees and other registered agents</p> <p>Must not publish false or misleading information</p> <p>Must have Contract for Sale of Land available before marketing commences</p>		<p>A land agent and any person in a prescribed relationship to that land agent as defined in legislation is not allowed to undertake any conveyancing.</p> <p>Can only share commission with partners/employees and other registered agents</p>	<p>Only licensees or registered salespersons can make representations to the public regarding properties for sale or for rent.</p> <p>Only a licensed person can be paid a fee or commission for letting or selling real estate.</p> <p>Must make disclosures if you are a party to the deal.</p> <p>An agent must not demand, retain or</p>	Must be licensed to handle property transactions	Only licensees or registered sales persons can make representations to the public	Must be licensed or registered to handle property transactions

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Prohibited Practices cont..</i>					receive a discount or rebate which relates to a service in connection to the transaction unless the agent has disclosed and obtained written consent to the retaining of the discount or rebate.			
Agency appointments	<p>Must be in writing. Form 22 required in every circumstance. Form 21 must be completed if appointment is an exclusive or sole agency appointment.</p> <p>Agents must observe statutory procedures when listing.</p> <p><u>Form 21</u></p> <p>Agents must make clients aware of the legal implications of entering into a sole or exclusive agency sales agreements.</p> <p>Form 21 notice required for all sole or exclusive agency appointments before accepting agency appointment on Form 22.</p> <p>Exclusive and sole agency appointments are limited to a maximum of 60 days but may be renewed not</p>	<p>Terms prescribed in P, S & BA Act and Regulations.</p> <p>Must be in writing to claim commission.</p> <p>Written appointment signed by Principal</p> <p>Specifies term, period of duration and means of termination</p> <p>Circumstances in which fees are payable</p> <p>The amount of the fee or the way it is to be calculated</p> <p>If residential, agreement must also state the terms specifying both the way in which the licensee's remuneration is to be calculated together with the dollar amount of that remuneration in relation to the</p>	<p>Must be in writing to claim commission and outgoings; and</p> <p>* written appointment signed by Principal</p> <p>* before Principal signs written appointment Principal advised commission and outgoings negotiable</p> <p>* written appointment contains details of:</p> <ol style="list-style-type: none"> 1. Commissions and outgoings 2. Fee as percentage and dollar amount if fee calculated on percentage basis 3. Identification of source of any rebate 4. Statement regarding venue for complaint <p>* the Principal must be given a signed</p>	<p>Must be in writing (offence if not) and must be in writing to recover commission.</p>	<p>Must be in writing to claim commission and outgoings; and</p> <p>* written appointment signed by Principal</p> <p>* before Principal signs written appointment Principal advised commission and outgoings negotiable</p> <p>* written appointment contains details of:</p> <ol style="list-style-type: none"> 1. Commissions and outgoings 2. Fee as percentage and dollar amount if fee calculated on percentage basis 3. Identification of source of any rebate 4. Statement regarding venue for 	<p>Must be in writing in order to claim or recover commission</p>	<p>Must be in writing and must be signed by all names registered on the title.</p>	<p>Must be in writing</p>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Agency appointments cont..</i>	<p>earlier than 14 days prior to expiry.</p> <p><u>Form 22</u></p> <p>All appointments are to be made on the Government approved document (Form 22).</p> <p>Use of the proper forms is critical as agency appointments will be rendered ineffective if non-complying documentation is used.</p> <p>Agents must disclose any rebates, business referrals and any perceived conflict of interest.</p>	<p>licensee's estimate of the selling price of the land; and an estimate of the amount of the expenses or charges the licensee expects to incur and for which they claim to be entitled under the agreement to be reimbursed.</p> <p>Must state for rural and residential" This fee has been negotiated between the parties."</p> <p>Terms specifying how licensee is to be reimbursed for expenses and charges</p> <p>The Principal must be served with a signed copy of the written agreement within 48 hours</p>	copy of the written appointment		<p>complaint</p> <p>* the Principal must be given a signed copy of the written appointment</p>			
Limitation on sole / exclusive agencies	60 days maximum for residential property. May be renewed not more than 14 days prior to expiry.	Nil but vendor can terminate agreement after 90 days, with 30 days written notice	No limit but deemed to be 60 days from date of agreement or 30 days after date of auction if no end date inserted in agreement.		Nil	Nil	Nil	Nil
Remuneration and Recovery of Monies	<p>An agent may only recover a commission or any other financial reward or benefit if they are:</p> <ul style="list-style-type: none"> • • 	<p>Must be licensed.</p> <p>Only entitled to commission if the appointment is in writing and as prescribed (see</p>	See under "Agency Appointments"	As per written sales agency agreement between land agent and consumer	<p>Subject to written authority.</p> <p>Selling fee payable only at settlement.</p>	Must be in writing to recover or claim commission	If the agency agreement is duly signed by owners of the said property this legally binds both parties	As per written agreement

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Remuneration and Recovery of Monies cont..</i>	<p>licensed;</p> <ul style="list-style-type: none"> the licence authorises performance of the particular activity; and the appointment is in writing on the approved form. 	<p>Agency Agreement above).</p> <p>No action or other proceedings for recovery until the expiration of 28 days after a statement of claim has been served on the principal.</p>						
Commissions	<p>Regulated maximum for residential sales, residential property management, and rural transactions.</p> <p>Commission must be specified in the agency appointment as a dollar amount or a percentage of the final sale price.</p> <p>The maximum commission scale is exclusive of GST.</p> <p>Commission on commercial or business transactions is not regulated.</p>	Deregulated.	Deregulated.	Deregulated.	Deregulated.	<p>Deregulated.</p> <p>REIT authorised to publish recommended scale.</p>	Deregulated.	Deregulated.
Fees, charges and expenses	<p>An agent may recover specific fees, charges and expenses to be incurred by the agent on behalf of the client.</p> <p>These can be paid in advance or reimbursed</p>	Only entitled if in Agency Agreement (see above).	Managing expenses (the expenses relating to the managing of a property and accounting to a Principal) are claimable by the	Not applicable	All fees and recoupment of expenses must be by written agreement and each fee or expense must be initialled by	Not applicable	See charges and expenses as per Qld.	Only entitled if in written agreement

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Fees, charges and expenses cont..</i>	<p>by the client upon receipt of an itemised statement of expenditure, and must be detailed in the Appointment to Act (Form 22).</p> <p>Fees</p> <p>A fee is the cost of a service provided by an agent. A fee can be charged for a service not normally considered a part of a real estate agent's prescribed activities when selling, managing or renting properties.</p> <p>A fee could be charged for the following services:</p> <ul style="list-style-type: none"> * supervising and inspecting major repairs and renovations; * lodging building plans, and overseeing building applications; * reading meters; * coordinating advertising 		<p>Agent in accordance with the procedures for Agency Appointments.</p>		<p>the Principal.</p> <p>Property Management – authority to approve essential repairs (limited)</p>			

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<i>Fees, charges and expenses cont..</i>	<p>consultants, copywriters, photographers, graphic artists and designers;</p> <ul style="list-style-type: none"> • * coordinating a marketing campaign that involves detailed market analysis, project or development feasibilities; • * coordinating sales agents who are not employees of the Licensee; • • consulting with architects, engineers and designers on behalf of a client; and • * providing written reports that do not involve the sale, management or rental of a 							

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<p>property.</p> <p><i>Fees, charges and expenses cont..</i></p> <p>A fee cannot be charged or recovered for any additional agency service unless the client has authorised the agent in writing on the approved Appointment to Act form.</p> <p>An agent is not permitted to charge a consumer a fee relating to the preparation of documents relating to a real estate transaction. This includes tenancy applications, lease agreements, management agreements, sales contracts, written market appraisals (relating to the sale or rental of a property) or listing documentation fees.</p> <p>Charges</p> <p>A charge is a cost incurred by the agent whilst performing duties on behalf of the client.</p> <p>A charge or cost is fully recoverable by the agent if authorised by the client and provision is made on the Appointment to Act document.</p> <p>Charges are common in a continuing agency. An</p>								

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<i>Fees, charges and expenses cont..</i>	<p>example of charges might be: * bank fees; * telephone, fax, and postage; * courier services; * photocopying; and* travelling costs for the collection of rent or inspection of properties.</p> <p>Expenses</p> <p>An expense is where the agent has incurred a financial liability on behalf of the client. An expense could be: * promotional fees which include advertising and marketing costs; * searches; * other consultancy fees such as decorators, tradespeople, pest control, building inspectors etc; and* appointment of an Auctioneer. All fees, charges and expenses must be quoted on the Appointment to Act form as GST inclusive.</p> <p><i>marketing fee without proof of itemised expenditure on behalf of the client.</i></p>							
Publishing business names in property advertisements	No requirement.	Licensee must publish business name	Mandatory – must specify name of business and registered office	Not in legislation	Mandatory	Mandatory	Mandatory wording also must include Real Estate Agent	Mandatory

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Disclosure of Rebates (to seller)	Any benefit or rebate must be fully disclosed on the Appointment to Act agreement (Form 22).	Disclosure required under Sec 47 to all parties	Any benefit or rebate must be fully disclosed. See under "Agency Appointments"		Mandatory	Discretionary	Any benefit or rebate must be fully disclosed	Rebates or benefits must be disclosed
Disclosure to buyers	<p>Agents must disclose:</p> <ul style="list-style-type: none"> • any relationship and the nature of the relationship (whether personal or commercial) with any party to whom the agent refers the buyer for professional services. • Whether the agent will benefit from this referral or business relationship, either financially or through other means; and • The amount of the financial gain or other benefit to be paid to the agent including any commission or fees to be received from the seller. 	Licensee must disclose beneficial interest in property	Agents must adhere to legal requirements concerning "secret" commissions and conflicts of interest.		<p>An agent who recommends to a party to a transaction a service provider, the agent must make written disclosure to the party of any significant relationship, connection or affinity between the agency and the supplier.</p> <p>Where the relationship, connection or affinity between the agency and supplier is capable of producing a conflict between the interests of a party to the transaction and the agent, the agent shall include in such a written disclosure an explanation of the nature of the potential conflict</p>		Must be disclosed if buyer or seller is related to the agent. Disclosure to be made on the prescribed forms (S1A1 ALA)	Must be disclosed

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Beneficial interest	Beneficial interest must be declared if a real estate agent or salesperson buys a property listed with the agency. No commission is payable by the seller. Real estate agents selling their own properties are not required to declare beneficial interest.	Sec 49 – disclosure required to all parties	Prohibited from purchasing property for which an agency appointment is held, except in circumstances set out in S.55 of the Estate Agents Act 1980	Prohibited from purchasing property for which an agency appointment is held, unless exempted by the Minister	Must have client's written agreement to pay commission. Where there is a conflict of interest (the agent or sales representative is the prospective purchaser of the agent's listing), the agent must disclose the conflict of interest, gain consent to the transaction proceeding. The seller can agree to pay the agent's commission providing the seller understands they have no obligation to pay that fee.		Beneficial interest must be declared (S1Z1 ALA)	Beneficial interest must be declared
Residential Contracts of sale	Usually prepared by real estate agents.	Usually prepared by solicitor or conveyancer	Estate agents and solicitors prepare	Prepared by land agents/salespersons	Estate agency prepare	Prepared by sales consultants	Can be prepared by real estate agents, solicitors/conveyancers.	Prepared by solicitors or agent/salesperson
Contract warning statement	Must be first page of any residential sales contract.	Yes. Vendors prescribed warranties per Conveyancing Act. Other warnings in Contract for Sale of Land (NSW)	Contained in Contract Note . Refer to Estate Agents (Contracts) Regulations 1997.		No statutory requirements		Must be contained in contract if prepared by agent.	

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Cooling-off periods	<p>A 5 business days cooling-off period applies to all residential sales except sales at public auction (i.e. "under the hammer".</p> <p>Cooling-off period commences from the time the buyer is notified that the seller has accepted the contract.</p> <p>Buyer may waive or shorten cooling-off period only with a lawyer's certificate.</p>	<p>5 business days unless waived (s.66W Conveyancing Act requirement).</p> <p>No cooling off at sale by auction or if negotiated subsequent to auction but on the same day.</p> <p>Agency agreements have 1 day cooling off period</p>	<p>A 3 clear business days cooling-off period applies <u>except</u> where:</p> <ul style="list-style-type: none"> • * The price of the property (including chattels) exceeds \$250,000. • • The property is purchased at or within 3 business days before or after a publicly advertised auction. • • The buyer receives independent advice from a solicitor before signing the contract. • • The property is used mainly for commercial or industrial purposes. • • The property is more than 20 hectares in size and used mainly for farming. • • The buyer previously signed a contract for the same property. 	2 clear business days from date of issue of Form 1	No statutory requirements	None	Law Society Contract – 4 days buyer or seller. REINT contract 3 day buyer. Only apply if contract prepared by agent.	Yes, 5 working days

			<ul style="list-style-type: none"> • The buyer is an estate agent or body corporate. 					
Discipline	<p>Property Agents and Motor Dealers Tribunal.</p> <p>Current licensees and executive officers of licensed corporations prohibited from appointment to Tribunal</p>	Office of Fair Trading	<p>Estate Agents Council.</p> <p>3 of the 8 members must be appointed from a panel of names submitted by REIV.</p>	Judge of the District Court	<p>Currently</p> <p>Real Estate and Business Agents Supervisory Board (REBAs) undertakes hearings and disciplinary functions.</p> <p>As from late 2004:</p> <p>All disciplinary functions will be undertaken by State Administrative Tribunal (SAT).</p> <p>REIWA provides an arbitration and disciplinary service accessible to members and the public.</p>	Auctioneers & Real Estate Agents Council of Tasmania	<p>Agents Licensing Board of the Northern Territory</p> <p>2 members of REINT sit on Board.</p>	Consumer and Trading Tribunal
Appeals	To the courts <u>only on matters of law.</u>	Appeals may be made in relation to the non-issue or renewal of license, to the Court.			<p>Currently:</p> <p>Appeals from disciplinary hearings or refusals of registration or licensing undertaken by District Court.</p> <p>As from late 2004:</p> <p>Appeals after SAT will be undertaken by higher authority within SAT.</p>	As above	Courts.	Consumer and Trading Tribunal

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Codes of Conduct	<p>Prescribed by Regulations.</p> <p>Separate codes for:</p> <ul style="list-style-type: none"> • Real Estate Agents; • Auctioneers; • Property Managers; • Property Developers; and • Restricted letting agents. <p>Penalties up to \$15,000 apply for each and every breach.</p>	Prescribed by Regulations	<p>Estate Agents (Professional Conduct) Regulations 1997.</p> <p>REIV –</p> <ul style="list-style-type: none"> * Code of Conduct * Auction Code of Conduct * Commercial Leasing Code * Body Corporate Code of Conduct * Rules of Practice * Rules of Conduct of an Auction 	<p>No code of conduct in legislation;</p> <p>REISA has Code of Conduct</p>	<p>Issued in terms of REBA Act</p> <p><i>Code of Conduct for Agents and Sales Representatives</i></p> <p>REIWA has Code of Conduct</p>	<p>Auctioneers & Real Estate Agents Act and Regulations</p> <p>REIT has Code of Conduct</p>	Contained in ALA	No code of conduct in legislation.
Fidelity Funds	<p>Claims Fund.</p> <p>Non-contributory.</p> <p>Persons dealing with licensed property developers are precluded from claiming.</p>	<p>Property Services Compensation Fund</p> <p>Contributory.</p>	<p>Estate Agents Guarantee Fund.</p> <p>Non-contributory.</p>		<p>Fidelity Guarantee Fund</p> <p>Managed by Real Estate and Business Agents Supervisory Board (REBAs)</p> <p>All applicants of Sales Registration pay \$45, including each renewal.</p> <p>All applicants for licence pay \$150, including each renewal.</p>	Auctioneers and Real Estate Agents Trust	Agents may be required to make contributions to the Agents Fidelity Guarantee Fund.	Consumer Compensation Fund

