



## **REGULATION TASKFORCE INQUIRY INTO REDUCING THE REGULATORY BURDEN ON BUSINESS**

### **BACKGROUND**

1. The Commonwealth Government has established a taskforce to identify practical options for alleviating the compliance burden on business from government regulation. The taskforce has published an issues paper, and called for responses by 22 November 2005.
2. The Real Estate Institute of Australia (REIA) is the peak 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 80% of real estate agencies are collectively represented. The real estate sector is dominated by small businesses, with 73% of agencies employing less than 10 people.

### **PURPOSE**

3. The Real Estate Institute of Australia's submission identifies compliance burdens on the real estate industry, and proposes practical options for alleviating these.

### **ISSUES**

4. Because Australia is a federation of States and Territories, there are overlapping regulatory agencies at State, Territory and Federal level. While the REIA supports effective regulation and strong, accountable regulators acting transparently and consistently, the lack of consistency in legislation and regulations across the jurisdictions and the regulatory spectrum imposes a significant cost and compliance burden on business, and stands increasingly in contrast to the direction of business and workplace reforms, advanced through the National Competition Policy and other mechanisms. Further, all legislation and regulations should have clear objectives, in order to demonstrate intended purpose and benefits.
5. With nine jurisdictions legislating in the area of real estate practice, there are substantive differences in regulatory requirements, what constitutes a breach and how breaches are treated. To address this, a multi-government approach to remove anomalies and inconsistencies and to ensure a robust, efficient and effective regulatory framework is required. Some progress may be forthcoming in the areas of training and licensing, as a result of the recent cornerstone agreement by the Council of Australian Governments (COAG). However, there is much more to be done in all areas of regulation affecting business practices generally, and real estate business specifically. The REIA is working with the Standing Committee of Consumer Affairs Officials (SCOCA) to address the harmonisation of education and licensing through a

review which is currently ongoing. It has also raised with SCOCA the issue of state/territory laws inconsistently dealing with property sales across borders, creating an uncertain business and consumer protection environment. An overview of the legislative differences relating to real estate practice across the jurisdictions is provided at Annex A.

6. The regulatory burden on real estate businesses comprises the full range of general small business regulatory requirements; real estate specific requirements; and a number of potential new requirements.

7. General regulatory requirements faced by all small businesses such as real estate agencies include preparation, lodgement, and record-keeping associated with matters such as the GST, payroll tax, company tax, worker's compensation, superannuation, Australian Workplace Agreements, privacy, and occupational health and safety. While each matter may be considered a reasonable requirement for a business operating in the Australian business environment, cumulatively, the paperwork and record-keeping associated with compliance with a plethora of taxation and workplace legislation can be burdensome and affect profitability of small businesses. This is particularly the case in businesses that are not large enough to employ an accountant or human resource manager on staff and rely either on the services of less-qualified book-keepers or other administrative staff, or on outsourcing these responsibilities to consultants. For example, this occurs across the real estate industry, where about 39% of businesses employ less than five people and 73% employ less than ten people. There may be a resulting negative effect on employment and business participation, with business owners opting to not employ workers or to withdraw from business rather than struggle to meet regulatory requirements. REIA welcomes the current initiatives introduced by the Minister for Small Business Fran Bailey to measure the cost impact of new regulation on small business.

8. Practical solutions to the problems associated with compliance with the general regulatory environment include:

- a. ensuring that the definitions of small business, including number of employees, earnings and thresholds, are consistent across all legislation, and are indexed;
- b. developing an integrated approach by the three levels of Government to small business, including the formation of a task force with small business representatives to review duplication and inconsistencies of legislation as it affects small business;
- c. ensuring that the relationship of Government with small business extends beyond the consultation processes established by some agencies, eg the Australian Taxation Office, to the inclusion of policy makers such as Treasury in the consultation processes including the regular meetings of Departments with industry;
- d. provision of guidelines, such as those developed by the REIA in collaboration with the ACCC relating to ACCC interpretation of the Trade Practices Act in the real estate sector, to provide increased certainty to business about the interpretation of legislation by regulators;

- e. provision of training seminars by government agencies to assist with compliance, such as those offered by the Australian Taxation Office, both at the time of introduction of new regulations, and on an ongoing basis;
- f. provision of online lodgement services and associated online help services;
- g. as with the one-stop shop online business services which provide connectivity between all three levels of Government, it would be helpful to have physical co-location in a one-stop government shopfront to deal with the public and small business;
- h. reduction of paperwork, eg filling in lengthy forms with business details, through better linkages between the information held by different government departments;
- i. ensuring that regulations achieve a desired objective and are not unnecessarily duplicated, eg when an employer agrees to pay Fringe Benefit Tax (FBT) on car mileage reimbursements, the employee is still required to keep a logbook, although such a requirement would seem to be time consuming and redundant – if the FBT is acknowledged and paid, why is a log book necessary;
- j. ensuring regulations are not duplicated at federal and state level, eg currently there are both federal and state level Privacy Acts; and
- k. specific consideration being given to the likely impact on small business when new regulations are being introduced.

9. Specific regulatory requirements faced by real estate businesses include matters such as professional licensing and registration and associated training requirements; the maintenance and supervision of trust accounts; documentation requirements; and requirements to report items such as energy efficiency ratings and the presence of asbestos in a premises. The burden associated with compliance of a wide range of legislation governing real property transactions is further complicated by the lack of nationwide consistency of such regulations, making it difficult and costly for real estate businesses to operate across borders, and limiting labour mobility. For example, in a cross-border locality such as Queanbeyan/Canberra, Albury/Wodonga, or Gold Coast/Tweed Heads, real estate agents doing business in both jurisdictions might be required to hold two separate licences, maintain two registered offices, and have two separate trust accounts.

10. While regulatory requirements vary across Australia's eight State and Territory jurisdictions, all share a common purpose, to minimise consumer harm. The REIA supports a regulatory environment which seeks to minimise consumer harm, but contends that legislation should be developed on the basis of adequate research, with clear, stated objectives regarding consumer protection, in a nationally uniform manner. Further, much of the existing legislation needs to be reviewed to ensure it reflects the contemporary business environment, for example, in areas such as occupational classification and the use of internet technology in marketing and sales.

11. Practical solutions to these problems include:

- a. reviewing legislation governing real property transactions to ensure it is uniform nationally across Australia;

- b. instituting a national system of licensing and registration for real estate agents, which would not require separate licensing/registration in every jurisdiction in which one operates;
- c. ensuring legislation incorporates clear, stated objectives regarding consumer protection, and that associated regulations assist in achieving these objectives;
- d. ensuring real estate licensing and registration legislation does not govern unrelated occupations with differing requirements for consumer protection (for example in some States and Territories, a single Act may govern real estate, travel, employment and other agents);
- e. ensuring regulatory processes can be conducted in a timely fashion and do not impede business, eg licensing requires police checks which may take up to six weeks, thus impeding both the conduct of business and employment; and
- f. reviewing legislation governing real property transactions to ensure it reflects the contemporary business environment.

12. In addition to the range of regulations identified above, the real estate industry will be subject to new regulations associated with Industrial Relations reforms, currently being introduced. It remains concerned about the potential impact of regulatory requirements related to the documentation of hours worked and the 38-hour week guarantee. It is also concerned about the differing definitions of employees and contractors used in this legislation and other Commonwealth and state legislation.

13. There will be potentially significant additional regulatory requirements when proposed anti-money laundering legislation is introduced by the Federal Government. The REIA has been pleased to have had the opportunity to provide considerable input to the legislative development process, and believes this has been a good model for government and industry stakeholders working together to develop a workable and effective regulatory outcome. Until draft legislation is available however, the regulatory impact of this legislation will not be clear. A major issue will be costs associated with training across the industry. The REIA calls upon the Federal government to consider assistance in the provision of training related to this and any future legislation which significantly alters the regulatory environment.

## **SUMMARY**

14. Regulation governing real estate businesses in Australia is both generic to all businesses and particularly small businesses, and specific to real estate businesses. Because the majority of real estate businesses are small businesses, the compliance burden associated with government regulation is considerable. This is further compounded by inconsistencies in the regulatory environment across the Federal and eight State and Territory jurisdictions. Harmonisation of the regulatory environment nationwide would be a significant step forward in reducing red tape on business.

Prepared by:

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Real Estate Institute of Australia

21 November 2005

ANNEX:

A. Summary of State Legislation Regulating Real Estate Practice



**SUMMARY OF STATE LEGISLATION**  
**REGULATING REAL ESTATE AGENCY PRACTICE**  
**AS AT 30 JUNE 2005**

**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
<b>Principal legislation</b>	<i>Property Agents and Motor Dealers Act 2000.</i>	<i>Property, Stock and Business Agents Act 2002.</i>  <i>Property Stock and Business Agents 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 1979.</i>	<i>Civil Law [Sale of Residential Property] Act 2003.</i>  <i>Residential Tenancies Act 1997.</i>  <i>Agents Act 2003.</i>
<b>Administration</b>	Office of Fair Trading.	Office of Fair Trading.	Consumer 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.	Department of Justice.	Office of Fair Trading.
<b>Other relevant legislation</b>	<i>Residential Tenancies Act 1994.</i>  <i>Body Corporate and Community Management Act 1997.</i>  <i>Land Sales Act 1984.</i>	<i>Residential Tenancies Act 1987.</i>  <i>Agricultural Tenancies Act 1990.</i>  <i>Anti-Discrimination Act 1977.</i>  <i>Consumer, Trader &amp; Tenancy Tribunal Act</i>	<i>Residential Tenancies Act 1997.</i>  <i>Retail Tenancies Reform Act 1998</i>  <i>Retail Leases Act 2003.</i>  <i>Sale of Land Act 1962.</i>  <i>Subdivision Act 1988.</i>	<i>Land and Business (Sale and Conveyancing) Act 1994.</i>  <i>Strata Titles Act 1988.</i>  <i>Community Titles Act 1996.</i>	<i>State Legislation: Auction Sales Act 1973.</i>  <i>Auction Sales Regulations 1974.</i>  <i>Caravan Parks and Camping Grounds Act 1995.</i>	<i>Residential Tenancy Act 1997.</i>  <i>Residential Tenancy Amendment Act 2003.</i>  <i>Door to Door Trading Act 1986.</i>  <i>Strata Titles Act</i>	<i>Residential Tenancies Act 1999.</i>  <i>Building Act 1993.</i>  <i>Unit Titles Act 1975 1976.</i>  <i>Business Tenancies (Fair Dealings) Act 2003.</i>	<i>Civil Law [Sale of Residential Property] Regulation 2004.</i>  <i>Residential Tenancies Regulation 1998.</i>  <i>Agents Regulation 2003.</i>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<b>Other relevant legislation cont...</b>		<p>2001.</p> <p><i>Community Land Management Act 1989 (plus other Community Acts).</i></p> <p><i>Contracts Review Act 1980.</i></p> <p><i>Conveyancing Act 1919 (various).</i></p> <p><i>Conveyancers Licensing Act 1995 .</i></p> <p><i>Conveyancers Licensing Act 2003.</i></p> <p><i>Crimes Act (various).</i></p> <p><i>Dividing Fences Act 1991.</i></p> <p><i>Environmental Planning &amp; Assessment Act 1979.</i></p> <p><i>Fair Trading Act 1987.</i></p> <p><i>Land Tax Act 1956.</i></p> <p><i>Land Tax Management Act 1956.</i></p> <p><i>Local Government Act 1993.</i></p> <p><i>Landlord &amp; Tenant Act 1899.</i></p> <p><i>Landlord &amp; Tenant (Rental Bonds) Act 1977.</i></p> <p><i>Law of Property Act</i></p>	<p><i>Fair Trading Act 1999.</i></p> <p><i>Property Law Act 1958.</i></p> <p><i>Settled Land Act 1958.</i></p> <p><i>Transfer Of Land Act 1958.</i></p> <p><i>Retirement Villages Act 1986.</i></p> <p><i>Legal Profession Act 2004.</i></p> <p><i>Occupational Health &amp; Safety Act 2004.</i></p> <p><i>VCAT Act 1998.</i></p> <p><i>Electronic Transactions Act 2000.</i></p> <p><i>Essential Services Act 1999.</i></p> <p><i>Land Acquisition &amp; Compensation Act 1986.</i></p> <p><i>Heritage Act 1995.</i></p> <p><i>Historic Buildings Act 1981.</i></p> <p><i>Planning &amp; Environment Act 1987.</i></p>	<p><i>Residential Tenancies Act 1995.</i></p> <p><i>Sale of Goods Act 1895.</i></p> <p><i>Fair Trading Act 1987.</i></p> <p><i>Real Property Act 1886.</i></p> <p><i>Retail &amp; Commercial Leases Act 1995.</i></p> <p><i>Land Valuers Act 1994.</i></p> <p><i>Conveyancers Act 1994.</i></p>	<p><i>Caravan Parks and Camping Grounds Regulations 1997.</i></p> <p><i>Commercial Tenancy (Retail Shops) Agreements Act 1985.</i></p> <p><i>Commercial Tenancy (Retail Shops) Agreements Regulations 1985.</i></p> <p><i>Conservation and Land Management Act 1984.</i></p> <p><i>Conservation and Land Management Regulations 2002.</i></p> <p><i>Consumer Affairs Act 1971.</i></p> <p><i>Fair Trading Act 1987.</i></p> <p><i>Fair Trading (Retirement Villages Code) Regulations 2003.</i></p> <p><i>First Home Owner Grant Act 2000.</i></p> <p><i>First Home Owner Grant Regulations 2000.</i></p> <p><i>Heritage of Western Australia Act 1990.</i></p> <p><i>Land Administration Act 1997.</i></p>	<p>1998.</p> <p><i>Duties Act 2001.</i></p> <p><i>Fair Trading Act 1990.</i></p> <p><i>Acts Interpretation Act 1931.</i></p> <p><i>Residential Tenancy Act 1997.</i></p>	<p><i>Law of Property Act 2000.</i></p> <p><i>Real Property (Unit Titles) Act 1975</i></p> <p><i>Auctioneers Act 1996.</i></p>	

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<b>Other relevant legislation cont...</b>		<p>1898.</p> <p><i>Occupational Health &amp; Safety Act 2000.</i></p> <p><i>Real property Act 1900.</i></p> <p><i>Retail Leases Act 1994 (various other Retail Acts).</i></p> <p><i>Retirement Villages Act 1999.</i></p> <p><i>Strata Schemes (Freehold Development) Act 1973.</i></p> <p><i>Strata Schemes (Leasehold Development) Act 1986.</i></p> <p><i>Strata Schemes Management Act 1996 (various other Strata Acts).</i></p> <p><i>Trustee Act 1898.</i></p> <p><i>Trustee Act 1925.</i></p> <p><i>Various Insurance Related Acts.</i></p> <p><i>Valuers Act 2003.</i></p> <p><i>Valuation of Land Act 1916.</i></p>	<p><i>Valuation Of Land Act 1960.</i></p> <p><i>Duties Act 2000.</i></p> <p><i>Land Tax Act 1958.</i></p> <p><i>Trustee Act 1958.</i></p> <p><i>Building Act 1993.</i></p> <p><i>Business Names Act 1962.</i></p> <p><i>Business Licensing Authority Act 1998.</i></p> <p><i>Commercial Arbitration Act 1984.</i></p> <p><i>Domestic Buildings Contracts Act 1995.</i></p> <p><i>Equal Opportunity Act 1995.</i></p> <p><i>Fences Act 1968.</i></p> <p><i>Forestry Rights Act 1996.</i></p> <p><i>Goods Act 1958.</i></p> <p><i>Information Privacy Act 2000.</i></p> <p><i>Instruments Act 1958.</i></p> <p><i>Land Act 1958.</i></p> <p><i>Landlord &amp; Tenant Act 1958.</i></p>		<p><i>Land Administration Regulations 1998.</i></p> <p><i>Licensed Surveyors Act 1909.</i></p> <p><i>Licensed Surveyors Amendment Act 1996.</i></p> <p><i>Local Government Act 1995.</i></p> <p><i>Native Title (State Provisions) Act 1999.</i></p> <p><i>Property Law Act 1969.</i></p> <p><i>Occupational Safety and Health Act 1984.</i></p> <p><i>Occupational Safety and Health Regulations 1996.</i></p> <p><i>Residential Tenancies Act 1987.</i></p> <p><i>Residential Tenancies Regulations 1989.</i></p> <p><i>Retirement Villages Act 1992.</i></p> <p><i>Retirement Villages Regulations 1992.</i></p> <p><i>Sale of Land Act 1970.</i></p> <p><i>Settlement Agents'</i></p>			



	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<b>Other relevant legislation cont...</b>			<i>Limitations of Actions Act 1958.</i>  <i>Local Government Act 1989.</i>  <i>Partnership Act 1958.</i>  <i>Public Holidays Act 1993.</i>  <i>Small Business Commissioner Act 2003.</i>  <i>Unclaimed Monies Act 1962.</i>  <i>First Home Owners Grant Act 2000.</i>		<i>Code of Conduct (Principal Regulation) 1982.</i>  <i>Soil and Land Conservation Act 1945.</i>  <i>Swan River Trust Act 1988.</i>  <i>Strata Titles Act 1985.</i>  <i>Strata Titles General Regulations 1996.</i>  <i>Transfer of Land Act 1893.</i>  <i>Transfer of Land Amendment Act 1996, 1999, 2003.</i>  <i>Transfer of Land Regulations 2004.</i>  <i>Transfer of Land (Surveys) Regulations 1995.</i>  <i>Valuation of Land Act 1978.</i>  <i>Valuation of Land Regulations 1979.</i>			
<b>Scope</b>	Real estate agents.	Real estate agents.	Estate Agents which includes:	Registered land agents.	Real estate agents.	Real estate agents.	Real estate agents.	Real estate agents.
<b>Scope cont..</b>	Registered sales person. Auctioneers. Property developers. Restricted letting	Stock and station agents. Business agents. Strata managing agents.	1. auctioneers. 2. agents representatives.	Sales Representative. Business Agents. Commercial Leasing	Sales representatives. Sales representative (property management).	Auctioneers. Sales consultants (includes property managers).	Business Agents. Registered agent's representatives. Conveyancing Agents.	Stock and station agents. Business Agents. Travel agents. Employment agents.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	agents. Pastoral houses. Motor dealers. Commercial agents.	Community managing agents. On-site residential property managers. Buyers agents. On site residential property managers. Auctioneers.		Agents.				
<b>Exemptions</b>	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.
<b>Licence categories</b>	Real estate agent. Registered sales person. Auctioneer. Property developer. Restricted letting agent. Pastoral house. Pastoral house director. Pastoral house	Real estate agent. Stock and station agent. Business agent. Strata managing agent. On-site Residential property manager.	Estate agent.	Land agent (not licensed in SA, 'registered').	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	Real estate auctioneer. General auctioneer. Employed auctioneer Probationary auctioneer Temporary auctioneer. Real estate agent. Real estate manager.	Real Estate, Business & Conveyancing Agents.	Real estate agent. Stock and station agent. Business agent. Travel agent. Employment agent. Sales Persons.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Licence categories cont..	<p>manager.</p> <p>Pastoral house auctioneer.</p> <p>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.</p>				<p>registration.</p> <p>Sales representatives registration (property management).</p> <p>Currently no licence is required to conduct Strata Management transactions.</p>	Real estate sales consultant.		
<b>Advertising application for licence</b>	Not publicly advertised.	Not applicable.	Not publicly advertised.	Not applicable.	Must be advertised.	Must be advertised.	Must be advertised.	Must be advertised.
<b>Issuing authority</b>	Office of Fair Trading.	Office of Fair Trading.	Business Licensing Authority.	Office of Consumer and Business Affairs.	Real Estate and Business Agents Supervisory Board – Department of Consumer and Employment Protection (DOCEP).	Auctioneers and Real Estate Agents Council of Tasmania.	Agents Licensing Board of the Northern Territory.	ACT Office of Fair Trading.
<b>Term of licence</b>	1 or 3 years.	1 year.	Reviewed annually.	Annual.	<p><b>Licence</b></p> <p>Licence is continuous <u>but must</u> also have Triennial Certificate to operate as an agent, which is renewed every three years.</p> <p>Registration</p> <p>Three years.</p>	Annual.	Annual.	Annual.
Term of licence cont...								
<b>Suitability for all classes of licences</b>	<p>Must not be affected by bankruptcy.</p> <p>18 years of age or</p>	Fame and character of person or if corporation the directors and secretary and	<p>18 years of age or older; and</p> <p>Passed a prescribed course or</p>	For land agents/salespersons must hold necessary qualifications as prescribed under	<p><i>Real estate and business agents licence (individual):</i></p> <p>18 years of age or</p>	<p>Holds the prescribed educational qualifications.</p> <p>Must not have been</p>	<p>18 years of age or older.</p> <p>Fit and proper</p>	<p>Attained 18 years of age.</p> <p>Fit and proper</p>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Suitability for all classes of licences	<p>older.</p> <p>Cannot have a conviction in previous 5 years.</p> <p>Not currently disqualified.</p> <p>Must satisfy educational requirements.</p> <p>To be eligible, must complete specified competencies from the national real estate training package approved by ANTA.</p>	<p>whether corporation fit and proper.</p> <p>Been deemed competent in prescribed competencies.</p> <p>Attained 18 years of age.</p>	<p>examinations; and</p> <p>Has not in the past 10 yrs been convicted or found proven any offence including drugs, fraud, violence or dishonesty punishable by imprisonment of 3 months or more.</p> <p>Is not an insolvent under administration.</p> <p>Is not disqualified.</p> <p>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</p> <p>Has held an estate agent's licence within the period of 5 years immediately preceding application; or</p> <p>Has completed the relevant standards of competency required by the Estate Agents Council (Council not made a determination).</p>	<p>regulations.</p> <p>For property managers no formal qualification requirements.</p> <p>For land agents/real estate salespersons not to have been convicted of an offence of dishonesty in the 10 years prior to application.</p> <p>Is not suspended or disqualified from practicing.</p> <p>Is not an undischarged bankrupt (only agent).</p> <p>For agents under Strata Titles Act/Community Titles Act no formal qualification requirement.</p>	<p>older.</p> <p>Minimum 2 years work experience in real estate and business broking industry.</p> <p>Good character and repute and a fit and proper person to hold a licence.</p> <p>National Police clearance (max 1 month old)</p> <p>Have access to sufficient assets and financial resources available comply with the requirements of this Act.</p> <p>Understands fully the duties and obligations imposed by this Act on agents.</p> <p><i>Real estate and business agents licence (firm/partnership):</i></p> <p>All parties are of good character and repute.</p> <p>All parties are proper persons to hold a licence.</p> <p>Have access to sufficient assets and financial resources to comply with the</p>	<p>convicted of an indictable offence.</p>	<p>person.</p> <p>Completed course of competency-based training approved under s.22.</p> <p>Holds prescribed qualifications for the class of licence which is the subject of the application.</p> <p>Has other prescribed qualifications or experience, or</p> <p>By reason of qualifications and experience is competent to carry on business on own account as a licensed agent.</p> <p>The applicant will be insured for whole period of licence under an approved indemnity insurance policy; or</p> <p>The applicant is exempt from the requirement under s.108B to be insured under an approved indemnity insurance policy.</p>	<p>person.</p> <p>Is not disqualified.</p> <p>Been deemed competent in prescribed competencies.</p>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
cont..					<p>requirements of this Act.</p> <p>Partnership of no more than three, at least one person must be a licensed agent.</p> <p>Partnership of more than three, then at least two persons must be licensed.</p> <p>The person responsible for day to day operations must be licensed.</p> <p>Changes to partnership holding a licence must advise REBA of any changes in management structure.</p> <p><i>Real estate and business agents licence (Body corporate):</i></p> <p>All directors are of good character and repute and fit and proper to hold a licence.</p> <p>Body corporate has access to sufficient assets and financial resources to comply with the requirements of this Act.</p> <p>Company of no more</p>			
Suitability for all classes of licences								

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
cont..					<p>than three, at least one must be a licensed agent.</p> <p>Company of more than three, then at least two persons must be licensed.</p> <p>The person responsible for day to day operations must be licensed.</p> <p>Changes to partnership holding a licence must advise REBA of any changes in management structure.</p> <p>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> <p><i>Registration:</i></p> <p>Must work under the supervision of a licensed real estate and business agent.</p> <p>18 years of age or older.</p> <p>Be a person of suitably good</p>			
Suitability for all classes of licences								

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
cont..					<p>character to hold a certificate of registration.</p> <p>Have a full understanding of the duties and obligations of a real estate and business sales representative as is imposed by the Act.</p> <p>National Police Clearance (max 3 months old).</p>			
Suitability for all classes of licences cont..								
<b>Eligibility for Real Estate Agent's Licence</b>	<p>Completion of 17 specified units of competency from the PRD01 Training package as follows :-</p> <p>PRDRE13A;PRDRE15A;PRDRE18A;PRDRE39A;PRDRE11A;PRDRE30A;PRDRE12A;PRDRE14A;PRDPOD62A;PRDRE10A;PRDRE22A;PRDRE26A;PRDRE19A;PRDRE37A;PRDRE28A;PRDRE16A and PRDRE09A (This unit is the only competency from the Diploma level).</p>	<p>Completed 16 identified units from PRD01.</p> <p>Complete Land Economics Degree: sales, property management, business agent, strata manager, stock &amp; 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>To be registered as a Land Agent, the person must have completed the PRD50101 Diploma of Property (Real Estate):</p> <p>PRDRE01A PRDRE02A PRDRE03A PRDRE04A PRDRE05A PRDRE06A PRDRE08A PRDRE09A PRDRE19A PRDRE28A BSAFIN501B BSAFIN502B BSXFM1504A BSXFM1511A</p> <p>To achieve the Diploma competency</p>	<p>PRD50101 (as stated) plus Real Estate Law (ABH510, ABH511, NAP750) Rural Sales (ABH530) and Selling businesses (ABH531).</p> <p>REIWA or TAFE.</p>	<p>(a) (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</p>	<p>Units of competency enabling completion of:</p> <p>Certificate IV for Agents Representative License.</p> <p>Diploma in Real Property for Full License (i.e. Able to operate a real estate business).</p>	<p>Completion of three competencies:</p> <ul style="list-style-type: none"> <li>• Real Estate Agent.</li> <li>• Stock and Station Agent.</li> <li>• Business Agents License.</li> </ul>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Eligibility for Real Estate Agent's Licence cont..				<p>must be demonstrated in all 14 specified core units, 1 elective unit at Diploma level and 9 core units in Certificate IV (total 24 units).</p> <p>Salespersons are not registered in SA. In order to qualify as a salesperson, the minimum qualification is a PRD40101 Certificate IV in Property (Real Estate):</p> <p>PRDRE10A PRDRE11A PRDRE12A PRDRE13A PRDRE14A PRDRE22A PRDRE30A PRDRE37A PRDPOD62A</p> <p>To achieve recognition at Certificate IV level, competency must be demonstrated in all 9 specified core unit and 8 elective units (total 17 units).</p>		<p>managers licence at any time during the 5 years immediately 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 sufficient knowledge and experience of the</p>		



	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Eligibility for Real Estate Agent's Licence cont..						real estate agency business to be granted a real estate agents licence.		
<p><b>Eligibility for Auctioneer's Licence</b></p> <p>Must have completed 2 competencies from the PRD01 Training Package for a provisional auctioneers licence, namely :-</p> <p>PRDRE39A and PRDRE14A.</p> <p>To obtain a full auctioneers licence, 3 further units of competency need to be completed together with 5 auctions under the supervision of a licensed auctioneer.</p> <p>These units are PRDRE09A; PRDRE26A and PRDRE28A.</p> <p>Eligibility for Auctioneer's Licence cont..</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.</p> <p>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> <ol style="list-style-type: none"> <li>1. No formal training is required.</li> <li>2. Auctioneer conducts the auction through and on behalf of a Real Estate Agent.</li> <li>3. Any person may obtain a chattels auctioneer's licence and auction chattels.</li> </ol> <p>Renewed annually.</p>	<p>License issued based on satisfying issuing authority by exam that applicant has the relevant knowledge to auction.</p>	<p>Licensed under the Auctioneers Act. Person must be over 18, of good character &amp; fit and proper.</p>	<p>Has educational qualification or is a licensed agent.</p>	

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<b>Eligibility for Business Agent's licence</b>	No equivalent licence.	Specified units of competency from Business Broking Training Package.	No equivalent licence.	No separate licence or qualifications required.	No separate licence.		<p>A separate licence can apply or a person can obtain a combined real estate &amp; business agent's licence.</p> <p>Applicant must meet eligibility criteria as stated for real estate agent, except for competency-based training course. As a course is yet to be designed &amp; delivered, the Board will accept former qualification – Certificate IV in Real Estate.</p>	As for Agents licence.
<b>Eligibility for Property Developer's Licence</b>	<p>TA property developer's licence is only required if a developer sells more than 6 residential properties in a 12 month period.</p> <p>There are no educational requirements to obtain this category of licence.</p>	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
<b>Eligibility for Restricted Letting Agent's Licence</b>	<p>Completion of 6 units of competency from the PRD01 Training Package, namely :-</p> <p>PRDRE18A; PRDRE39A; PRDRE10A; PRDRE19A; PRDRE37A and</p>	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	PRDRE28A.							
<b>Eligibility for Pastoral House Licence</b>	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
<b>Eligibility for Pastoral House Director's Licence</b>	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
<b>Eligibility for Pastoral House Manager's Licence</b>	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
<b>Eligibility for Pastoral House Auctioneer's Licence</b>	No prescribed qualifications.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.	No equivalent licence.
<b>Real Estate Salespersons</b>  Real Estate Salespersons cont..	<p>Must be registered.</p> <p>At least 18 years of age.</p> <p>Completed 4 units of competency from the PRD01 Training package, namely :-</p> <ul style="list-style-type: none"> <li>• PRDRE13 A;</li> <li>PRDRE15 A;</li> <li>PRDRE18 A and</li> <li>PRDRE39 A</li> </ul> <p>Employees do not have to be registered if they perform clerical duties only such as collecting and banking rent.</p>	<p>Must be registered:</p> <p>3 specified NSW units of competency;</p> <p>4 different registration categories.</p>	<p>Eligibility for Estate Agent's representative.</p> <p>At least 18 yrs.</p> <p>Passed proscribed course of examinations.</p> <p>Police check &amp; C/T.</p> <p>3 state-based competencies.</p> <p>See requirements under "Suitability for all classes of licences", and</p> <p>Has not been convicted of any offence involving fraud, dishonesty, drug trafficking or violence punishable by 3 months or more</p>	<p>Not registered but must:</p> <p>Hold necessary qualifications.</p> <p>Not been convicted of an offence of dishonesty in the last 10 years prior to application.</p> <p>Not suspended or disqualified from practising.</p> <p>Sales Representatives must have completed Cert IV in Property (Real Estate) (see units identified above).</p>	<p>Must be registered.</p> <p><b>Sales Representatives Registration:</b></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><b>Sales</b></p>	<p>Must be licensed.</p> <p>Must have prescribed 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>	<p>(Referred to as a registered agent's representative).</p> <p>Must be registered to carry out functions for and on behalf of licensed agent.</p> <p>Person eligible for registration if over 18, fit and proper, holds prescribed qualifications and will be employed by licensed agent within the Territory.</p>	<p>Must be registered.</p> <p>Police check and educational qualifications required.</p> <p>Also the requirements listed under "Suitability for all Classes of License".</p> <p>Must be a qualified property manager.</p>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Real Estate Salespersons cont..			<p>imprisonment; and</p> <p>Is not an insolvent under administration; and</p> <p>Has not been disqualified from holding an Estate Agent's Licence; and</p> <p>Has not had a claim upheld against the Estate Agent's Guarantee Fund; and</p> <p>Is not a represented person under the Guardianship and Administration Act 1986.</p>		<p><b>Representatives Registration (Property Management)</b></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>			
<b>Buyer's Agent</b>	Buyers Agents need to be registered (if working under a licensed agent) or have a full real estate agents licence if conducting their own business as a buyers agent.	Must be registered - licence restricted to the activities of a buyers agent as specified by the Property Stock and Business Agents Act 2003.	If perform, or hold out as willing to perform, estate agency work must be a licensed estate agent or an agent's representative.	Not covered by the Act.	Not covered by the Act.	Licensing not required.	Falls within ambit of definition of a real estate agent.	Must be registered.
<b>Property Developer Salesperson</b>	Must be registered as a salesperson and the same requirements apply.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	No equivalent.	No equivalent.
<b>Trainee Auctioneer</b>	Must complete 2 competencies from the PRD01 Training Package for a provisional auctioneers licence, namely :-	Trainee Livestock Auctioneers only.	No equivalent.	No equivalent.	No equivalent.	Probationary auctioneer must undertake course and exam with licensing authority.	No equivalent.	No equivalent.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	PRDRE39A and PRDRE14A.							
<b>Licence lending</b>	Prohibited.	Prohibited.	Prohibited.	Sales representatives need not be registered in SA and can work under the registered land agent.	Prohibited. Licence and triennial not transferable.	Must be able to satisfy substantial attendance in the office.	Prohibited.	Is an offence.
Licence lending cont...								
<b>Substitute licensee</b>	< 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.	30 days – licensee may give notice in writing to Business Licensing Authority.  Written notice to BLA for short term manager approval.	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 Supervisory Board.	No information provided.	Registrar may approve operation of a registered office in absence of business manager for period not exceeding 60 days.	N/A.
<b>Professional indemnity insurance</b>	Discretionary. Required for REIQ membership.	Mandated and required for REINSW membership.	Required for REIV membership.	No legislative requirement.	No requirement in legislation. Compulsory for REIWA membership.	Discretionary but required for REIT membership.	Mandatory, unless exempted.	Discretionary but required for REIACT membership.
<b>Supervision of business</b>	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.  OFT has specified what consists of 'supervision' under	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	A licensed real estate agent, real estate manager or authorised sales consultant must manage an estate agency office.	Each licensed agent must ensure there is at all times in the agent's service a business manager who is a licensed agent, in respect of each office of the business carried on	Licensed agent must manage business.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
		the Supervision Guidelines.			supervision and are in bona fide control.		under licence. A person may be appointed to be business manager of more than one office.	
<b>Prohibited Practices</b>  Prohibited practices cont...	<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>Only licensed estate agents / agent's representatives may make representations to the public.</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>Must have a written Sales Agency Agreement.</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 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.</p>	<p>Must be licensed to handle property transactions.</p>	<p>Unlicensed persons not to act as agents.</p>	<p>Must be licensed or registered to handle property transactions.</p> <p>A full list of prohibited practices is contained in the Agent's Act 2003.</p>
<b>Agency appointments</b>	<p>Must be in writing. Form 22 required in every circumstance. Form 21 must be completed if appointment is an</p>	<p>Terms prescribed in P, S &amp; BA Act and Regulations.</p> <p>Must be in writing to claim commission.</p>	<p>Must be in writing to claim commission and outgoings; and</p> <p>Written appointment signed by Principal.</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>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> <p>Electronic forms available with conditions on appointment.</p>

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Agency appointments cont..	<p>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</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</p>	<p>Before Principal signs written appointment Principal advised commission and outgoings are negotiable.</p> <p>Written appointment contains details of:</p> <ol style="list-style-type: none"> <li>1. Commissions and outgoings</li> <li>2. Fee as percentage and dollar amount if fee calculated on percentage basis</li> <li>3. Identification of source of any rebate</li> <li>4. Statement regarding venue for complaint</li> </ol> <p>The Principal must be given a signed copy of the written appointment.</p> <p>Agents must disclose rebates which must be passed on to principals.</p> <p>Commission sharing to be disclosed, if commission shared with anyone not employed by selling agent or with whom agent is in</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"> <li>1. Commissions and outgoings.</li> <li>2. Fee as percentage and dollar amount if fee calculated on percentage basis.</li> <li>3. Identification of source of any rebate.</li> <li>4. Statement regarding venue for complaint.</li> </ol> <p>The Principal must be given a signed copy of the written appointment.</p>			

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	documentation is used. Agents must disclose any rebates, business referrals and any perceived conflict of interest.	the parties.” Terms specifying how licensee is to be reimbursed for expenses and charges. The Principal must be served with a signed copy of the written agreement within 48 hours.	partnership.					
<b>Limitation on sole / exclusive agencies</b>	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.	Not applicable.	Nil.	Nil.	Nil.	Nil.
<b>Remuneration and Recovery of Monies</b>	An agent may only recover a commission or any other financial reward or benefit if they are:  1. licensed;  2. the licence authorises performance of the particular activity; and  3. 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.	Must be in writing to recover or claim commission.	No recovery of a fee, commission or other gain or reward unless licensed.	As per written agreement.



	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<b>Commissions</b>	<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 as a guide.</p>	Deregulated.	Deregulated.
<b>Fees, charges and expenses</b>	<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 by the client upon receipt of an itemised statement of expenditure, and must be detailed in the Appointment to Act (Form 22).</p> <p><b>Fees</b></p> <p>A fee is the cost of a service provided by</p>	Only entitled if in Agency Agreement (see above).	Only entitled if written agreement negotiated with principal.	All fees, charges and expenses must be included in the Sales Agency Agreement.	<p>All fees and recoupment of expenses must be by written agreement and each fee or expense must be initialled by the Principal.</p> <p>Property Management – authority to approve essential repairs (limited).</p>	Not applicable.	Not regulated.	Only entitled if in written agreement.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Fees, charges and expenses cont..	<p>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> <ol style="list-style-type: none"> <li>1. Supervising and inspecting major repairs and renovations;</li> <li>2. Lodging building plans, and overseeing building applications;</li> <li>3. Reading meters;</li> <li>4. Coordinating advertising consultants, copywriters, photographers, graphic artists and designers;</li> <li>5. Coordinating a marketing campaign that involves detailed market analysis, project or development feasibilities;</li> </ol>							

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Fees, charges and expenses cont..	<p>6. Coordinating sales agents who are not employees of the Licensee;</p> <p>7. Consulting with architects, engineers and designers on behalf of a client; and</p> <p>8. Providing written reports that do not involve the sale, management or rental of a property.</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</p>							

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Fees, charges and expenses cont..	<p>contracts, written market appraisals (relating to the sale or rental of a property) or listing documentation fees.</p> <p><b>Charges</b></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><b>Expenses</b></p> <p>An expense is where the agent has incurred a financial liability on behalf of the client. An</p>							
Fees, charges and expenses cont..								

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	<p>expense could be:</p> <ol style="list-style-type: none"> <li>1. Promotional fees which include advertising and marketing costs;</li> <li>2. Searches;</li> <li>3. Other consultancy fees such as decorators, tradespeople, pest control, building inspectors etc; and</li> <li>4. Appointment of an Auctioneer.</li> </ol> <p>All fees, charges and expenses must be quoted on the Appointment to Act form as GST inclusive.</p>							
<b>Publishing business names in property advertisements</b>	No requirement.	<p>Licensee must publish business name.</p> <p>PSBA Act allows a variation in NSW to publish either:</p> <ol style="list-style-type: none"> <li>1. Business name.</li> <li>2. Partnership name.</li> <li>3. Trading Name.</li> </ol>	Mandatory – must specify name of business and registered office.	Not in legislation.	Mandatory.	Mandatory.	Act requires agent to advertise that agent is licensed and business address.	Mandatory.
<b>Disclosure of</b>	Any benefit or rebate must be fully	Disclosure required under Sec 47 to all	Any r rebate must be fully disclosed and	<i>No information</i>	Mandatory.	Discretionary.	Agent is required to declare a beneficial	Rebates or benefits

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
<b>Rebates (to seller)</b>	disclosed on the Appointment to Act agreement (Form 22).	parties. Must disclose rebates and discounts in the agency agreement.	passed on to principal. See under "Agency Appointments".	<i>provided.</i>			interest in purchase or sale of land.	must be disclosed.
<b>Disclosure to buyers</b>  Disclosure to buyers cont...	Agents must disclose:  1. 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.  2. Whether the agent will benefit from this referral or business relationship, either financially or through other means; and  3. The amount of the financial gain or other benefit to be paid to the agent including any commission or fees to be received from	Licensee must disclose beneficial interest in property.	Agents must adhere to legal requirements concerning "secret" commissions and conflicts of interest.		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.  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.		Agent required to disclose a beneficial interest in purchase or sale of land in prescribed form.	Must be disclosed.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	the seller.							
<b>Beneficial interest</b>	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. If there is a conflict of interest (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.	Beneficial interest must be declared.
<b>Residential Contracts of sale</b>	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.	Must be in a form approved by the Registrar or approved by the Law Society Northern Territory.	Prepared by solicitors or agent/salesperson.
<b>Contract warning statement</b>	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 information provided.	No statutory requirements.	No information provided.	Contract must contain consumer information.	Yes.
<b>Cooling-off periods</b>	A 5 business days cooling-off period applies to all residential sales	5 business days unless waived (s.66W Conveyancing Act)	A 3 clear business days cooling-off period applies <u>except</u> where:	2 clear business days from date of issue of Form 1 and signed contract.	No statutory requirements.	None.	Three day cooling off period applies.	Yes, 5 working days.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Cooling off periods cont...	<p>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>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 business day cooling off period or Saturday cooling.</p>	<ol style="list-style-type: none"> <li>1. The property is purchased at or within 3 business days before or after a publicly advertised auction.</li> <li>2. The buyer receives independent advice from a solicitor before signing the contract.</li> <li>3. The property is used mainly for commercial or industrial purposes.</li> <li>4. The property is more than 20 hectares in size and used mainly for farming.</li> <li>5. The buyer previously signed a contract for the same property.</li> <li>6. The buyer is an estate agent or body corporate.</li> </ol>					
<b>Discipline</b>	<p>Property Agents and Motor Dealers Tribunal.</p> <p>Current licensees</p>	<p>Office of Fair Trading.</p>	<p>Estate Agents Council.</p> <p>3 of the 8 members must be appointed</p>	<p>Office of Consumer &amp; Business Affairs.</p>	<p><b>Currently</b></p> <p>Real Estate and Business Agents</p>	<p>Auctioneers &amp; Real Estate Agents Council of Tasmania.</p>	<p>Agents Licensing Board of the Northern Territory.</p> <p>2 industry members</p>	<p>Office of Fair Trading.</p>



	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	and executive officers of licensed corporations prohibited from appointment to Tribunal.		from a panel of names submitted by REIV.		Supervisory Board (REBAs) undertakes hearings and disciplinary functions.  <b>As from late 2004:</b>  All disciplinary functions will be undertaken by State Administrative Tribunal (SAT).  REIWA provides an arbitration and disciplinary service accessible to members and the public.		hold office on Board.	
<b>Appeals</b>	To the courts <b><u>only on matters of law.</u></b>	Appeals may be made in relation to the non-issue or renewal of license, to the Court.	No information provided.	No information provided.	State Administrative Tribunal.	As above.	Local Court.	Consumer and Trading Tribunal.
<i>Appeals cont...</i>								
<b>Codes of Conduct</b>	REIQ has a Code governing "Standards of Business Conduct".  Prescribed by Regulations.  Separate codes for:  1. Real Estate Agents;  2. Auctioneers;  3. Property Managers;  4. Property Developers;	Prescribed by Regulations.	Estate Agents (Professional Conduct) Regulations 1997.  REIV:  1. Code of Conduct.  2. Auction Code of Conduct.  3. Commercial Leasing Code.  4. Body Corporate Code of Conduct.	No code of conduct in legislation.  REISA Code of Conduct.	Issued in terms of REBA Act.  Code of Conduct for Agents and Sales Representatives.  REIWA has Code of Conduct.	Auctioneers & Real Estate Agents Act and Regulations.  REIT has a member Code of Conduct.	Contained in ALA.	No code of conduct in legislation.

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
	and 5. Restricted letting agents. 6. Penalties up to \$15,000 apply for each and every breach.		5. Rules of Practice. 6. Rules of Conduct of an Auction.					
<b>Fidelity Funds</b>  Fidelity funds cont...	Claims Fund. Non-contributory. Persons dealing with licensed property developers are precluded from claiming.	Property Services Compensation Fund. Contributory.	Estate Agents Guarantee Fund. Non-contributory.	Agents Indemnity Fund.	Fidelity Guarantee Fund. Managed by Real Estate and Business Agents Supervisory Board (REBAs). All applicants of Sales Registration pay \$45, including each renewal. All applicants for licence pay \$150, including each renewal.	Auctioneers and Real Estate Agents Trust.	Agents Licensing Fidelity Guarantee Fund. Moneys of the Fund are comprised of contributions and levies paid under Act, licence and registration fees, fines imposed by Board, and interest accrued from investment of moneys of fund.	Consumer Compensation Fund.

Prepared by:

REIA Secretariat  
30 June 2005