



REIA SUBMISSION TO THE PRODUCTIVITY COMMISSION ON PERFORMANCE BENCHMARKING OF AUSTRALIAN BUSINESS REGULATION

BACKGROUND

1. To assist the Council of Australian Governments (COAG) to implement its in-principle decision to adopt a common framework for benchmarking, measuring and reporting on the regulatory burden on business, the Commonwealth Government has directed the Productivity Commission to undertake a study on performance indicators and reporting frameworks across all levels of government. The Productivity Commission has published an issues paper and called for responses by 30 September 2006.
2. The Real Estate Institute of Australia (REIA) is the peak national professional association for the real estate industry in Australia. The 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 REIA's submission identifies: the areas where benchmarking would be most useful; meaningful performance indicators; potential data sources; and compliance costs associated with data collection.

ISSUES

4. Australia's federated political structure has resulted in overlapping and unnecessary regulation at the State, Territory and Federal level. With nine jurisdictions legislating in the area of real estate practice, there are substantive differences between cross-jurisdictional regulatory requirements, compliance procedures and the treatment of persons/businesses found to be in breach of regulations. An overview of the legislative differences relating to real estate practice across the jurisdictions is provided at Annex A. This is exacerbated with a tenth jurisdiction including New Zealand.
5. 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 compliance burden, both in terms of cost and time, on all real estate businesses. 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.

6. The patchwork of regulation affecting real estate stands in contrast to the direction of business and workplace reforms, advanced through the National Competition Policy and other mechanisms. Australian Governments should recognise that there are no longer boundaries on the business map. In order to address this situation, a multi-government approach to identifying and removing inconsistencies across the various jurisdictions is required.
7. While some progress may be forthcoming in the areas of training and licensing as a result of the recent cornerstone agreement by COAG on mutual recognition, there is much more to be done in all areas of regulation affecting business practices generally, and real estate business specifically.
8. The release of the report “Rethinking Regulation” in January 2006 by the Australian Government’s Taskforce on Reducing Regulatory Burdens on Business has helped illustrate the depth and breadth of the problems now evident within the Australian regulatory environment. This single report has identified a plethora of areas including health, labour markets, consumer protection, environmental, building, financial, corporate, taxation, superannuation and trade in which Commonwealth regulations are unnecessary, overly burdensome or duplicated in other jurisdictions.
9. The REIA supports COAG’s in-principle decision to adopt a common framework for benchmarking, measuring and reporting on the regulatory burden affecting business across Australia. Such an approach will lay the foundation for identifying areas of inconsistency, identifying sensible minimum regulatory requirements and implementing processes to achieve nationally consistent business regulation.
10. To aid this process, the REIA has addressed the specific questions posed within the Productivity Commission’s Issues Paper in the sections below.

RELEVANT EXISTING STUDIES

Are There Any Other International or Domestic Studies that Could Provide Useful Guidance?

11. The REIA is aware of an initiative currently being undertaken by the Australian Tax Office (ATO) aimed at promoting the standardisation of business documentation and the sharing of this information between clusters of Government agencies. Part of this process has required the summation of business documentation required by different Government agencies, which is closely related to the overall regulatory burden. The REIA understands that the ATO has been in close liaison with the Productivity Commission in progressing this project.

12. While not specific to the regulatory burden per se, the REIA is also aware of two other ongoing projects within the real estate industry that are able to provide some level of benchmarking. Firstly, the report “Real Estate Services” last published by the Australian Bureau of Statistics (ABS) during 2002-03 provides a measure of various elements of the real estate industry including levels of employment and items of expenditure, some of which may be related to the regulatory burden (e.g. workers compensation costs). The ABS also publishes many other reports relating to various facets of the operation of Australian businesses and often holds additional data that is not explicitly published in the reports.

13. The second major project that the REIA is aware of relates to the report “The Australasian Real Estate Agency Interfirm Comparison” which is published annually by Bestpractice.com.au Pty Ltd. This report examines the performance of various sized real estate agencies across all Australian jurisdictions and New Zealand, and includes comparisons of revenue, expenses and other key performance indicators such as net advertising costs and surpluses per agency principal.

OBJECTIVES AND REPORTING OPTIONS

What Purposes can Benchmarking Most Usefully Serve?

14. The main purpose of benchmarking the regulatory burden facing businesses is to quantify and qualify the overall level of regulation evident within each jurisdiction and to establish an objective basis for cross-jurisdictional comparison.

15. In doing so, it will also be possible to compare various elements of the regulatory environment in different jurisdictions, enabling the identification of areas of inconsistency, which are likely to add a significant costs to businesses when considering cross-boarder trade and competition. In addition, the benchmarking process should aim to standardise regulatory definitions across all Australian jurisdictions to aid meaningful comparison and business understanding.

16. Ultimately, the benchmarking process should aim to enable jurisdictional policy makers to identify sensible minimum regulatory requirements (or best practice standards) that could be applied on a nationally consistent basis and to underpin a co-operative negotiating process through which each jurisdiction can move towards this goal. Benchmarking will also play an important on-going role in monitoring regulation ‘creep’ and the impact of regulatory changes over time.

17. If published, the preliminary outcomes of the process will allow businesses to better assess and compare the regulatory regimes in different jurisdictions, which should act to introduce a level of competition between jurisdictions for the establishment of new businesses and the retention of existing businesses. Inherent competition brought about by greater transparency will add further pressure for jurisdictions to achieve a nationally consistent, low-regulation environment.

18. In addition to benchmarking, much of the existing legislation could 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.

How Wide in Coverage Should the Benchmarking Be?

19. The REIA believes, that as a first step, the full range of regulations impacting upon Australian business operations should be examined. While it is attractive from a 'resource use' point of view to look at a narrow range of regulations only, this approach may neglect to address a whole range of regulations that apply in only a few jurisdictions or that impact on a particular industry sector only (e.g. real estate licensing).

20. Once benchmarks are established, it will become apparent which areas require urgent attention from a business perspective and which areas are reasonably consistent across all jurisdictions. Future efforts may then be directed towards higher priority issues.

21. In order to ensure that full coverage is achieved, it may be useful to breakdown the benchmarking effort into specific categories generally affecting all businesses such as:

- a. starting a new business;
- b. running a business; and
- c. disposing of a business.

Specific regulations may then be identified which fall within each of the above categories.

Which Regulations or Regulatory Areas should be Benchmarked?

22. The regulatory burden on real estate businesses comprises the full range of general small business regulatory requirements as well as real estate specific requirements. In a general sense, the regulations applicable to most Australian small businesses fall into one of the following six categories:

- a. Taxation (e.g. business registration, GST, payroll tax, company tax, individual tax, property taxes);
- b. Industrial Relations (e.g. WorkChoices, workers compensation, privacy, OH&S);
- c. Consumer Protection (e.g. Professional licensing, trade regulation, competition policy, privacy);
- d. Investor Protection (e.g. financial services regulation);
- e. Environmental Protection (e.g. EPBC, pollution); and
- f. Social Planning (e.g. building standards, zoning).

23. Using these categories in conjunction with the suggestion presented by the REIA in the preceding section, it should be possible to construct a matrix illustrating, for example, the "taxation" related regulations applicable when "starting a new business".

24. While the REIA supports the benchmarking of all regulations affecting Australian businesses, some regulatory areas of specific concern to the REIA include:

- a. professional licensing (real estate agent licensing);
- b. building regulation;
- c. development assessment arrangements;
- d. property law (ownership and title including transfer);
- e. property taxation (including stamp duties and land taxes);
- f. the maintenance and operation of trust accounts;
- g. privacy;
- h. OH&S;
- i. industrial relations;
- j. special property disclosures (e.g. energy efficiency, water efficiency, presence of asbestos);
- k. foreign investment guidelines; and
- l. trade practices / fair trading.

25. 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.

Prioritisation

26. While the REIA would eventually like to see all regulations impacting upon Australian businesses benchmarked for cross-jurisdictional comparison, it makes sense to prioritise the order in which this process is to occur. There are several reasons for some level of prioritization to occur.

27. Firstly, there are an extremely large number of regulations that need to be benchmarked. It will not be possible to pursue all of these simultaneously within reasonable resource constraints.

28. Secondly, it is logical to develop and establish workable benchmarking systems and processes prior to attempting to benchmark all other regulations. This will help to minimise errors which could otherwise be duplicated across many areas. A robust process should first be established for a 'representative' regulation (e.g. OH&S) which may then be used to assess all other similar regulations.

29. The selection of priority regulations should be based upon those likely to impact on all businesses, that cut across all levels of government, that are evidently different in different jurisdictions, that relate to known areas of concern or that are known to add a significant burden to business operations in some jurisdictions.

30. In addition, it also makes sense to select a spectrum of regulations that particularly impact on big business, small business and priority industry sectors, such as real estate, where all jurisdictions are regulating and there is significant cross-boarder trade.

Which Approach would be most Cost Effective?

31. It is of course most cost-effective to look at regulations on a priority basis, and limit the overall examination to high priority areas that affect all businesses only. However, this approach will not necessarily reflect the needs and priorities of individual industry sectors, such as the real estate sector, that may have significant legitimate concerns with regard to the level and consistency of the cross-jurisdictional regulatory burden.

32. The net benefits of a consistent approach for affected businesses must be considered. While there may be a disproportionate cost at the outset when examining the regulations applicable to smaller industries, this 'disproportion' is also likely to be applicable to the actual level of regulation affecting the industry sector (i.e. smaller industries are likely to be affected by regulations to a higher degree). Thus, efforts to remove or standardise regulations applicable to smaller industry sectors are likely to result in relatively high net benefits for affected businesses. The REIA therefore asserts that an all encompassing approach has the potential to be most cost-effective.

How should Regulatory Burden be Measured?

33. The overall regulatory burden must ultimately be measured in terms of businesses costs and lost opportunities, including:

- a. the direct financial costs of adhering to regulations (i.e. fees, taxes, charges);
- b. the indirect financial costs of adhering to regulations (i.e. time spent filling out forms, reading material or obtaining necessary information); and
- c. lost business opportunities (i.e. restrictions on trade, risk related uncertainties, additional regulatory costs associated with participating in differently regulated markets, lack of time to participate in other markets due to time spent in office).

34. In order to aid meaningful comparison, standardised definitions of the various regulations must also be agreed and applied across all jurisdictions. Further, objective and repeatable methodologies must be developed to ensure that useful comparisons may take place now, and in the future, in a manner which facilitates analysis of the regulatory burden over time.

How Useful are Indirect Measures?

35. Indirect measures are useful for a number of reasons. Firstly, a direct measure may simply not be available in some circumstances (e.g. lost business opportunities). Secondly, the collection of data pertaining to a direct measure may actually significantly increase the regulatory burden on affected businesses in its own right. Thirdly, indirect measures may be more cost-effective and timely to collect than alternative direct measures (e.g. sourcing information from industry based reports that gives a good indication of certain costs, but is not quite ideal for the purpose of regulatory benchmarking). Last, but perhaps most important, an indirect measure may be selected that illustrates the ultimate goal of reducing regulation rather than pertaining to any particular regulation (for instance, a measure of the total average administrative costs applicable to a certain type of business may be of more interest to an industry sector than detailed breakdowns of each particular element. Industries may be satisfied with an overall reduction, rather than a reduction with regard to each element).

36. On the other hand, indirect measures are not as robust as direct measures as they may be open to interpretation by various stakeholders and thus may be considered to be somewhat subjective. If meaningful cross-jurisdictional benchmarking is to occur, subsequent debates about the significance and comparability of results must be avoided. If indirect measures are to be used, all stakeholders must agree on how the indirect measure is to be used and how results are to be interpreted prior to actual benchmarking taking place.

37. On the whole, direct measures should be used where possible, but the use of indirect measures may also be appropriate in some circumstances.

What Scope is there to Target Incremental or Unnecessary Cost Burdens?

38. Depending upon the availability of acceptable regulatory indicators, the REIA believes that cross-jurisdictional benchmarking will provide excellent scope for targeting both incremental and unnecessary cost burdens. Specifically, incremental cost burdens may be analysed once an agreed regulatory baseline is established in respect of a particular regulation, and regular measurements are made against an agreed indicator and reported over time.

39. While it may be argued that different jurisdictions have different regulatory requirements, in a general sense, unnecessary cost burdens should become apparent where there is an absence of target regulations in a particular jurisdiction, yet there is no apparent detrimental impact on the areas for which the regulation has been imposed in other jurisdictions.

Are these Reporting Options Feasible, and for which Areas of Regulation? Which of the Feasible Options are Essential? Which of the Options do you think are cost-Effective?

40. The following text considers all three questions listed above.

41. From the perspective of individual businesses and industry sectors, it would be most fitting for the Productivity Commission to report on the quantitative and qualitative indicators of the various elements of the total spectrum of the regulatory burden in each jurisdiction. Individual businesses or industry sectors are likely to be affected by different regulations to different degrees and such a reporting process will enable businesses to more fully compare the impact of each specific regulation on their individual circumstances. This style of reporting is also extremely important for allowing policy makers to consider changing specific regulations in specific jurisdictions. The REIA believes that while this style of reporting is essential, the cost-effectiveness of reporting against particular indicators will need to be assessed on a case-by-case basis.

42. Reporting against composite indicators which illustrate the relative overall regulatory performance of jurisdictions would also be feasible when considering the regulatory burden as a whole. However, while this style of reporting would be useful for some industry sectors, there is a risk that well-performing jurisdictions will simply focus on using the information as a basis to deflect criticism of their regulatory regimes and as a general means to attract new business to their jurisdiction – rather than as a basis for pursuing real regulatory reform.

43. While it is quite feasible and relatively inexpensive to report against the differences in regulatory objectives and benefits in each jurisdiction, this should only be required where significant regulatory differences are apparent and it is likely that attempts will be made to enshrine national consistency. While relatively easy to undertake, it may not be cost-effective to undertake this type of analysis unless this is the case.

44. While feasible to report against, differences in the regulation-making process and legislation are not particularly relevant to most businesses and should only be looked at where there are demonstrated differences in actual regulations and it is likely that attempts will be made to enshrine national consistency. Moreover, this style of reporting will only be useful and cost-effective when considering how affected jurisdictions may move towards national consistency.

45. Where indirect measures are necessitated, information on the relationship between the chosen 'indirect' indicator and the actual cost of estimating the typical or aggregate cost arising from 'unnecessary' burdens should always be included. This should be both feasible and cost-effective as these issues will need to be considered when selecting an appropriate 'indirect' indicator.

How Should the Benchmarking Deal with Such Data, Measurement and Comparability Limitations?

46. As discussed in the Issues Paper, there are indeed likely to be constraints relating to data availability, measurement limitations and comparability limitations for particular regulations in many instances. The REIA agrees that a lack of available data is likely to be the primary constraint in benchmarking most regulations.

47. The proper response to these benchmarking limitations essentially involves adequate foresight and planning to ensure that potential problems are identified early in the benchmarking process. This process should involve close stakeholder consultation, as is now occurring, as well as an innovative and proactive approach to problem solving.

48. Where data limitations are likely to apply, other ‘indirect’ measures should be investigated such that reasonable conclusions may be drawn in respect of any perceived differences in the regulatory burden. If there is no scope to compare measurements of incremental costs, then it is prudent not to waste resources collecting irrelevant data only to find it is not useful.

49. As far as comparability issues are concerned, the basis for making comparisons must always be known and agreed prior to data collection. Where regulations have been designed to produce different outcomes, this should be reported as part of the benchmarking process. However, from a business perspective, some regulations may still be able to be compared on the basis that the regulations are the same, but that net benefits may differ. As suggested in the previous section, this type of comparison (and subsequent reporting) should only be required where significant regulatory differences are apparent and it is likely that attempts will be made to enshrine national consistency.

How Important is it to Enumerate the Qualifications for Each Benchmarking Comparison?

50. As indicated above, these issues must ultimately be addressed through sensible foresight and planning. Part of this process must involve recognising and enumerating the qualifications that will apply to each benchmarking comparison prior to benchmarking actually being carried out.

WHICH INDICATORS

What Criteria should be used in Selecting Indicators?

51. The REIA supports the suggested criteria for selecting indicators as presented in the Issues Paper including:

- a. significance and relevance;
- b. comparability;
- c. data availability and cost;
- d. acceptability and ease of interpretation;
- e. timeliness;
- f. robustness;
- g. sensitivity to policy changes; and
- h. empirical support for links to causality or outcomes.

52. The REIA would also add that indicators should be as ‘direct’ as possible, based upon common definitions and not overly sensitive to outside influences (or at least the effect of outside influences should be able to be isolated and removed).

For the Benchmarking of Interest to you, what are some of the Indicators that you think should be used? What are the Main Caveats that apply in their interpretation?

53. The following text considers both questions listed above.

54. There are several indicators that can be used in most instances without regard for the type of regulation or the industry to which it is applied. For instance, general indicators related to the regulatory burden might include:

- a. number of forms applicable;
- b. time spent filling in forms;
- c. the regularity that forms must be completed;
- d. the number of agencies to which forms must be supplied;
- e. time spent waiting for approvals;
- f. direct costs in terms of application fees, charges and taxes; and
- g. indirect costs in terms of wages or lost opportunities.

55. Indicators of specific interest to the REIA would also include:

- a. **Community costs** brought about by regulatory restrictions (e.g. for planning and approval processes this would be the costs imposed on the community by restricting where people may live, work and play). Caveats may include an inability to isolate and quantify particular costs worn by particular community groups;
- b. **Ongoing transaction costs** (e.g. costs applicable to each subsequent transaction, for instance, the cost of disclosing an energy rating on a building for each property sale). There should be no significant caveats in collecting and analysing this type of information;
- c. **The level of competition** (e.g. restrictions on cross-boarder trade may result in industrial inefficiencies). It may be difficult to qualify and quantify the level of trade that would occur in the absence of competitive restrictions. However, the National Competition Council has no doubt developed indicators and processes that should aid analysis in this area;
- d. **Required qualifications** (e.g. the number and level of prescribed qualifications to operate across various jurisdictions). There are few caveats in this area, it is simply a matter of researching and collecting the required information;
- e. **Other indirect financial costs** (e.g. interest on borrowings while waiting for a development approval). This is a difficult area as “other” costs may encompass a wide range of costs that may only be applicable in certain business models; and
- f. **Risks and Uncertainties** (e.g. businesses may shy away from becoming involved in certain business activities due to a lack of clarity about the degree to which regulations may or may not apply in other jurisdictions). Direct liaison with affected industries will be required to identify these areas.

DATA COLLECTION, COMPILATION, ASSESSMENT AND REPORTING

What Scope is there to get Accurate Information from Businesses in Australia?

56. In the opinion of the REIA, there are three main ways to acquire information from businesses in Australia:

- a. **Direct surveys:** The Productivity Commission may wish to devise appropriate questionnaires that would be sent to individual businesses. It may not always be possible to survey all affected businesses and smaller sub-samples may be required. There are also many regular industry surveys already undertaken by Governments such as those undertaken by the ABS or the Australian Bureau of Agricultural Resource Economics.
- b. **Collation of existing regulatory data:** All Governments currently hold various types of data applicable to the regulatory environment. For instance, State Governments hold a record of all property taxes applied to commercial entities as well as fees charged for new business registrations.
- c. **Industry data:** Organised industries such as the real estate industry may hold data on particular aspects of the regulatory environment. For instance, the REIA maintains a matrix depicting the different real estate licensing requirements, trust account requirements, level of property taxes and requirements relating to other regulations (such as residential tenancy databases) across all jurisdictions. Other information may also be held by individual Real Estate Institutes at State/Territory level. In addition, the REIA is aware that the Property Law Reform Alliance is developing similar matrices relating to the differences in cross-jurisdictional property law (e.g. for conveyancing, leasing and property documentation). Industries could also be approached with a view to generating additional data required for benchmarking in some instances.

How Useful are Qualitative Survey Results in Benchmarking?

57. Qualitative survey results are useful for identifying the presence or persistence of regulatory inconsistencies and will often represent the first step in devising a process to efficiently collect any required quantitative data. For example, while the REIA's matrix of real estate licensing requirements illustrates the differences across Australian jurisdictions, it does not quantify the costs imposed by such differences. Further research would be required to obtain data to quantify these impacts, and this research should be directed towards the areas where inconsistency is greatest.

58. In some instances where quantitative data is not available, qualitative data may simply need to suffice. Assumptions would then need to be made with regard to whether or not apparent regulatory differences are likely to result in some level of unnecessary regulatory burden.

How Important is it to Ensure that Businesses are Sampled Rigorously so that Benchmarking Results are Representative and can be Aggregated?

59. While it is important that businesses are sampled rigorously to ensure that benchmarking results are representative and can be aggregated, it is also important to ensure that the benchmarking effort does not, in itself, add to the overall regulatory burden. For instance, if all businesses in all jurisdictions were required to fill out and submit quarterly surveys, the total regulatory burden is likely to increase prior to any subsequent decrease. The REIA believes that it would be more prudent to construct an agreed sampling methodology that has regard for the number and structure of target businesses in each particular jurisdiction.

To what Extent does Relevant Benchmarking Data Already Exist within Jurisdictions?

60. The REIA is unable to add further information to that already provided at paragraphs 11, 12 and 13.

What Institutional Arrangements would Enhance the Benchmarking?

61. The REIA believes that improved institutional arrangements would indeed enhance the benchmarking effort. The following suggestions relate to enhancing the benchmarking effort as well as improving the overall regulatory regime:

- a. ensuring that the definitions of small business, including number of employees, earnings and thresholds, are consistent across all Government 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 they affect small business;
- c. ensuring that the interdepartmental relationship of Government with small business extends beyond the consultation processes currently established by some agencies. For instance, the inclusion of policy makers from Treasury would enhance consultations between small businesses and the ATO;
- d. 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;
- e. reduction of paperwork e.g. filling in lengthy forms with business details, through better linkages between the information held by different Government departments; and
- f. ensuring regulations are not duplicated at Federal and State level e.g. currently there are both Federal and State level Privacy Acts;

62. With respect to the real estate industry, practical solutions to the issues listed above would 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; and
- c. 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).

SUMMARY

63. Australia's federated political structure has resulted in overlapping and unnecessary regulation at the State, Territory and Federal level. With nine jurisdictions legislating in the area of real estate practice, there are substantive differences between cross-jurisdictional regulatory requirements, compliance procedures and the treatment of persons/businesses found to be in breach of regulations.

64. Harmonisation of the regulatory environment nationwide would be a significant step forward in reducing red tape on business.

65. The REIA supports COAG's in-principle decision to adopt a common framework for benchmarking, measuring and reporting on the regulatory burden affecting business across Australia. Such an approach will lay the foundation for identifying areas of inconsistency, identifying sensible minimum regulatory requirements and implementing processes to achieve nationally consistent business regulation.

66. The REIA looks forward to the release of the Productivity Commission's Discussion Paper on this issue and the release of the Final Report in February 2006.

Prepared by:

Secretariat
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29 September 2006

Annex:

A. Summary of State Legislation Regulating Real Estate Practice



SUMMARY OF STATE LEGISLATION
REGULATING REAL ESTATE AGENCY PRACTICE

AS AT 30 JUNE 2006

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 (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Principal legislation	<i>Property Agents and Motor Dealers Act 2005.</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>Estate Agents (Professional Conduct) Regs 1997.</i> <i>Estate Agents (Contracts) Regs. 1997.</i> <i>Estate Agents (General, Accounts and Audit) Regs 1997.</i> <i>Estate Agents and Agent's Representative (Courses of Instruction and Examinations) Regs 1995.</i> <i>Estate Agents (Education) Regs 2004.</i> <i>Estate Agents (Exemption) Regs</i>	<i>Land Agents Act 1994.</i> <i>Land and Business (Sale and Conveyancing) 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>Property Agents & Land Transactions Act 2005.</i>	<i>Agents Licensing Act 1979.</i>	<i>Civil Law [Sale of Residential Property] Act 2004.</i> <i>Residential Tenancies Act 1997.</i> <i>Agents Act 2003.</i>

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
			1997. Estate Agents (Exemption) Regs 2005. Estate Agents (Fees) Regs 1996.					
Administration	Office of Fair Trading.	Office of Fair Trading.	Consumer Affairs Victoria. Business Licensing Authority.	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.
Other relevant legislation	<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 & Tenancy Tribunal Act 2001.</i> <i>Community Land Management Act 1989 (plus other Community Acts).</i> <i>Contracts Review Act 1980.</i> <i>Conveyancing Act 1919 (various).</i> <i>Conveyancers</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>Fair Trading Act 1999.</i> <i>Property Law Act 1958.</i> <i>Settled Land Act 1958.</i> <i>Transfer Of Land Act</i>	<i>Strata Titles Act 1988.</i> <i>Community Titles Act 1996.</i> <i>Residential Tenancies Act 1995.</i> <i>Fair Trading Act 1987.</i> <i>Real Property Act 1886.</i> <i>Retail & Commercial Leases Act 1995.</i> <i>Land Valuers Act 1994.</i> <i>Conveyancers Act 1994.</i> <i>Development Act 1993.</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>Caravan Parks and Camping Grounds Regulations 1997.</i> <i>Commercial Tenancy (Retail Shops) Agreements Act 1985.</i> <i>Commercial Tenancy (Retail Shops) Agreements Regulations 1985.</i> <i>Conservation and</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 1998.</i> <i>Duties Act 2001.</i> <i>Fair Trading Act 1990.</i> <i>Acts Interpretation Act 1931.</i> <i>Residential Tenancy Act 1997.</i> <i>Residential Tenancy Amendment 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>Law of Property Act 2000.</i> <i>Real Property (Unit Titles) Act 1975</i> <i>Auctioneers Act 1996.</i>	<i>Civil Law [Sale of Residential Property] Regulation 2004.</i> <i>Residential Tenancies Regulation 1998/2005.</i> <i>Agents Regulation 2003.</i>
Other relevant legislation cont...								

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Other relevant legislation cont...		<i>Licensing Act 1995 .</i> <i>Conveyancers</i> <i>Licensing Act 2003.</i> <i>Crimes Act (various).</i> <i>Dividing Fences Act</i> <i>1991.</i> <i>Environmental</i> <i>Planning &</i> <i>Assessment Act</i> <i>1979.</i> <i>Fair Trading Act</i> <i>1987.</i> <i>Land Tax Act 1956.</i> <i>Land Tax</i> <i>Management Act</i> <i>1956.</i> <i>Local Government</i> <i>Act 1993.</i> <i>Landlord & Tenant</i> <i>Act 1899.</i> <i>Landlord & Tenant</i> <i>(Rental Bonds) Act</i> <i>1977.</i> <i>Law of Property Act</i> <i>1898.</i> <i>Occupational Health</i> <i>& Safety Act 2000.</i> <i>Real property Act</i> <i>1900.</i> <i>Retail Leases Act</i> <i>1994 (various other</i>	<i>1958.</i> <i>Retirement Villages</i> <i>Act 1986.</i> <i>Legal Profession Act</i> <i>2004.</i> <i>Occupational Health</i> <i>& Safety Act 2004.</i> <i>VCAT Act 1998.</i> <i>Electronic</i> <i>Transactions Act</i> <i>2000.</i> <i>Essential Services</i> <i>Act 1999.</i> <i>Land Acquisition &</i> <i>Compensation Act</i> <i>1986.</i> <i>Heritage Act 1995.</i> <i>Historic Buildings Act</i> <i>1981.</i> <i>Planning &</i> <i>Environment Act</i> <i>1987.</i> <i>Valuation Of Land</i> <i>Act 1960.</i> <i>Duties Act 2000.</i> <i>Land Tax Act 1958.</i> <i>Trustee Act 1958.</i>	<i>Land Acquisition Act</i> <i>1969.</i> <i>Landlord and Tenant</i> <i>Act 1936.</i> <i>Law of Property Act</i> <i>1936.</i> <i>Heritage Places Act</i> <i>1993.</i> <i>Fences Act 1975.</i> <i>Business Names Act</i> <i>1996.</i> <i>Crown Lands Act</i> <i>1929.</i> <i>Encroachments Act</i> <i>1944.</i> <i>Environment</i> <i>Protection Act 1993.</i> <i>Geographical Names</i> <i>Act 1991.</i> <i>Irrigation Act 1994.</i> <i>Legal Practitioners</i> <i>Act 1981.</i> <i>Local Government</i> <i>Act 1934.</i> <i>Local Government</i> <i>Act 1999.</i> <i>Misrepresentation</i> <i>Act 1972.</i> <i>Native Title (South</i> <i>Australia) Act 1994.</i>	<i>Land Management</i> <i>Act 1984.</i> <i>Conservation and</i> <i>Land Management</i> <i>Regulations 2002.</i> <i>Consumer Affairs Act</i> <i>1971.</i> <i>Fair Trading Act</i> <i>1987.</i> <i>Fair Trading</i> <i>(Retirement Villages</i> <i>Code) Regulations</i> <i>2003.</i> <i>First Home Owner</i> <i>Grant Act 2000.</i> <i>First Home Owner</i> <i>Grant Regulations</i> <i>2000.</i> <i>Heritage of Western</i> <i>Australia Act 1990.</i> <i>Land Administration</i> <i>Act 1997.</i> <i>Land Administration</i> <i>Regulations 1998.</i> <i>Licensed Surveyors</i> <i>Act 1909.</i> <i>Licensed Surveyors</i> <i>Amendment Act</i> <i>1996.</i> <i>Local Government</i> <i>Act 1995.</i>	2005.		

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Other relevant legislation cont...		<i>Retail Acts).</i> <i>Retirement Villages Act 1999.</i> <i>Strata Schemes (Freehold Development) Act 1973.</i> <i>Strata Schemes (Leasehold Development) Act 1986.</i> <i>Strata Schemes Management Act 1996 (various other Strata Acts).</i> <i>Trustee Act 1898.</i> <i>Trustee Act 1925.</i> <i>Various Insurance Related Acts.</i> <i>Valuers Act 2003.</i> <i>Valuation of Land Act 1916.</i> <i>Conveyancing (Sale of Land) Regs 2005.</i> <i>Residential Tenancies Regs 2006.</i>	<i>Building Act 1993.</i> <i>Business Names Act 1962.</i> <i>Business Licensing Authority Act 1998.</i> <i>Commercial Arbitration Act 1984.</i> <i>Domestic Buildings Contracts Act 1995.</i> <i>Equal Opportunity Act 1995.</i> <i>Fences Act 1968.</i> <i>Forestry Rights Act 1996.</i> <i>Goods Act 1958.</i> <i>Information Privacy Act 2000.</i> <i>Instruments Act 1958.</i> <i>Land Act 1958.</i> <i>Landlord & Tenant Act 1958.</i> <i>Limitations of Actions Act 1958.</i> <i>Local Government Act 1989.</i>	<i>Native Vegetation Act 1991.</i> <i>Partnership Act 1891.</i> <i>Pastoral Land Management and Conservation Act 1989.</i> <i>Rates and Land Tax Remission Act 1986.</i> <i>Retirement Villages Act 1987.</i> <i>Stamp Duties Act 1923.</i> <i>Unclaimed Moneys Act 1891.</i> <i>Valuation of Land Act 1971.</i> <i>Natural Resources Management Act 2004.</i>	<i>Native Title (State Provisions) Act 1999.</i> <i>Property Law Act 1969.</i> <i>Occupational Safety and Health Act 1984.</i> <i>Occupational Safety and Health Regulations 1996.</i> <i>Residential Tenancies Act 1987.</i> <i>Residential Tenancies Regulations 1989.</i> <i>Retirement Villages Act 1992.</i> <i>Retirement Villages Regulations 1992.</i> <i>Sale of Land Act 1970.</i> <i>Settlement Agents' 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</i>			

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
			<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>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>			
Scope Scope cont..	Real estate agents. Registered sales person. Auctioneers. Property developers. Restricted letting agents. Pastoral houses. Motor dealers. Commercial agents.	Real estate agents. Stock and station agents. Business agents. Strata managing agents. Community managing agents. On-site residential property managers. Buyers agents. Valuers. Auctioneers.	Estate Agents which includes: 1. auctioneers. 2. agents representatives.	Registered land agents. Sales Representative. Business Agents. Commercial Leasing Agents.	Real estate agents. Sales representatives. Sales representative (property management).	Real estate agents. Auctioneers. Sales consultants (includes property managers).	Real estate agents. Business Agents. Registered agent's representatives. Conveyancing Agents.	Real estate agents. Stock and station agents. Business Agents. Travel agents. Employment agents.

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
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.	Estate Agents Act 1980 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	Real estate agent. Registered sales person. Auctioneer. Property developer. Resident letting agent. Pastoral house. Pastoral house director. Pastoral house manager. Pastoral house auctioneer. Property developers must be licensed if they sell more than 6 residential properties	Real estate agent. Stock and station agent. Business agent. Strata managing agent.	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 registration. Sales representatives registration (property management). Currently no licence is required to conduct Strata	Real estate auctioneer. General auctioneer. Employed auctioneer Probationary auctioneer Temporary auctioneer. Real estate agent. Real estate manager. Real estate sales consultant.	Real Estate, Business & Conveyancing Agents.	Real estate agent. Stock and station agent. Business agent. Travel agent. Employment agent. Sales Persons.
Licence categories cont..								

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
	per year and have 15% or more interest in a property otherwise they must appoint a licensed real estate agent.				Management transactions.			
Advertising application for licence	Not publicly advertised.	Not applicable.	Not publicly advertised.	Not applicable.	Must be advertised.	Must be advertised. <i>*May change post the release of new regulations.</i>	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 – 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.
Term of licence Term of licence cont...	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.
Continuing Professional Development (CPD) requirements	Nil REIQ conducts CPD at no cost to members and staff of REIQ Accredited Agencies		Mandatory for REIV members. Estate Agents Act, S.45 permits Director of Consumer Affairs Victoria to require estate agents / agent's	No CPD requirements.	<i>Compulsory from January 2007</i>	There are no CPD requirements.		12 points annually (6 assessed & 6 non-assessed e.g. seminar attendance). Applies to both licensed agent and salesperson.

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
			representatives to undertake professional development training. (no requirement as at 30/06/2006)					
Suitability for all classes of licences	<p>Must not be affected by bankruptcy.</p> <p>18 years of age or 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>Fame and character of person or if corporation the directors and secretary and whether corporation fit and proper.</p> <p>Been deemed competent in prescribed competencies.</p> <p>Attained 18 years of age.</p>	<p>18 years of age or older; and</p> <p>Passed a prescribed course or 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>For land agents/salespersons must hold necessary qualifications as prescribed under 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</p>	<p><i>Real estate and business agents licence (individual):</i></p> <p>18 years of age or 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</i></p>	<p>Holds the prescribed educational qualifications.</p> <p>Must not have been convicted of an indictable offence.</p>	<p>18 years of age or older.</p> <p>Fit and proper 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>Attained 18 years of age.</p> <p>Fit and proper person.</p> <p>Is not disqualified.</p> <p>Been deemed competent in prescribed competencies.</p>

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Suitability for all classes of licences cont..			<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>	requirement.	<p><i>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 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</i></p>		The applicant is exempt from the requirement under s.108B to be insured under an approved indemnity insurance policy.	

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Suitability for all classes of licences cont..					<p><i>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 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</p>			

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
<p>Suitability for all classes of licences cont..</p> <p>Suitability for all classes of licences cont..</p>					<p>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 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>			

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Eligibility for Real Estate Agent's Licence	<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 & 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 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</p>	<p>PRD50101 (as stated) plus Real Estate Law (ABH510, ABH511, NAP750) Rural Sales (ABH530) and Selling businesses (ABH531).</p> <p>REIWA or TAFE or other RTO.</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 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</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"> • Real Estate Agent. • Stock and Station Agent. • Business Agents License.
Eligibility for Real Estate Agent's								

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Licence cont..				<p>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>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 real estate agency business to be granted a real estate agents licence.</p>		
Eligibility for Real Estate Agent's Licence cont..								
Eligibility for Auctioneer's Licence	Must have completed 2 competencies from the PRD01 Training Package for a provisional	Must have a real estate or stock and station agent's licence endorsed; must hold unit of competency	No licence required. Any licensed estate agent or an agent's representative can	No equivalent licence. No licence is required in SA only salesperson	Obtain a real estate auctioneer's licence through the "Commercial Agents Squad" – WA Police Department.	License issued based on satisfying issuing authority by exam that applicant has the relevant knowledge to	Licensed under the Auctioneers Act. Person must be over 18, of good character & fit and proper.	Has educational qualification or is a licensed agent.

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Eligibility for Auctioneer's Licence cont..	<p>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>	PRDRE26A or PRDSS23A.	conduct auctions.	qualification to auction land.	<p>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"> 1. No formal training is required. 2. Auctioneer conducts the auction through and on behalf of a Real Estate Agent. 3. Any person may obtain a chattels auctioneer's licence and auction chattels. <p>Renewed annually.</p>	<p>auction.</p>		
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.		<p>A separate licence can apply or a person can obtain a combined real estate & business agent's licence.</p> <p>Applicant must meet eligibility criteria as stated for real estate agent, except for</p>	As for Agents licence.

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
							competency-based training course. As a course is yet to be designed & delivered, the Board will accept former qualification – Certificate IV in Real Estate.	
Eligibility for Property Developer's Licence	The property developer's licence is only required if a developer sells more than 6 residential properties in a 12 month period. There are no educational requirements to obtain this category of licence.	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	Completion of 6 units of competency from the PRD01 Training Package, namely :- PRDRE18A; PRDRE39A; PRDRE10A; PRDRE19A; PRDRE37A and PRDRE28A.	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 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	No prescribed qualifications.	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 (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Director's 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 Real Estate Salespersons cont..	Must be registered. At least 18 years of age. Completed 4 units of competency from the PRD01 Training package, namely :- <ul style="list-style-type: none"> PRDRE13 A; PRDRE15 A; PRDRE18 A and PRDRE39 A Employees do not have to be registered if they perform clerical duties only such as collecting and banking rent.	Must be registered: 3 specified NSW units of competency; 4 different registration categories.	Eligibility for Estate Agent's representative. At least 18 yrs. Passed proscribed course of examinations. Police check & C/T. 3 state-based competencies. See requirements under "Suitability for all classes of licences", and Has not been convicted of any offence involving fraud, dishonesty, drug trafficking or violence punishable by 3 months or more imprisonment; and Is not an insolvent under administration; and	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. Sales Representatives must have completed Cert IV in Property (Real Estate) (see units identified above).	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). Sales Representatives Registration (Property Management) ABH500, ABH502, ABH510, ABH514,	Must be licensed. Must have satisfy the Council that sufficient knowledge is held (completion of REIT Sales Licensing Course or sit exam with Auctioneers and Real Estate Agents Council). Must maintain licence with 8 hours training per year. <i>*May change post the release of new regulations.</i>	(Referred to as a registered agent's representative). Must be registered to carry out functions for and on behalf of licensed agent. Person eligible for registration if over 18, fit and proper, holds prescribed qualifications and will be employed by licensed agent within the Territory.	Must be registered. Police check and educational qualifications required. Also the requirements listed under "Suitability for all Classes of License". Must be a qualified property manager.

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Real Estate Salespersons cont..			<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>ABH512, ABH515.</p> <p>TAFE Certificate for Real Estate Property Management; or</p> <p>REIWA Certificate for Real Estate Property Management.</p>			
Buyer's Agent	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 legislation.	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.	Licensing not required.	Falls within ambit of definition of a real estate agent.	Must be registered.
Property Developer Salesperson	Must be registered as a salesperson and the same requirements apply.	No equivalent.	No equivalent.	No equivalent.	Must be registered as a salesperson and the same requirements apply.	No equivalent.	No equivalent.	No equivalent.
Trainee Auctioneer	Must complete 2 competencies from the PRD01 Training Package for a provisional auctioneers licence, namely :- PRDRE39A and PRDRE14A.	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 (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Licence lending	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...								
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.	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.	A temporary manager's permit may be issued to an agent for a sales consultant who is qualified for this purpose to manage an office of an agent for a maximum period of six weeks in any year. To be qualified, the sales consultant must have held a license for a period exceeding two years. In the event that a real estate agent dies, the executor of the estate of the late licensee is deemed to be qualified to hold the license for a period not exceeding 12 months.	Registrar may approve operation of a registered office in absence of business manager for period not exceeding 60 days.	N/A.
Professional indemnity	Discretionary. Required for REIQ	No legislative requirements.	Required for REIV membership.	No legislative requirement.	No requirement in legislation.	Discretionary but required for REIT	Mandatory, unless exempted.	Discretionary but required for REI ACT

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
insurance	membership.			Required for REISA membership	Compulsory for REIWA membership.	membership.		membership.
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. OFT has specified what consists of 'supervision' under the Supervision Guidelines.	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.	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 under licence. A person may be appointed to be business manager of more than one office.	Licensed agent must manage business.
Prohibited Practices Prohibited practices cont...	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 commences.	Only licensed estate agents / agent's representatives may make representations to the public.	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. Must have a written Sales Agency Agreement. Can only share commission with partners/employees and other registered agents. Must not make a statement that is false or misleading.	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. Must make disclosures if you are a party to the deal. An agent must not demand, retain or receive a discount or rebate which relates to a service in	Must be licensed to handle property transactions.	Unlicensed persons not to act as agents.	Must be licensed or registered to handle property transactions. A full list of prohibited practices is contained in the Agent's Act 2003.

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
	session.			An Agent or employees not to have interest in land or business that agent is commissioned to sell. Not to receive deposit in more than 3 instalments.	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 22a required in every circumstance.</p> <p>All appointments are to be made on the Government approved document Agents must observe statutory procedures when listing.</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>Use of the proper forms is critical as agency appointments will be rendered ineffective if non-complying documentation is</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</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 are 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 	<p>Must be in writing (offence if not) and must be in writing to recover commission and expenses.</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. 	<p>Must be in writing in order to claim or recover commission otherwise the licensee must seek the leave of the court to institute legal proceedings to recover.</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 (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Agency appointments cont..	used. Agents must disclose any rebates, business referrals and any perceived conflict of interest.	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. Must state for rural and residential "This fee has been negotiated between 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.	4. Statement regarding venue for complaint The Principal must be given a signed copy of the written appointment. Agents must disclose rebates which must be passed on to principals. Commission sharing to be disclosed, if commission shared with anyone not employed by selling agent or with whom agent is in partnership.		4. Statement regarding venue for complaint. The Principal must be given a signed copy of the written appointment.			
Limitation on sole / exclusive agencies	60 days maximum for residential property. May be renewed not more than 14 days prior to expiry.	Nil, but for residential, 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.

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Remuneration and Recovery of Monies	<p>An agent may only recover a commission or any other financial reward or benefit if they are:</p> <ol style="list-style-type: none"> 1. licensed; 2. the licence authorises performance of the particular activity; and 3. the appointment is in writing on the approved form. 	<p>Must be licensed.</p> <p>Only entitled to commission if the appointment is in writing and as prescribed (see 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>	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.	No recovery of a fee, commission or other gain or reward unless licensed.	As per written agreement.
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 as a guide.</p>	Deregulated.	Deregulated.

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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 by the client upon receipt of an itemised statement of expenditure, and must be detailed in the Appointment to Act ..</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> <ol style="list-style-type: none"> 1. Supervising and inspecting major repairs and renovations; 	Only entitled if in Agency Agreement (see above).	Only entitled to be paid commission & expenses if hold an engagement or appointment hat complies with S.49A, Estate Agents Act 1980.	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.
Fees, charges and expenses cont..								

Fees, charges and expenses cont..

	QLD	NSW	VIC	SA	WA	TAS (regulator comments included 2006)	NT (regulator comments included 2005)	ACT
Fees, charges and expenses cont..	<ul style="list-style-type: none"> 2. Lodging building plans, and overseeing building applications; 3. Reading meters; 4. Coordinating advertising consultants, copywriters, photographers, graphic artists and designers; 5. Coordinating a marketing campaign that involves detailed market analysis, project or development feasibilities; 6. Coordinating sales agents who are not employees of the Licensee; 7. Consulting with architects, engineers and designers on behalf of a client; and 8. Providing written reports that do not involve the sale, 							

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Fees, charges and expenses cont..	<p>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 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>							

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Fees, charges and expenses cont..	<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:</p> <ol style="list-style-type: none"> 1. Promotional fees which include advertising and marketing costs; 2. Searches; 3. Other 							

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	<p>consultancy fees such as decorators, tradespeople, pest control, building inspectors etc; and</p> <p>4. Appointment of an Auctioneer.</p> <p>All fees, charges and expenses must be quoted on the Appointment to Act form as GST inclusive.</p>							
Publishing business names in property advertisements	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"> 1. Business name. 2. Partnership name. 3. Trading Name. 	Mandatory – must specify name of business and registered office: Estate Agents Act 1980,S.42(1).	No requirement.	Mandatory.	Mandatory.	Act requires agent to advertise that agent is licensed and business address.	Mandatory.
Disclosure of Rebates (to seller)	Any benefit or rebate must be fully disclosed on the Appointment to Act agreement (Form 22).	<p>Disclosure required under Sec 47 to all parties.</p> <p>Must disclose rebates and discounts in the agency agreement.</p>	<p>Any r rebate must be fully disclosed and passed on to principal.</p> <p>See under “Agency Appointments”.</p>	Disclosure is mandatory.	Mandatory.	Discretionary.	Agent is required to declare a beneficial interest in purchase or sale of land.	Rebates or benefits must be disclosed.

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Disclosure to buyers 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 the seller.	Licensee must disclose beneficial interest in property.	Agents must adhere to legal requirements concerning "secret" commissions and conflicts of interest.	Agent to disclose beneficial interest in property.	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.
Beneficial interest	Beneficial interest must be declared if a real estate agent or salesperson buys a	Sec 49 – disclosure required to all parties.	Prohibited from purchasing property agency engaged or appointed to sell,	Prohibited from purchasing property for which an agency appointment is held	Must have client's written agreement to pay commission. If there is a conflict of	An licensee who wishes to purchase a property listed for sale with the agency	Beneficial interest must be declared.	Beneficial interest must be declared.

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	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.		except in accordance with exemption granted under Estate Agents Act 1980, S.55	unless exempted by the Minister.	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.	by whom the licensee is employed is required to make a full disclosure of his/interest, obtain the vendor's written approval and obtain that approval prior to the commencement of negotiations.		
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.	Usually prepared by real estate agents or their sales representatives.	Prepared by sales consultants.	Must be in a form approved by the Registrar.	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 requirement.	No statutory requirements.	No information provided.	Contract must contain consumer information.	Yes.
Cooling-off periods	A 5 business days cooling-off period applies to all residential sales except sales at public auction (i.e. "under the hammer"). Cooling-off period	5 business days unless waived (s.66W Conveyancing Act requirement). No cooling off at sale by auction or if negotiated	A 3 clear business days cooling-off period applies <u>except</u> where: 1. The property is purchased at or within 3 business days	2 clear business days from date of issue of Form 1 and signed contract.	Only contracts which are subject to the provisions of the Door to Door Trading Act or Retirement Villages Act	Yes. 2 clear business days except 2 days before day of auction and 2 days after and where there is a waiver option signed.	Four day cooling off period applies.	Yes, 5 working days.

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Cooling off periods cont...	<p>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>subsequent to auction but on the same day.</p> <p>Agency agreements have 1 business day cooling off period.</p>	<p>before or after a publicly advertised auction.</p> <ol style="list-style-type: none"> 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 /agent's representative The buyer is a Corporation 					
Discipline	Property Agents and Motor Dealers Tribunal.	Office of Fair Trading.	Consumer Affairs Victoria / Business Licensing Authority /	Office of Consumer & Business Affairs.	All disciplinary functions undertaken by State	Auctioneers & Real Estate Agents Council of Tasmania.	Agents Licensing Board of the Northern Territory.	Office of Fair Trading.

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	Current licensees and executive officers of licensed corporations prohibited from appointment to Tribunal.		Victorian Civil & Administrative Tribunal (VCAT). REIV disciplines members via Rules of Practice.		Administrative Tribunal (SAT). REIWA provides an arbitration and disciplinary service accessible to members and the public.		2 industry members hold office on Board.	
Appeals Appeals cont...	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.	Consumer Affairs Victoria decisions / Business Licensing Authority decisions reviewable by VCAT. VCAT decisions reviewable by Victorian Supreme Court (questions of law only) REIV determinations reviewable by an independent arbitrator (Commercial Arbitration Act procedures apply).	District Court of South Australia.	State Administrative Tribunal.	Appeals against a Council disciplinary decision are made to the Magistrates Court.	Local Court.	Consumer and Trading Tribunal.
Codes of Conduct	REIQ has a Code governing "Standards of Business Practice". Prescribed by Government Regulations. Separate codes for: 1. Real Estate Agents;	Prescribed by Regulations.	Estate Agents (Professional Conduct) Regulations 1997. REIV: 1. Code of Conduct. 2. Auction Code of Conduct. 3. Commercial	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 Practice.	Auctioneers & Real Estate Agents Act and Regulations. REIT has a member Code of Conduct. 2005 legislation requires an industry-wide code of conduct.	Contained in ALA.	No code of conduct in legislation.

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	2. Auctioneers; 3. Property Developers; and 4. Restricted letting agents. 5. Penalties up to \$15,000 apply for each and every breach.		Leasing Code. 4. Body Corporate Code of Conduct. 5. Rules of Practice. 6. Rules of Conduct of an Auction.					
Fidelity Funds 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.	Not applicable from 2006.	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 2006