AGENTS PRACTICE MANUAL

THIS PRACTICE MANUAL

The practice manual has been developed to assist applicants, current licensees and Office of Regulatory Services (ORS) staff in the interpretation, licensing and compliance with the Agents Act 2003 (the Act). This practice manual sets out basic information on the Act and the Agents Regulation 2003 (the Regulation) and provides information to assist applicants applying for a real estate agent licence or registration as a salesperson.

It is intended that this practice manual will operate as a living document, which will be improved upon as policy or the law is amended. This may also include capturing responses to issues as they arise in the application of the policy and the law.

We encourage all stakeholders (applicants, licensees and staff) to feel comfortable in raising issues regarding this Manual, with a view to clarifying policy or legal issues, to improve the administration of the Act.

WRITTEN AND PUBLISHED BY THE ACT OFFICE OF REGULATORY SERVICES
OUR CUSTOMER COMMITMENT

WHO WE ARE:

We are the Office of Regulatory Services (ORS). The Office is made up of a variety of licensing, registration and compliance activities including:

- Security Industry Licensing
- Liquor Licensing
- Charitable Collections
- Business Names
- Associations
- Agents
- Land Titles
- Births, Deaths and Marriages
- Occupational Health and Safety
- Rental Bonds
- Outdoor Cafes
- Tobacco regulation
- Consumer protection
OBJECTIVE:

Our mission is that we are a regulator of best practice, serving the ACT community, industry and government. Our objective is to register, licence and ensure compliance of activities against relevant legislation.

ABOUT THE OFFICE:

The Office is structured in the following manner:
WHAT YOU CAN EXPECT FROM US:

As a customer you can expect high quality customer service.

- In relation to the process of an application for a licence or registration providing the application form is completed and all required information is provided, the Office will endeavour to process the application within 5 working days of the end of the objection period.
- If you already have a licence or registration and are applying for renewal, we will endeavour to complete the renewal within 15 working days of receipt of the application. Under the Agents Act 2003, a person that has applied for renewal is considered licensed or registered until a decision is made, even if the licence or registration goes longer than one year.

If however, the application is deficient and the Commissioner is not able to make a decision, the Commissioner will contact the applicant to request further information.

WHERE TO GET MORE INFORMATION:

Information relating to agent licences and registrations can be found at our website at: [www.ors.act.gov.au](http://www.ors.act.gov.au)

IF YOU WISH TO MAKE A COMPLAINT OR YOU HAVE A SUGGESTION:

Please contact the ORS on (02) 6207 0562 or via email at [ors@act.gov.au](mailto:ors@act.gov.au)

Or attend the office at:

255 Canberra Avenue FYSHWICK  ACT  2609

Our office hours are:

9am - 4.30pm Monday to Friday (excluding Public Holidays)
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CHAPTER 1 - THE LEGISLATION

1.1 PURPOSE OF THE LEGISLATION

1.1.1 PURPOSE OF THE AGENTS ACT 2003

The Agents Act 2003 provides for licensing and regulation of Real Estate Agents, Employment Agents, Business Agents, Stock and Station agents and registration of Salespeople.

The Act provides for regulation of a wide range of agents in the ACT. It requires agents and salespeople to act within rules of conduct that are designed to protect the public interest. It also provides for a continual improvement to the professionalism of the industry, particularly in the real estate sector.


1.2 KEY CONCEPTS

1.2.1 ENTITIES YOU SHOULD BE AWARE OF UNDER THE ACT

The Act recognises a number of entities that you should be aware of. The Act recognises the Commissioner for Fair Trading (the Commissioner), investigators and the ACT Civil and Administrative Tribunal (the Tribunal or ACAT). The Commissioner and investigators can be contacted through the Office of Regulatory Services (ORS).

The Commissioner - is responsible for issuing of licences for agents and for taking disciplinary action against licensees. The Commissioner has delegated responsibilities for issuing and refusing licences to a number of officers in ORS.

Investigators - have powers under the Fair Trading (Consumer Affairs) Act 1973 to enter premises to ensure that the Act is being complied with and to request information and evidence be provided where required.

The ACAT can review licensing decisions made by the Commissioner (or the Commissioner’s delegate) and can make decisions in regard to what disciplinary action is taken against a licensee following an application for disciplinary action made by the Commissioner.

1.2.2 TERMS YOU SHOULD BE AWARE OF UNDER THE ACT

Real Estate Agent is a person who provides a real estate agent service for a principal for a reward. This does not include activities for your own property. A real estate agent service is any of the following:

- Buying, selling, exchanging, leasing, assigning or otherwise disposing of land.
• negotiating with, or inducing or attempting to induce, a person to buy, sell, exchange, lease, assign or otherwise dispose of land.

• Enters into, or makes or accepts an offer to enter into, a contract to buy, sell, exchange, lease, assign or otherwise dispose of land.

• Collecting payments under a lease.

• Collecting payments under a mortgage of land or payments under a terms contract for land.

• Acting as manager of an owner’s corporation for a units plan.

**Business Agent:** is a person who provides a business agent service for a principal for a reward. This does not include activities for your own property. A business agent service is any of the following:

• buying, selling, exchanging, disposing of, or otherwise dealing with, a business or professional practice or a share or interest in the goodwill or stock of a business or professional practice.

• negotiating for the purchase, sale, exchange, disposition of, or other dealing with, a business or professional practice or any share or interest in the goodwill or stock of a business or professional practice.

**Stock and Station Agent:** is a person who provides a stock and station stock and station agent service for a principal for a reward. This does not include activities for your own property. A stock and station service is any of the following:

• Buying, selling, exchanging, leasing, assigning or otherwise disposing of rural land.

• Negotiating with, or inducing or attempting to induce, a person to buy, sell, exchange, lease, assign or otherwise dispose of rural land. or

• Enters into, or makes or accept an offer to enter into, a contract to buy, sell, exchange, lease, assign or otherwise dispose of rural land.

• Introducing a buyer or lessee of rural land to another licensed agent or to the owner, or an agent of the owner, of rural land.

• Collecting payments under a lease of rural land.

• Buying, selling or otherwise disposing of livestock.

• Negotiating with, or inducing or attempting to induce, a person to buy, sell, exchange or otherwise dispose of livestock; enter into, or make or accept an offer to enter into, a contract to buy, sell, exchange or otherwise dispose of livestock.

• Providing agistment for livestock or collecting fees for the agistment of livestock.

**Salesperson:** means a person who, as an employee, provides—

• A business agent service;

• A real estate agent service; or

• A stock and station agent service.

**Employment Agent:** is a person who provides, or offers to provide, an employment agent service for a principal for a reward. An employment agent service is finding, or helping to find, a person to carry out work for a principal. It does not matter whether the work or employment is to be carried out under a contract of employment or otherwise; or is to be carried out in or outside the ACT.
**Person:** In this manual the term person refers to an individual, a partnership or a corporation.

**Trust money:** money is trust money if it is received by a licensed agent in relation to the business for which the agent is licensed on behalf of someone else; and on the basis that the money is to be paid to the other person or as the other person directs. However, money received by a licensed agent as bond under the *Leases (Commercial and Retail) Act 2001, part 7 (Bonds and guarantees)* is not trust money for this Act.

**ADI business day,** for a trust account, means a day when the branch of the authorised deposit taking institution is kept open for business.
CHAPTER 2 - REAL ESTATE AGENTS

2.1 LICENSING OF REAL ESTATE AGENTS - NEW LICENCES

2.1.1 REQUIREMENT TO HOLD A LICENCE

A person who carries on business as a real estate service must be licensed (see key concepts). However, a person is not considered to be carrying on business as a real estate agent if they only act as a manager for an owners corporation and are a member of that corporation, or if they are the treasurer of the corporation, or if they manage only 1 owners corporation and if their primary income is not taken from this work.

2.1.2 TYPES OF LICENCES

There are three types of real estate licences in the ACT.

Real Estate Agent: can undertake all functions mentioned in the definition of a real estate agent and may also hold monies in trust and employ salespeople.

Conditional Real Estate to sell land by auction: This agent may only conduct an agent business of selling land by auction. Under this licence the Agent may not employ salespeople or undertake any other function of a real estate agent.

Conditional Real Estate to manage an owner’s corporation: This agent may manage an owner’s corporation for the purposes of this Act and the Unit Titles Act 2001. This is a business licence only and there is no requirement to register employees if the sole activity of the Agent’s business is to manage owner’s corporations. For more information on Owner’s corporations managers, see the Guide to the New Obligations of Owners Corporation Managers, published by the Office of Regulatory Services.

2.1.3 WHO CAN HOLD A LICENCE?

A Real Estate Agent licence can be held by an individual, partnership or corporation.

An individual may hold the licence in their own right and trade under their own name, or under a registered business name. If the individual will hold trust monies for the purpose of the real estate agent licence then it must be in their own name or name of the business.

Partners in a partnership may hold a real estate agent licence if Commissioner is satisfied that each person (or corporation) in the partnership is eligible and not disqualified. Similarly to an individual licence, any monies held in trust for the purposes of the Act must be held in an identified trust account.

A corporation may hold a real estate agent licence. A corporation must have at least one director who also holds an individual licence in their own right. All directors of the company must not be disqualified from holding a licence in the ACT.
2.2 PROCESS FOR OBTAINING A LICENCE

There are a number of steps required to obtain a real estate licence in the ACT. The major requirements are obtaining qualifications and undertaking a criminal history check.

<table>
<thead>
<tr>
<th>Steps to take</th>
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<tr>
<td>Obtain qualification</td>
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<tr>
<td>Obtain police certificate</td>
</tr>
<tr>
<td>Place advertisement in newspaper</td>
</tr>
<tr>
<td>Lodge application</td>
</tr>
<tr>
<td>Receive notice of decision</td>
</tr>
<tr>
<td>If approved pay fee</td>
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2.2.1 QUALIFICATIONS

The qualifications for Real Estate, Stock and Station and Business Agents are the same. An agent needs to hold a qualification in the Property Development and Management Training Package (PRD01) or have completed 18 units from the Property Services Training Package (CPP07). The specific units of competency can be found in attachment 1.

All qualifications obtained for an agent licence must be based on the ACT law. This means that while training can be undertaken in another jurisdiction, the training provider needs to indicate that the training undertaken is relevant to ACT law. This can be done on the statement of attainment, or can be in the form of a supporting letter.

A person that was eligible for a real estate licence or registration in September 2003 (under the previous Act) is automatically eligible for a licence.

2.2.1.1 REAL ESTATE AGENT LICENCE - CONDITIONAL TO SELL LAND BY AUCTION

The qualification for a real estate agents licence to only sell land by auction if the person has competency in PRDRE26A (Conduct property sale by auction) in the training package PRD01 or CPPDSM4004A (Conduct auction) under CPP07.

2.2.1.2 REAL ESTATE AGENT LICENCE - CONDITIONAL OWNERS CORPORATION MANAGING AGENT

There are no specific qualification requirements for this conditional licence, although the person needs to show that they have the skills, knowledge and experience appropriate for acting as an owner’s corporation managing agent.

This licence is a business licence only, meaning that salespeople do not need to be registered if they are employed only to assist the agent in managing an owner’s corporation.
2.2.1.3 COMPANIES

Companies are not required to show qualification for the company, but are required to have at least one director who holds an individual licence. That Director needs to have achieved the qualification for a full licence.

2.2.2 POLICE CERTIFICATES

An application for a real estate agent licence must be accompanied by a police certificate issued by the Australian Federal Police indicating whether, according to the records held by the Australian Federal Police, the applicant has been charged with or convicted of an offence against a law of the Territory; the Commonwealth; a State or another country and if so, particulars of each offence.

This certificate must have been issued within the two months prior to the date of applying for the licence. If it is too old, the applicant may be required to obtain another, more recent, certificate.

All corporations that apply for a licence are also required to supply a company police certificate issued by the Australian Federal Police, a current company extract (issued within the last 30 days) and individual police certificates for each Director.

2.2.3 ADVERTISEMENTS

Another requirement of applying for a real estate agent licence is that an advertisement is placed in a daily newspaper. People generally use the Canberra Times for this purpose. The advertisement must include some key information and the Commissioner recommends that the following wording be used when advertising an intention to apply.

**Personal Licence:**

I (insert your name) of (postal address- can be your place of business) give notice that I intend to apply for a licence as a Real Estate agent under the *Agents Act 2003*. Objections may only be lodged in writing with the Commissioner for Fair Trading GPO Box 158 Canberra ACT 2601 and with me at the address above within ten business days of the date of the publication of this notice

**Company Licence:**

(full registered name of the company) of (registered office of the company) gives notice that the said company intends to apply for a licence as a real estate agent under the *Agents Act 2003*. Objections may only be lodged in writing with the Commissioner for Fair Trading GPO Box 158 Canberra ACT 2601 and with the company at the registered office above within ten business days of the date of the publication of this notice.

If you are applying for a conditional licence to manage an owner’s corporation you are not required to advertise your intention to apply for a licence.
2.2.4 PLACE OF BUSINESS

Real estate agents must inform the Commissioner of their main place of business for the purpose of their licence. Trading names at those premises must be registered under the Business Names Act 1963 before the Commissioner will allow the use of that name for the purpose of the licence. As ORS also has responsibility for the registration and administration of business names, there is no need to provide evidence of the registration.

For an individual agent who will be working for other agents and will not be managing their own trust account, the Commissioner will accept a person’s home address as their main place of business for the purpose of the licence application. Real estate agents must ensure that there is a licensed agent in charge of each place of business.

2.2.5 MUTUAL RECOGNITION

The ACT applies the principle of mutual recognition to real estate agents. This means that if you hold an equivalent licence in another jurisdiction you can apply for an ACT licence without advertising your intention to apply, providing qualifications or undergoing a criminal history check. This is because this would have been done by the jurisdiction where your licence was first issued. The ACT recognises the following licence types as equivalent to an ACT real estate licence:

- New South Wales: Real Estate Agent Licence
- Victoria: Estate Agent Licence
- Queensland: Property Agents and Motor Dealers Licence (Real Estate Agent)
- Northern Territory: Real Estate Agent’s Licence
- Tasmania: Real Estate Agent
- South Australia: Land Agent Registration
- Western Australia: Real Estate and Business Agents Licence.

Conditional recognition:

- New South Wales: Real Estate Agent Licence
- Victoria: Estate Agent Licence
- Queensland: Property Agents and Motor Dealers Licence (Auctioneer) - ((conditional real estate licence - sell land by auction)
- Northern Territory: Auctioneer’s licence (conditional real estate licence - sell land by auction)
- Northern Territory: Property Management Agent’s Restricted Licence (Agent Licence Restricted to rent/lease residential real estate and other real estate)
- Northern Territory: Sales Agent’s Restricted Licence (agent licence excluding rent/lease residential or other real estate)
- Tasmania: Property Manager (Agent Licence Restricted to rent/lease residential real estate and other real estate)
- South Australia: Land Agent Registration
- Western Australia: Auctioneer’s licence (conditional real estate licence - sell land by auction)
If you apply by mutual recognition you must provide a copy of your current licence from the first issuing jurisdiction (if you hold multiple licences the ACT can only recognise the licence issued the first time. For example, if you were first issued a licence in NSW and used that licence to be issued licences in Queensland and Victoria, then the ACT will verify your licence with the NSW authority).

The Commissioner will verify your licence status with the first issuing jurisdiction and advise you of the outcome. This can take up to 28 days, but once you have applied you may work in the ACT under your other licence until a decision is made. Note: you MUST apply to the Commissioner for an ACT licence before being able to work under another jurisdiction’s licence.

### 2.3 DECISIONS ON APPLICATIONS

In deciding whether to grant a licence, the Commissioner will consider the following:

For an individual -

- whether the person holds the appropriate qualifications.
- Whether the person is disqualified.
- Any objections that are lodged.
- Any further considerations the Commissioner deems necessary.

For a corporation -

- Whether the corporation or any of its directors are disqualified.
- Whether the corporation has and appropriately skilled and licensed director.
- Any objections lodged.
- Whether the corporation has an appropriately skilled and licensed agent in charge of the day to day operations of the business.
- Any further considerations the Commissioner deems necessary.

### 2.3.1 ELIGIBILITY AND DISQUALIFICATION

When an application has been lodged, the Commissioner must consider whether a person is eligible for licence and whether they are disqualified from holding a licence. A person is eligible for a licence if they are an adult and are qualified for the licence (see 2.2.1).

A person is disqualified from holding a licence if they:

- have been convicted in the ACT or elsewhere of an offence involving dishonesty.
- are bankrupt or, at any time in the last 3 years have been bankrupt; or executed a personal insolvency agreement.
- Were involved in the management of a corporation at any time in the last three years when the corporation became the subject of a winding-up order; or a controller or administrator was appointed.
• Have a mental incapacity that may affect the exercise of the person’s functions as licensee.
• Are licensed and has contravened, or is contravening, an order of the ACAT; holds a licence that is suspended;
• Are disqualified by the ACAT from being licensed or registered; or
• Are disqualified under a corresponding law from holding an authority (however described) to be an agent or be an employee of an agent; or
• Holds an authority (however described) under a corresponding law to be an agent or be an employee of an agent that is suspended; or
• Are in partnership with a person disqualified from being licensed or registered; or
• Are a corporation that is the subject of a winding-up order; or
• Are a corporation for which a controller or administrator has been appointed; or
• Are a licensed agent who is applying for a licence or the renewal of a licence and has contravened, or is contravening, a condition of the person’s licence; or
• have contravened, or is contravening, a provision of this Act prescribed by regulation as a disqualifying breach.

Generally, if a person is disqualified there is no discretion available to the Commissioner and the application for the licence must be refused. However, if the Commissioner is satisfied that a person took all reasonable steps to avoid bankruptcy, entering into a personal insolvency agreement, winding-up or appointment of an administrator, the licence may be granted.

### 2.3.2 FURTHER INFORMATION

If the Commissioner requires further information on any aspect of the licence application, the applicant will be notified in writing. Further information may relate to determining whether an offence involved dishonesty, the circumstances behind a person entering into bankruptcy, character references to support the application, or other information.

### 2.3.4 OBJECTIONS

Any person may object to the issue of the licence for a real estate agent by writing to the Commissioner within 10 days of the applicant placing the notice in the newspaper. The person objecting must also provide a copy of their objection to the applicant and it must set out the grounds why the person believes that the applicant is not eligible for the licence.

If an objection is lodged, the Commissioner will consider the claims made and evidence provided the seriousness of the complaint and the public interest before deciding to grant the licence.

Because of the possibility of an objection being lodged, the Commissioner cannot decide on the application until more than 10 business days after the notice is placed in the newspaper. This time is known as the objection period.
2.3.5 FEES

All licences expire on 30 June and initial fees are charged on a pro-rata basis, depending on the number of months remaining in the licence period. Fees can be found here.

2.3.6 DECISIONS ON APPLICATIONS

Within 12 weeks of receiving the application the Commissioner must issue a licence or refuse to issue the licence. If the licence is refused, the applicant will be advised of the reasons for the refusal, the considerations of the Commissioner and the rights of appeal. See Appeals for more information.

If the licence is approved, the licence fee is payable before the licence will be issued.

2.4 RENEWALS

All real estate agent licences expire on 30 June which means that licences must be renewed before that date to remain current. To remain eligible for a licence, real estate agents must complete Continuing Professional Development (CPD) and remain compliant with the requirements of the Act. If an agent has not completed CPD satisfactorily, then the licence cannot be renewed. In that case the person may appeal the decision, or apply for a new licence, as per section 2.2. Note, while the application for a new licence is under consideration the person may not act as an agent in the ACT.

2.4.1 PROCESS FOR OBTAINING A RENEWAL

A person may renew a licence or registration through email, fax, mail or in person. It is strongly recommended that licensees and salespeople do not attempt to renew their licences or registrations in person as the waiting times at the shop front increase significantly during the renewal period.

Under the Act, a person that applies to renew their licence or registration is considered to be licensed or registered or licensed until a decision is made. That means that there is no penalty in applying on line or by mail, as your licence or registration will remain current until the Commissioner decides on your application.

For your licence to remain current, the application for renewal must be submitted before the expiry date. You can apply for renewal up to three months after your licence has expired (30 September for licensees) but a renewal at this time does not prevent the Commissioner from taking action against you for carrying on business while unlicensed.

2.5 CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

The Act requires licensed real estate agent licensees and registered salespersons to undertake Continuing Professional Development (CPD) as a condition of renewing their licences. The CPD must be completed within the twelve months of the licence (i.e. for agents between 1 July and 30 June of the year of the licence and salespeople 1 November - 31 October of the year of the registration).
It is a condition that the agent completes 12 points of continuing professional
development in the 12 month period prior to the renewal of the licence for each year;
and maintains a log and other records of continuing professional development. This
information must be produced to the Commissioner within 28 days of the request being
made.

Real estate agents who hold a conditional licence to sell land by way of auction are not
required to undertake continuing professional development under subparagraph as a
condition of their licence.

Previously agents and salespeople were required to provide evidence of completing CPD
with the application for renewal. This is no longer the case, agents and salespeople are
required to make a statement to Commissioner that they have complied with the
requirements and keep evidence of the CPD for at least three years. The Commissioner
will periodically request proof of completion of CPD from agents and salespeople and if
this information is not provided the person’s licence or registration will be cancelled.

2.5.1. CPD CATEGORIES

There are three categories of learning in relation to which points may be obtained for
continuing professional development. When a licensee or salesperson is required to
obtain 12 points of continuing professional development in a twelve month period, the
person must obtain learning in any combination of at least two of the categories set out
below, of which one must be category 3.

Category 1 involves undertaking self-paced activity with a stated learning outcome.
Typical examples of these types of activities include attending seminars, conferences
and forums, watching videos, and on the job learning. The content of the learning must
be related to the work activities of the licensee or registered salesperson and provide an
educational outcome. On the job learning for the purposes of fulfilling the continuing
professional development requirements will only be accepted in the case where a person
undertakes a new project and extends their competency base. Functions the individual
routinely performs as part of his/her employment are not claimable.

Category 1 is calculated at ½ point per hour of activity and a maximum of 2 points can
be claimed under this category.

Category 2 includes activities which do not require formal assessment but are delivered
interactively. Typical examples of these activities include workshops, seminars,
conferences, and forums where the learner is required to participate and the use of
web-based tools and CD Roms where the learner is required to input responses. This
category also includes workshops or seminars organised and delivered by professionally
qualified people including, but not limited to, lawyers, accountants, auditors, valuers or
other renowned experts in a relevant field.

Category 2 points are calculated at the rate of one point per hour of the activity and may
only be considered category 2 where the person delivering the training is competent
to deliver the training, generally considered as someone competent to deliver category 3
training.
Category 3 includes units of competency which require formal assessment. The learner must be assessed as competent by a Registered Training Organisation to be entitled to claim the relevant points from this category. This should be one or more units of competency which contribute to a recognised qualification or learning pathway relevant to the property industry. In relation to category 3:

Category 3 points are calculated at the rate of eight points per unit of competency.

2.5.2 SURPLUS POINTS

If a person does more than 12 CPD points in a year, surplus points may be carried forward to the next period. However, a maximum of 11 points can be carried forward and at least a part of the CPD completed in the next year must be category 3.

2.5.3 MAINTAINING RECORDS

Licensees and salespeople are required to keep a log of continuing professional development which includes the date completed; the type and name of activity; the type of assessment (if any); training provided; name of the training organisation; how many CPD points claimed; the venue and the duration of the activity. If all CPD completed in the year is under Category 3, a statement of Attainment, qualification or certificate from the Registered Training Organisation is sufficient. These must be kept for at least three years.

2.5.4 COMMISSIONER’S DISCRETION

When a licensee or salesperson is unable to complete CPD in the period the Commissioner may waive the requirement for the person to complete some or all CPD for that year. This is generally only granted where the person can show extenuating circumstances that identify why it was not possible for the person to complete the CPD.

Being unaware of CPD requirements or waiting too long to book a training package are not considered extenuating circumstances and if this is the reason for not completing CPD it is likely that the licence will not be able to be renewed.

2.5.5 PART YEAR CPD REQUIREMENTS

When a person is licensed for the first time, they do not need to undertake CPD for the first year of their licence or registration if they obtained their qualification in that year’s licence or registration period. However, if a person applies through mutual recognition, or obtained a qualification prior to that CPD period, they must undertake at least 1 point per month of their initial licence.

2.5.6 CONCURRENT LEARNING

CPD must be based on ACT law, meaning that it is not possible for a person to achieve Category 3 points while concurrently satisfying another jurisdiction’s CPD requirements. Statements of Attainment must indicate that the training was relevant to ACT law or it cannot be accepted.
2.5.7 SUITABLE TRAINING PACKAGES

Training may be based on, but is not limited to, the following units of competency from the Property Services Training Package:

- CPPDSM3008A - Maintain and protect condition of managed properties
- CPPDSM3017A - Work in the strata/community management sector
- CPPDSM4001A - Act as a buyer’s agent
- CPPDSM4002A - Apply knowledge of state or territory legislative and regulatory framework to complete agency work
- CPPDSM4003A - Appraise property
- CPPDSM4004A - Conduct auction
- CPPDSM4005A - Establish and build client-agency relationships
- CPPDSM4006A - Establish and manage agency trust accounts
- CPPDSM4010A - Lease property
- CPPDSM4011A - List property for lease
- CPPDSM4012A - List property for sale
- CPPDSM4013A - Market property for lease
- CPPDSM4014A - Market property for sale
- CPPDSM4016A - Monitor and manage lease or tenancy agreement
- CPPDSM4017A - Negotiate effectively in property transactions
- CPPDSM4018A - Prepare and present property reports
- CPPDSM4019A - Prepare for auction and complete sale
- CPPDSM4020A - Present at tribunals
- CPPDSM4021A - Sell and finalise sale of rural property by private treaty
- CPPDSM4022A - Sell and finalise the sale of property by private treaty
- CPPDSM4023A - Act as a tenant’s agent
- CPPDSM4029A - Appraise business
- CPPDSM4030A - Appraise rural property
- CPPDSM4033A - Assess and value goods, chattels, plant and equipment
- CPPDSM4034A - Assess and implement strata/community management agreement
- CPPDSM4036A - Broker sale of industrial, commercial and retail property
- CPPDSM4038A - Conduct goods, chattels or equipment clearing sale or auction
- CPPDSM4040A - Contribute to life cycle maintenance strategy
- CPPDSM4041A - Contribute to development of a tenancy mix strategy
- CPPDSM4043A - Coordinate fit-out of property and facilities
- CPPDSM4045A - Facilitate meetings in the property industry
- CPPDSM4046A - Manage tenancy disputes
- CPPDSM4049A - Implement maintenance plan for managed properties
- CPPDSM4050A - Lease industrial, commercial and retail property
- CPPDSM4051A - Lease rural property
- CPPDSM4053A - List business for sale
- CPPDSM4056A - Manage conflict and disputes in the property industry
- CPPDSM4057A - Monitor a safe workplace in the property industry
- CPPDSM4058A - Monitor service requirements in the property industry
- CPPDSM4059A - Monitor space use in the property industry
- CPPDSM4060A - Negotiate sale and manage sale to completion or settlement
- CPPDSM4061A - Obtain prospects for listing
- CPPDSM4062A - Occupy space
- CPPDSM4069A - Promote and market listed business
- CPPDSM4074A - Select and appoint contractors in the property industry
- CPPDSM4078A - Sell rural property by tender
- CPPDSM4079A - Work in the business broking sector
- CPPDSM5009A - Coordinate risk management system in the property industry
- CPPDSM5012A - Develop a strategic business plan in the real estate industry
- CPPDSM5018A - Ensure a safe workplace in the property industry
- CPPDSM5020A - Manage and monitor effective client service in the real estate industry
- CPPDSM5030A - Manage projects in the property industry
- CPPDSM5032A - Market the agency
- CPPDSM5036A - Prepare tender documentation in the property industry

Training may be based on, but is not limited to, the following units of competency from the Business Services Training Package:

- BSBLED401A - Develop teams and individuals
- BSBBITS401A - Maintain business technology
- BSBWOR402A - Promote team effectiveness
- BSBMGT515A - Manage operational plan
- BSBMGT502B - Manage people performance
- BSBFIM501A - Manage budgets and financial plans
- BSBHRM402A - Recruit, select and induct staff
- BSBMGT605B - Provide leadership across the organisation
- BSBCM401A - Make a presentation
- BSBRG304B - Maintain business records
- BSBSMB404A - Undertake small business planning
- BSBSMB406A - Manage small business finances
CHAPTER 3 - BUSINESS AND STOCK AND STATION AGENTS

3.1 LICENSING OF BUSINESS AND STOCK AND STATION AGENTS - NEW LICENCES

3.1.1 REQUIREMENT TO HOLD A LICENCE

A person who provides a business or stock and station service must be licensed (see key concepts).

3.1.2 TYPES OF LICENCES

A Business Agent is a person who buys, sells or otherwise disposes of or deals with a business or professional practice or a share or interest in the goodwill or stock of a business or professional practice. A business agent is not restricted to land or property only, it can include stock, goodwill and other components of the business.

A Stock and Station Agent is a person who buys, sells, exchanges, leases or otherwise disposes of rural land. It also includes buying or selling livestock and providing agistment, or collecting fees for agistment of livestock.

It is possible to be licensed as a business agent or a stock and station agent at the same time as being licensed as a real estate agent simply by indicating which of the licences are being sought on the application form.

3.1.3 WHO CAN HOLD A LICENCE?

A business or stock and station agent licence can be held by an individual, partnership or corporation.

An individual may hold the licence in their own right and trade under their own name, or under a registered business name. If the individual will hold trust monies for the purpose of the licence then it must be in their own name or name of the business.

A partnership may hold a licence if Commissioner is satisfied that each person (or corporation) in the partnership is eligible and not disqualified. Similarly to an individual licence, any monies held in trust by the partnership for the purposes of the Act must be held in an identified trust account.

A corporation may hold a licence. A corporation must have at least one director who also holds an individual licence in their own right. All directors of the company must not be disqualified from holding a licence in the ACT.
3.2 PROCESS FOR OBTAINING A LICENCE

There are a number of steps required to obtain a business or stock and station licence in the ACT. The major requirements are obtaining qualifications and undertaking a criminal history check.

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<thead>
<tr>
<th>Steps to take</th>
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<tbody>
<tr>
<td>Obtain qualification</td>
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<tr>
<td>Obtain police certificate</td>
</tr>
<tr>
<td>Place advertisement in newspaper</td>
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<tr>
<td>Lodge application</td>
</tr>
<tr>
<td>Receive notice of decision</td>
</tr>
<tr>
<td>If approved pay fee</td>
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3.2.1

The qualifications for Real Estate, Stock and Station and Business Agents are the same. An agent needs to hold a qualification in the Property Development and Management Training Package (PRD01) or have completed 18 units from the Property Services Training Package (CPP07). The specific units of competency can be found in [attachment 1](#).

All qualifications obtained for an agent licence must be based on the ACT law. This means that while training can be undertaken in another jurisdiction, the training provider needs to indicate that the training undertaken is relevant to ACT law. This can be done on the statement of attainment, or can be in the form of a supporting letter.

Companies are not required to show qualification for the company, but are required to have at least one director who holds an individual licence who will need to achieve the qualification for a full licence.

3.2.2 POLICE CERTIFICATES

An application for a business or stock and station agent licence must be accompanied by a police certificate issued by the Australian Federal Police indicating whether, according to the records held by the Australian Federal Police, the applicant has been charged with or convicted of an offence against a law of the Territory; the Commonwealth; a State or another country and if so, particulars of each offence.

This certificate must have been issued within the two months prior to the date of applying for the licence. If it is too old, the applicant may be required to obtain another, more recent, certificate.

All corporations that apply for a licence are also required to supply a company police certificate issued by the Australian Federal Police, a current company extract (issued within the last 30 days) and individual police certificates for each Director.
3.2.3 ADVERTISEMENTS

Another requirement of applying for a business or stock and station agent licence is that an advertisement is placed in a daily newspaper. People generally use the Canberra Times for this purpose. The advertisement must include some key information and the Commissioner recommends that the following wording be used when advertising an intention to apply.

**Personal Licence:**

I (insert your name) of (postal address - can be your place of business) give notice that I intend to apply for a licence as a (business, stock and station agent) under the Agents Act 2003. Objections may only be lodged in writing with the Commissioner for Fair Trading GPO Box 158 Canberra ACT 2601 and with me at the address above within ten business days of the date of the publication of this notice.

**Company Licence:**

(full registered name of the company) of (registered office of the company) gives notice that the said company intends to apply for a licence as a (business, stock and station agent) under the Agents Act 2003. Objections may only be lodged in writing with the Commissioner for Fair Trading GPO Box 158 Canberra ACT 2601 and with the company at the registered office above within ten business days of the date of the publication of this notice.

If you are applying for a real estate, business and stock and station licence, only one advertisement is required.

3.2.4 PLACE OF BUSINESS

Business agents and stock and station agents must inform the Commissioner of their main place of business for the purpose of their licence. Trading names at those premises must be registered under the Business Names Act 1963 before the Commissioner will allow the use of that name for the purpose of the licence. As ORS also has responsibility for the registration and administration of business names, there is no need to provide evidence of the registration.

For an individual agent who will be working for other agents and will not be managing their own trust account, the Commissioner will accept a person’s home address as their main place of business for the purpose of the licence application.

3.3 MUTUAL RECOGNITION

The ACT applies the principle of mutual recognition to business agents and stock and station agents. This means that if you hold an equivalent licence in another jurisdiction you can apply for an ACT licence without advertising your intention to apply, providing qualifications or undergoing a criminal history check. This is because this would have been done by the jurisdiction where your licence was first issued. The ACT recognises the following licence types as equivalent to an ACT Business Agent licence:
• New South Wales: Business Agent Licence
• Victoria: Estate Agent Licence
• Queensland: Property Agents and Motor Dealers Licence (Real Estate Agent)
• Northern Territory: Business Agent’s Licence
• Tasmania: Real Estate Agent
• South Australia: Land Agent Registration
• Western Australia: Real Estate and Business Agents Licence

The ACT recognises the following licence types as equivalent to an ACT stock and station agent licence:

• New South Wales: Stock and Station Agent Licence
• Victoria: Estate Agent Licence (excluding the right to buy and sell livestock)
• Queensland: Property Agents and Motor Dealers Licence (Real Estate Agent)
• Northern Territory: Real Estate Agent’s Licence (excluding buying and selling livestock)
• Tasmania: Real Estate Agent
• South Australia: Land Agent Registration (excluding the right to buy and sell livestock).
• Western Australia: Real Estate and Business Agents Licence (excluding the right to buy and sell livestock).

If you apply by mutual recognition you must provide a copy of your current licence from the first issuing jurisdiction (if you hold multiple licences the ACT can only recognise the licence issued the first time. For example, if you were first issued a licence in NSW and used that licence to be issued licences in Queensland and Victoria, then the ACT will verify your licence with the NSW authority).

The Commissioner will verify your licence status with the first issuing jurisdiction and advise you of the outcome. This can take up to 28 days, but once you have applied you may work in the ACT under your other licence until a decision is made. Note: you **MUST** apply to the Commissioner for an ACT licence before being able to work under another jurisdiction’s licence.

### 3.4 DECISIONS ON APPLICATIONS

In deciding whether to grant a licence, the Commissioner will consider the following:

For an individual -

- whether the person holds the appropriate qualifications.
- Whether the person is disqualified.
- Any objections that are lodged.
- Any further considerations the Commissioner deems necessary.

For a corporation -

- Whether the corporation or any of its directors are disqualified.
- Whether the corporation has and appropriately skilled and licensed director.
- Any objections lodged.
- Whether the corporation has an appropriately skilled and licensed agent in charge of the day to day operations of the business.
- Any further considerations the Commissioner deems necessary.

### 3.4.1 Eligibility and Disqualification

When an application has been lodged, the Commissioner must consider whether a person is eligible for licence and whether they are disqualified from holding a licence. A person is eligible for a licence if they are an adult and are qualified for the licence (see 2.2.1).

A person is disqualified from holding a licence if they:

- have been convicted in the ACT or elsewhere of an offence involving dishonesty.
- are bankrupt or, at any time in the last 3 years have been bankrupt; or executed a personal insolvency agreement.
- Were involved in the management of a corporation at any time in the last three years when the corporation became the subject of a winding-up order; or a controller or administrator was appointed.
- Have a mental incapacity that may affect the exercise of the person’s functions as licensee.
- Are licensed and has contravened, or is contravening, an order of the ACAT; holds a licence that is suspended;
- Are disqualified by the ACAT from being licensed or registered; or
- Are disqualified under a corresponding law from holding an authority (however described) to be an agent or be an employee of an agent; or
- Holds an authority (however described) under a corresponding law to be an agent or be an employee of an agent that is suspended; or
- Are in partnership with a person disqualified from being licensed or registered; or
- Are a corporation that is the subject of a winding-up order; or
- Are a corporation for which a controller or administrator has been appointed; or
- Are a licensed agent who is applying for a licence or the renewal of a licence and has contravened, or is contravening, a condition of the person’s licence.

Generally, if a person is disqualified there is no discretion available to the Commissioner and the application for the licence must be refused. However, if the Commissioner is satisfied that a person took all reasonable steps to avoid bankruptcy, entering into a personal insolvency agreement, winding-up or appointment of an administrator, the licence may be granted.

### 3.4.2 Further Information

If the Commissioner requires further information on any aspect of the licence application, the applicant will be notified in writing. Further information may relate to determining whether an offence involved dishonesty, the circumstances behind a person entering into bankruptcy, character references to support the application, or other information.
3.4.3 OBJECTIONS

Any person may object to the issue of the licence by writing to the Commissioner within 10 days of the applicant placing the notice in the newspaper. The person objecting must also provide a copy of their objection to the applicant and it must set out the grounds why the person believes that the applicant is not eligible for the licence.

If an objection is lodged, the Commissioner will consider the claims made and evidence provided the seriousness of the complaint and the public interest before deciding to grant the licence. Because of the possibility of an objection being lodged, the Commissioner cannot decide on the application until more than 10 business days after the notice is placed in the newspaper. This time is known as the objection period.

3.4.4 FEES

All licences expire on 30 June and initial fees are charged on a pro-rata basis, depending on the number of months remaining in the licence period. Fees can be found here. For a real estate agent, business and/or stock and station agent licence the fee of subsequent licences is captured in the first licence fee.

3.4.5 DECISIONS ON APPLICATIONS

Within 12 weeks of receiving the application the Commissioner must issue a licence or refuse to issue the licence. If the licence is refused, the applicant will be advised of the reasons for the refusal, the considerations of the Commissioner and the rights of appeal. See Appeals for more information. If the licence is approved, the licence fee is payable before the licence will be issued.

3.4.6 INCLUSION OF ADDITIONAL LICENCE TYPES AFTER INITIAL APPLICATION

The eligibility and qualifications for Business Agents and Stock and Station Agents are the same as Real Estate, so an existing licensee may apply to obtain additional licence types at any time without undertaking additional training. An existing real estate, business or stock and station agent may add real estate, business or stock and station licences at any time by writing to the Commissioner and making a statement of compliance with the Act. There is no need to obtain another police certificate or advertise intention to apply.

3.5 RENEWALS

3.5.1 PROCESS FOR OBTAINING A RENEWAL

A person may renew a licence or registration through email, fax, mail or in person. It is strongly recommended that licensees and salespeople do not attempt to renew their licences or registrations in person as the waiting times at the shop front increase significantly during the renewal period.
Under the Act, a person that applies to renew their licence or registration is considered to be licensed or registered or licensed until a decision is made. That means that there is no penalty in applying on line or by mail, as your licence or registration will remain current until the Commissioner decides on your application.

For the licence to remain current, the application for renewal must be submitted before the expiry date. Applications for renewal can made up to three months after the licence has expired (30 September for licensees) but a renewal at this time does not prevent the Commissioner from taking action against the individual for carrying on business while unlicensed.
CHAPTER 4 - SALESPEOPLE

4.1 REGISTRATION OF SALESPEOPLE - NEW REGISTRATIONS

4.1.1 REQUIREMENT TO BE REGISTERED

All salespeople must be registered and employed by a licensed agent to carry out work. A salesperson is someone who is employed by an agent to provide a real estate or business or stock and station service.

4.1.2 TYPES OF REGISTRATION LICENCES

A real estate salesperson is an individual who is employed by a licensed real estate agent to provide a real estate agent service. This can be in the form of sales, property management or other real estate activities.

A Business salesperson is an individual who is employed by a licensed business agent to provide a business agent service. This can be in the form of sales, property management or other business agent activities.

A Stock and Station salesperson is an individual who is employed by a licensed stock and station agent to provide a stock and station agent service. This can be in the form of sales, property management or other stock and station agent activities.

A conditional real estate salesperson is someone who works under the direct supervision of a licensed real estate agent and is enrolled in a course that will result in obtaining the appropriate qualification. This registration is valid for a maximum of twelve months and only while the person remains employed by the same agent and remains enrolled in the course. If the person changes employer they must advise the Commissioner immediately for the registration to remain valid.

A second conditional registration is someone who is employed by a licensed agent to provide commercial real estate agent services to a single customer, as long as their employer only provides a real estate service to one customer and both the employer and customers are related corporations the individual does not need to meet the qualification requirements for registration.

4.1.3 WHO CAN BE REGISTERED?

Only individuals may be registered as salespeople.

4.2 PROCESS FOR OBTAINING A REGISTRATION

There are a number of steps required to become a registered salesperson in the ACT. The major requirements are obtaining qualifications and undertaking a criminal history check.
### 4.2.1 QUALIFICATIONS

The qualification requirements for registration as a Real Estate, Stock and Station and/or Business salespeople are the same. A salesperson needs to have obtained competency in the following units under the Property Services Training Package (CPP07).

- CPPDSM4007A Identify legal and ethical requirements of property management to complete agency work
- CPPDSM4008A Identify legal and ethical requirements of property sales to complete agency work
- CPPDSM4009A Interpret legislation to complete agency work
- CPPDSM4015A Minimise agency and consumer risk
- CPPDSM4080A Work in the real estate industry

All qualifications obtained for registration must be based on the ACT law. This means that while training can be undertaken in another jurisdiction, the training provider needs to indicate that the training undertaken is relevant to ACT law. This can be done on the statement of attainment, or can be in the form of a supporting letter. Salespeople may also have obtained a qualification under the previous qualification package PRD01.

### 4.2.2 POLICE CERTIFICATES

An application for registration as a salesperson must be accompanied by a police certificate issued by the Australian Federal Police indicating whether, according to the records held by the Australian Federal Police, the applicant has been charged with or convicted of an offence against a law of the Territory; the Commonwealth; a State or another country and if so, particulars of each offence.

This certificate must have been issued within the two months prior to the date of applying for the registration. If it is too old, the applicant may be required to obtain another, more recent, certificate.
4.2.3 ADVERTISEMENTS

Another requirement of applying for a business or stock and station agent registration is that an advertisement is placed in a daily newspaper. People generally use the Canberra Times for this purpose. The advertisement must include some key information and the Commissioner recommends that the following wording be used when advertising an intention to apply.

I (insert your name) of (postal address: can be your place of business) give notice that I intend to apply for registration as a (real estate, business, stock and station) salesperson under the Agents Act 2003. Objections may only be lodged in writing with the Commissioner for Fair Trading GPO Box 158 Canberra ACT 2601 and with me at the address above within ten business days of the date of the publication of this notice.

If you are applying for registration as more than one salesperson types (i.e real estate, business and stock and station) only one advertisement is required.

4.2.4 MUTUAL RECOGNITION

The ACT applies the principle of mutual recognition to the registration of salespeople. This means that if you hold an equivalent licence or registration in another jurisdiction you can apply for ACT registration without advertising your intention to apply, provide qualifications or a criminal history check, because this would have been done by the jurisdiction where your registration was first issued. The ACT recognises the following registrations as equivalent to an ACT Salesperson registration:

Real Estate

- New South Wales: Certificate of Registration as a Real Estate Salesperson
- Victoria: No equivalent licence or registration
- Queensland: Real Estate Salesperson Registration Certificate
- Northern Territory: Registration as an Agent’s Representative or Agent’s Representative (Sales) Restricted Registration (excluding rent residential or other real estate) or Agent’s Representative (Property Management) Restricted Registration (restricted to rental of residential or other real estate).
- Tasmania: No equivalent licence or registration
- South Australia: No equivalent licence or registration
- Western Australia: Certificate of Registration as a Real Estate and Business Sales Representative

Stock and Station

- New South Wales: Certificate of Registration as a Stock and Station Salesperson
- Victoria: No equivalent licence or registration
- Queensland: Property Agents and Motor Dealers Licence (Pastoral House Director) or Property Agents and Motor Dealers Licence (Pastoral House Manager) or Real Estate Salesperson Registration Certificate or Pastoral House Salesperson Registration Certificate
Northern Territory: Registration as an Agent’s Representative (excluding buying and selling livestock) or Agent’s Representative (Property Management) Restricted Registration (restricted to rental of rural real estate).

Tasmania: No equivalent licence or registration

South Australia: No equivalent licence or registration

Western Australia: Certificate of Registration as a Real Estate and Business Sales Representative (excluding the right to buy and sell livestock).

Business

New South Wales: Certificate of Registration as a Business Salesperson restricted to auctioning, buying and selling businesses.

Victoria: No equivalent licence or registration

Queensland: Real Estate Salesperson Registration Certificate

Northern Territory: Registration as an Agent’s Representative

Tasmania: No equivalent licence or registration

South Australia: No equivalent licence or registration

Western Australia: Certificate of Registration as a Real Estate and Business Sales Representative

If you apply by mutual recognition you must provide a copy of your current registration from the first issuing jurisdiction (if you hold multiple registrations the ACT can only recognise the first issued. For example, if you were first registered in NSW and used that to be issued licences in Queensland and Victoria, then the ACT will verify your registration with the NSW authority).

The Commissioner will verify your registration status with the first issuing jurisdiction and advise you of the outcome. This can take up to 28 days, but once you have applied you may work in the ACT under your other registration until a decision is made. Note: you MUST apply to the Commissioner for registration in the ACT before being able to work under another jurisdiction’s registration.

4.2.5 DECISIONS ON APPLICATIONS

In deciding whether to register the applicant, the Commissioner will consider the following:

- whether the person holds the appropriate qualifications.
- Whether the person is disqualified.
- Any objections that are lodged.
- Any further considerations the Commissioner deems necessary.

4.2.5.1 ELIGIBILITY AND DISQUALIFICATION

When an application has been lodged, the Commissioner must consider whether a person is eligible for registration and whether they are disqualified from holding a licence or being registered.

A person is disqualified from being registered if they:
• Have been convicted, in the ACT or elsewhere, of an offence involving dishonesty.
• Is bankrupt or, at any time in the last 3 years has been bankrupt or has executed a personal insolvency agreement.
• Have a mental incapacity that may affect the exercise of the person’s functions as a registered salesperson.
• Is registered and has contravened, or is contravening, an order of the ACAT.
• Holds a registration that is suspended.
• Is disqualified by the ACAT from being licensed or registered.
• Is disqualified under a corresponding law from holding an authority (however described) to be an agent or an employee of an agent.
• Holds an authority (however described) under a corresponding law to be an agent or an employee of an agent that is suspended.
• Is a registered salesperson who is applying for another kind of registration and has contravened, or is contravening, a condition of the person’s registration.
• Has contravened, or is contravening, a provision of this Act prescribed by regulation as a disqualifying breach.

Generally, if a person is disqualified there is no discretion available to the Commissioner and the application for the registration must be refused. However, if the Commissioner is satisfied that a person took all reasonable steps to avoid bankruptcy, entering into a personal insolvency agreement, winding-up or appointment of an administrator, the registration may be granted.

4.2.5.2 FURTHER INFORMATION

If the Commissioner requires further information on any aspect of the application, the applicant will be notified in writing. Further information may relate to determining whether an offence involved dishonesty, the circumstances behind a person entering into bankruptcy, character references to support the application, or other information.

4.2.5.3 OBJECTIONS

Any person may object to registration of a salesperson by writing to the Commissioner within 10 days of the applicant placing the notice in the newspaper. The person objecting must also provide a copy of their objection to the applicant and it must set out the grounds why the person believes that the applicant is not suitable for registration.

If an objection is lodged, the Commissioner will consider the claims made and evidence provided the seriousness of the complaint and the public interest before deciding to register the person.

Because of the possibility of an objection being lodged, the Commissioner cannot decide on the application until more than 10 business days after the notice is placed in the newspaper. This time is known as the objection period.
4.2.5.4 FEES

All registrations expire on 30 September and initial fees are charged on a pro-rata basis, depending on the number of months remaining in the registration period. Fees can be found here. Fees for the second and third registration (i.e. a real estate salesperson who is also a business salesperson) are captured in the initial fee.

4.2.5.5 DECISIONS ON APPLICATIONS

Within 12 weeks of receiving the application the Commissioner must issue a registration or refuse to register the person. If the registration is refused, the applicant will be advised of the reasons for the refusal, the considerations of the Commissioner and the rights of appeal. See Appeals for more information.

If the registration is approved, the fee is payable before the registration will be issued.

4.3 RENEWALS

All salespeople registrations expire on 30 September and must be renewed prior to that date to remain in effect. To remain eligible for registration, salespeople must complete Continuing Professional Development (CPD) and remain compliant with the requirements of the Act. If a person has not completed CPD satisfactorily the registration cannot be renewed. In that case the person may appeal the decision, or apply for a new registration, as per section 4.2. Note, while the application for a new registration is under consideration the person may not act as a salesperson in the ACT.

4.3.1 PROCESS FOR OBTAINING A RENEWAL

A person may renew a registration through email, fax, mail or in person. It is strongly recommended that people do not attempt to renew their registrations in person as the waiting times at the shop front increase significantly during the renewal period.

Under the Act, a person that applies to renew their registration is considered to be registered until a decision on the application is made. That means that there is no penalty in applying on line or by mail, as the registration will remain current until the Commissioner makes a determination.

Applications for renewal can be lodged up to three months after the expiry of the registration (31 January). The registration will be backdated to the end of the previous period but the person is not protected from the Commissioner taking action them for carrying on business while unregistered.

Conditional salespeople must show evidence of having completed their qualification within twelve months of being issued the conditional registration. The expiry date of the registration will be clearly stated on the registration which may or may not align with the general renewal period. It is the responsibility of the individual to ensure that they remain registered at all times.
CHAPTER 5 - EMPLOYMENT AGENTS

5.1 EMPLOYMENT AGENT LICENSING

5.1.1 REQUIREMENT TO HOLD A LICENCE

A person who provides an employment agent service must be licensed (see key concepts). An employment agent service is finding, or helping to find, a person to carry out work for a principal. It does not matter whether the work or employment is to be carried out under a contract of employment or otherwise; or is to be carried out in or outside the ACT.

5.1.2 TYPES OF LICENCES

There are no conditional licences for an employment agent.

6.1.3 WHO CAN HOLD A LICENCE?

An employment agent licence can be held by an individual or corporation.

An individual may hold the licence in their own right and trade under their own name, or under a registered business name.

Partners of a partnership may hold an employment agent licence if Commissioner is satisfied that each person (or corporation) in the partnership is eligible and not disqualified.

A corporation may hold an employment agent licence. A corporation must have at least one director who holds an individual licence in their own right. All directors of the corporation must not be disqualified from holding a licence in the ACT.

5.2 PROCESS FOR OBTAINING A LICENCE

There are a number of steps required to obtain an employment agent licence in the ACT. The major requirement is to undertake a criminal history check and advertise an intention to apply.

### Applying for an employment agent licence

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5.2.1 QUALIFICATIONS

There are no qualification requirements for an employment agent.

5.2.2 POLICE CERTIFICATES

An application for an employment agent licence must be accompanied by a police certificate issued by the Australian Federal Police indicating whether, according to the records held by the Australian Federal Police, the applicant has been charged with or convicted of an offence against a law of the Territory; the Commonwealth; a State or another country and if so, particulars of each offence.

This certificate must have been issued within the two months prior to the date of applying for the licence. If it is too old, the applicant may be required to obtain another, more recent, certificate.

All corporations that apply for a licence are also required to supply a company police certificate issued by the Australian Federal Police, a current company extract (issued within the last 30 days) and individual police certificates for each Director.

5.2.3 ADVERTISEMENTS

A person applying for an employment agent licence must advertise their intention to apply by placing a notice in a daily newspaper. People generally use the Canberra Times for this purpose. The advertisement must include some key information and the Commissioner recommends that the following wording be used when advertising an intention to apply.

Personal Licence:

I (insert your name) of (postal address- can be your place of business) give notice that I intend to apply for a licence as an employment agent under the Agents Act 2003. Objections may only be lodged in writing with the Commissioner for Fair Trading GPO Box 158 Canberra ACT 2601 and with me at the address above within ten business days of the date of the publication of this notice.

Company Licence:

(full registered name of the company) of (registered office of the company) gives notice that the said company intends to apply for a licence as an employment agent under the Agents Act 2003. Objections may only be lodged in writing with the Commissioner for Fair Trading GPO Box 158 Canberra ACT 2601 and with the company at the registered office above within ten business days of the date of the publication of this notice.

A person applying through mutual recognition is not required to advertise their intention to apply.
5.2.4 PLACE OF BUSINESS

Employment agents must inform the Commissioner of their main place of business for the purpose of their licence. Trading names at those premises must be registered under the Business Names Act 1963 before the Commissioner will allow the use of that name for the purpose of the licence. As ORS also has responsibility for the registration and administration of business names, there is no need to provide evidence of the registration.

For an individual agent who will be working for an employer, the Commissioner will accept a person’s home address as their main place of business for the purpose of the licence application. A licensed agent must be in charge of the day to day management at each place of business.

5.2.5 MUTUAL RECOGNITION

Not all jurisdictions regulate employment agents. Where a person holds a licence or registration issued by another jurisdiction the Commissioner will consider whether the licence or registration is equivalent to the ACT licence. If so, the person does not need to advertise their intention to apply, or obtain a police certificate prior to applying. It is recommended that if an individual holds a licence or registration elsewhere that they contact ORS for an assessment of the equivalence of the licence.

5.3 DECISIONS ON APPLICATIONS

In deciding whether to grant a licence, the Commissioner will consider the following:

For an individual -

- Whether the person is disqualified.
- Any objections that are lodged.
- Any further considerations the Commissioner deems necessary.

For a corporation -

- Whether the corporation or any of its directors are disqualified.
- Whether the corporation has and appropriately licensed director.
- Any objections lodged.
- Whether the corporation has an appropriately skilled and licensed agent in charge of the day to day operations of the business.
- Any further considerations the Commissioner deems necessary.

5.3.1 ELIGIBILITY AND DISQUALIFICATION

When an application has been lodged, the Commissioner must consider whether a person is eligible for licence and whether they are disqualified from holding a licence. A person is eligible for a licence if they are an adult and are qualified for the licence (see 6.2.1).

A person is disqualified from holding a licence if they:
• have been convicted in the ACT or elsewhere of an offence involving dishonesty.
• are bankrupt or, at any time in the last 3 years have been bankrupt; or executed a personal insolvency agreement.
• Were involved in the management of a corporation at any time in the last three years when the corporation became the subject of a winding-up order; or a controller or administrator was appointed.
• Have a mental incapacity that may affect the exercise of the person’s functions as licensee.
• Are licensed and has contravened, or is contravening, an order of the ACAT; holds a licence that is suspended;
• Are disqualified by the ACAT from being licensed or registered; or
• Are disqualified under a corresponding law from holding an authority (however described) to be an agent or be an employee of an agent; or
• Holds an authority (however described) under a corresponding law to be an agent or be an employee of an agent that is suspended; or
• Are in partnership with a person disqualified from being licensed or registered; or
• Are a corporation that is the subject of a winding-up order; or
• Are a corporation for which a controller or administrator has been appointed; or
• Are a licensed agent who is applying for a licence or the renewal of a licence and has contravened, or is contravening, a condition of the person’s licence.

Generally, if a person is disqualified there is no discretion available to the Commissioner and the application for the licence must be refused. However, if the Commissioner is satisfied that a person took all reasonable steps to avoid bankruptcy, entering into a personal insolvency agreement, winding-up or appointment of an administrator, the licence may be granted.

5.3.2 FURTHER INFORMATION

If the Commissioner requires further information on any aspect of the licence application, the applicant will be notified in writing. Further information may relate to determining whether an offence involved dishonesty, the circumstances behind a person entering into bankruptcy, character references to support the application, or other information.

5.3.3 OBJECTIONS

Any person may object to the issue of the licence for an employment agent by writing to the Commissioner within 10 business days of the applicant placing the notice in the newspaper. The person objecting must also provide a copy of their objection to the applicant and it must set out the grounds why the person believes that the applicant is not eligible for the licence.

If an objection is lodged, the Commissioner will consider the claims made and evidence provided the seriousness of the complaint and the public interest before deciding to grant the licence.
Because of the possibility of an objection being lodged, the Commissioner cannot decide on the application until more than 10 business days after the notice is placed in the newspaper. This time is known as the objection period.

5.3.4 FEES

All licences expire on 30 June and initial fees are charged on a pro-rata basis, depending on the number of months remaining in the licence period. For a corporation licence, the fee for the licensed director is incorporated into the corporation fee. Fees can be found here.

5.3.5 DECISIONS ON APPLICATIONS

Within 12 weeks of receiving the application the Commissioner must issue a licence or refuse to issue the licence. If the licence is refused, the applicant will be advised of the reasons for the refusal, the considerations of the Commissioner and the rights of appeal. See Appeals for more information.

If the licence is approved, the licence fee is payable before the licence will be issued.

5.4 RENEWALS

All employment agent licences expire on 30 June which means that licences must be renewed before that date to remain current. To remain eligible for a licence, employment agents must remain compliant with the requirements of the Act.

5.4.1 PROCESS FOR OBTAINING A RENEWAL

A person may renew a licence through email, fax, mail or in person. It is strongly recommended that licensees do not attempt to renew their licences in person as the waiting times at the shop front increase significantly during the renewal period.

Under the Act, a person that applies to renew their licence is considered to be licensed until a decision on the application is made. That means that there is no penalty in applying on line or by mail, as the licence will remain current until the Commissioner makes a determination.

Applications for renewal can be lodged up to three months after the expiry of the licence (30 September). The licence will be backdated to the end of the previous licence but the person is not protected from the Commissioner taking action them for carrying on business while unlicensed.
CHAPTER 6 - CONDUCT

Under the Act, agents and salespeople are required to comply with certain conduct requirements. These include the way that an agent or salesperson conducts themselves, the way the business is managed and the management of client’s money.

6.1 MANAGEMENT OF THE BUSINESS

6.1.1 AGENT IN CHARGE - REAL ESTATE, BUSINESS, STOCK AND STATION, AND EMPLOYMENT

A real estate, business or stock and station agent may have multiple places of business (generally referred to as premises) under one licence, but all premises under that licence must have a licensed agent in charge of the day to day management of that premises. If the agent is a corporation, it must employ a licensed agent at each of its premises to act as the day to day manager.

The Commissioner can grant an exemption from the requirement to have a licensed agent in charge of a place of business if there are suitable reasons. The Commissioner will consider the potential risk of allowing an exemption and an exemption is generally only granted where the licensed premises are geographically close (in the same building or same street) or where limited services are provided at one of the premises.

If an agent is applying for an exemption, the application must address the following issues:

- The reasons the exemption is needed.
- The agent’s experience as licensee-in-charge at a place of business of a licensee.
- The agent’s capacity to properly supervise the conduct of business at more than 1 place of business.
- Office systems or arrangements established, or to be established, at each place of business.
- Staffing and office management arrangements at each place of business concerned.
- Whether there is a centralised trust account for the deposit of trust money received in connection with the businesses for which the licensee would be licensee-in-charge under the exemption.
- The agent’s record in relation to compliance with the Act during the previous 5 years.
- Employer references (if any) in relation to the licensee’s experience as a licensee-in-charge.

6.1.2 AGENT CANNOT BE IN CHARGE OF MORE THAN ONE PLACE OF BUSINESS - REAL ESTATE, BUSINESS AND STOCK AND STATION

A real estate, business or stock and station agent cannot be the day to day manager of more than one place of business. Also, the agent cannot be the day to day manager for two or more licensed agents at one place of business if those agents are not in a
partnership. If the agent is a corporation, it must employ a licensed agent at each of its premises to act as the day to day manager and it cannot employ one person to be responsible for more than one place. This does not apply to employment agents.

The Commissioner may grant an exemption to this requirement. As with the previous section, exemptions are generally only granted where the two places of business are close to each other or there is limited service at one or more of the premises (this can include part time hours at one place of business.)

If an exemption is being sought, the application must address the following issues:

- The reasons for the exemption.
- The agent’s experience as licensee-in-charge at a place of business of a licensee.
- The licensee’s capacity to properly supervise the conduct of business of more than 1 licensee.
- Fiduciary safeguards and office systems established, or to be established, to provide for accountability to the agent in charge.
- Whether separate trust accounts are in place for the deposit of trust money received in connection with the business of each licensee for whom the licensee would act under the exemption.
- The agent’s record in relation to compliance with the Act during the previous 5 years.
- Employer references (if any) in relation to the agent’s experience as a licensee-in-charge.

6.1.3 ADMINISTRATORS

The Act allows for the Commissioner to appoint an administrator in certain circumstances:

- the agent’s licence is suspended or cancelled;
- the agent is disqualified from holding a licence;
- the agent’s licence has expired;
- the agent surrenders the licence under section 39 of the Agents Act;
- the agent is missing and cannot be located after making reasonable enquiries;
- the agent dies;
- the agent is a corporation and has entered into administration.

Administrators are exempt from requiring a licence under the Act, but anything an administrator does after being appointed by the Commissioner is taken to be the action of a licensed agent. The Commissioner may also appoint an administrator for someone who is pretending to be a licensed agent, or is carrying on business as an agent, even if that person is not licensed.

While the appointment of an administrator is in force, the agent must not be involved in the direction, management or conduct of the agent’s business unless the administrator otherwise directs in writing.
On the appointment of an administrator for an agent, the Commissioner will give the person in charge of the branch of the authorised deposit-taking institution where the agent maintains a trust account a written notice informing the institution of the appointment and revoking the agent's authority to withdraw money from the account.

Once the agent's authority to withdraw money has been revoked, the agent may no longer access the account and any authorisations for other people to access the account are revoked. Only the administrator or their representatives may access the account.

### 6.2 TRUST ACCOUNTS

Under part 7 of the Act, all licensed real estate, business and stock and station agents must hold trust money in a trust account kept at an authorised deposit taking institution in the ACT unless an exemption has been granted by the Commissioner. When opening a trust account, the agent is required to notify the authorised deposit-taking institution in writing that it is a trust account required under the Agents Act.

This mandatory obligation for agents requiring them to keep trust accounts is due to the special relationship between the agent and the principal (the person or entity for whom they act). Trust money is money belonging to the principal but managed by the agent for a specific purpose or purposes which have been decided by the principal. Trust money must be appropriately kept in a separate trust account but a licensed agent may keep more than one trust account.

The trust account must be under a name that includes the name of the person or, if they carry on business under a business name or in partnership, under the business name or the name of the partnership. The words ‘Trust Account’ must appear in the name of the trust account and all cheques drawn on the trust account.

A licensed agent is required to notify the Commissioner in writing of the details of each trust account held by the agent and if the agent opens a new trust account, of each new trust account. These details must be given to the Commissioner within two business days after the day the agent becomes a licensed agent or the agent opens a new trust account. For convenience, the trust account declaration is included in the application for an agent licence.

Trust accounts must be held in an ACT based financial institution.

**People required to hold trust accounts:** Only certain people are required to hold a trust account. Those are:

- a person who is no longer a licensed agent but holds trust money received while licensed
- the personal representative of a licensed agent who died while holding trust money, if the representative holds the trust money
- the liquidator of a corporation that went into liquidation while being a licensed agent and holding trust money, if the corporation holds the trust money.

All agents who manage trust money must:
• provide quarterly statements on trust moneys to the Office of Regulatory Services within 15 business days of the end of each quarter;
• have trust accounts audited by a qualified auditor within three months of the end of the period;
• manage their records, including recording the material details of every transaction.

6.2.1 DEALING WITH TRUST MONEY

A licensed agent must:

• deal with trust money as directed by the person for whom the money is held on trust
• not use the money to pay the debts of the agent (and not attach or take in execution trust money under a court order or court process at the request of the creditor of the agent)
• pay the money into the trust account by the next ADI business day after they receive it
• only pay amounts out of the trust account by electronic transfer or by cheque (cheques must be crossed and expressed payable to a person specified in the cheque)
• for money that is paid by direct deposit or electronic funds transfer into another account kept by the agent that is trust money, pay money into a trust account on the next ADI business day after the day the agent becomes aware of the payment.

6.2.2 OVERDRAWN ACCOUNTS

Where a licensed agent finds out that the agent’s trust account has become overdrawn, they must tell the Commissioner in writing within five business days after the day the agent finds out that the account has become overdrawn. The notice must include

• details of the overdrawn account;
• the amount by which the account is overdrawn; and
• the reason for the account being overdrawn.

6.2.3 OBLIGATIONS ON AN AUTHORISED DEPOSIT TAKING INSTITUTION

An authorised deposit-taking institution with which a trust account is kept must not enforce any liability that the licensed agent may have towards the authorised deposit-taking institution against any amount held in the account whether by way of claim, set-off, counterclaim, charge or otherwise.

On the tenth ADI business day in each month, the authorised deposit-taking institution of the trust account must:

• work out the interest at the specified rate (the specified rate, for a particular day, is 70% of the yield of the authorised deposit taking institution’s accepted bills published by the Reserve Bank of Australia for the day) on the daily balances of the trust account during the previous month
• pay to the territory an amount equal to the total of the amounts of the interest worked out.
• Provide the Commissioner with a written report within 10 business days after the end of the month providing trust accounts held for the month.

6.2.4 CLOSING A TRUST ACCOUNT

When closing a trust account, a licensed agent must write to the Commissioner informing of the closure within 10 business days after the day the account is closed.

6.2.5 QUARTERLY STATEMENTS

At the end of each quarter a licensed agent must prepare a quarterly statement for the Commissioner. The quarterly statement must:

• be prepared within 15 business days after the end of each quarter;
• be made as at the close of business on the last day of business to which the statement relates;
• state the name of each person on whose behalf the licensed agent held trust money;
• state the amount of trust money held in the agent’s trust accounts on behalf of the person;
• state the amount of the trust money held in cash by the agent held on behalf of the person;
• state the amount in each trust account kept by the agent (in working out this amount, include cheques drawn on the account but not presented as taken to have been paid);
• be kept for up to five years after the end of the quarter to which the statement relates;
• must be audited by a qualified auditor within three months after the end of the audit period, or longer if allowed by the Commissioner.

Where a licensed agent (including a former licensed agent or personal representative of a licensed agent) held no trust money during the audit period, the agent must give the Commissioner a statutory declaration to that effect within three months after the end of the audit period.

6.2.6 MAINTAINING RECORDS

Agents must keep records of every transaction (records include documents and information received in electronic form). The records must be kept for at least five years, commencing on 30 September of the year the record is created. The record must be kept at the agents main place of business unless provided an exemption in writing by the Commissioner.

When an agent receives trust money (in cash or cheque non electronically credited/transfered and not paid directly into their account) they must give a receipt to the person who gave them the money, and keep a copy of that receipt. The receipt must also describe on its face the reason why the money was given to the agent.
6.2.7 UNCLAIMED TRUST MONEY

On 1 July each year, an agent that has held trust money for more than three years must provide a report the Commissioner about the money. This report must be presented to the Commissioner by 31 July of the same year.

The statement must include the name and address of each principal for whom or on whose behalf trust money is held and the amount held and the purpose of the payment for each principal.

Former licensed agents holding trust money need to give statements about unclaimed trust money to the Commissioner within three months as at the day they cease to be a licensed agent. Personal representatives of licensed agents holding trust money need to give statements about unclaimed trust money to the Commissioner within three months as at the day the licensed agent died.

Within six months after receiving statements about unclaimed money, the Commissioner will prepare a written notice stating that if the money is not paid out within three months of the date of the notice it must be paid to the public trustee. That notice is published in the Canberra Times.

6.3 RULES OF CONDUCT

All agents and salespeople are required to comply with the rules of conduct (part 8 of the Regulation). The rules of conduct are as follows:

- Agents must have knowledge and understanding of the Act and any other laws relevant to the kind of licence, certificate or registration held that may be necessary to allow the agent to lawfully exercise his or her functions as an agent.
- Agents must comply with the fiduciary obligations arising as acting as an agent.
- An agent must act honestly, fairly and professionally with all parties in a transaction and must not mislead or deceive any parties in negotiations or a transaction.
- An agent must exercise reasonable skill, care and diligence.
- An agent must not engage in high pressure tactics, harassment, harsh or unconscionable conduct.
- The agent must act in the best interest of the client at all times unless it would be contrary to the Act, or unlawful to do so.
- An agent must not, at any time, disclose any confidential information obtained while acting on behalf of a client or dealing with a customer unless the client or customer consents to the disclosure or the agent is permitted or compelled by law to disclose the information.
- An agent must not act as an agent or represent themselves as acting as an agent on behalf of a person without the written consent of the person.
- An agent must act in accordance with a client's instructions unless it would be contrary to the Act or otherwise unlawful to do so.
• An agent who is a licensee in charge of a place of business must take reasonable steps to ensure other licensees or registered salespeople employed at the business comply with the Act.

• An agent must not accept an appointment to act as an agent if doing so creates a conflict of interest.

• An agent who refers a principal or prospective buyer to a service provider must not falsely represent to the principal or prospective buyer whether the service provider is independent of the agent. A service provider is considered to be independent of an agent if the agent receives no rebate, discount, commission or benefit for referring a customer to the service provider and the agent does not have a personal or commercial relationship with the service provider.

• A personal relationship can include a family relationship, business relationship, fiduciary relationship, or a relationship where one person is accustomed or obliged to act in accordance with the directions, instructions or wishes of the other person.

• If the service provider is not independent of the agent, the agent must disclose to principal or prospective buyer the nature of any relationship the agent has with the service provider and the nature and value of any rebate, discount, commission or benefit the agent may receive, or expects to receive, by referring the client to the service provider.

• An agent must not recommend that a principal or prospective buyer engage the services of a solicitor if the agent knows that the solicitor will be acting for the other party.

• An agent must not offer to provide to any other person any gift, favour or benefit to induce any person to engage the services of the agent.

• An agent must not solicit clients by means that the agent knows or should know are false or misleading.

• An agent must not give or tender to any person a document for signature unless the document is complete.

• An agent must not falsely represent to a person the nature or effect of a provision of the Act, including the requirement to enter into particular agency agreements.

• Agency agreements must comply with the requirements of the Act and Regulation or commissions may not be charged.

6.3.1 FOREIGN INVESTMENT RULES FOR RESIDENTIAL HOUSING

Real estate agents should be aware of the restrictions placed on non permanent residents of Australia owning residential property. Temporary residents may only purchase new properties, not existing dwellings. In addition, they must commence building on land within two years of purchase or sell the property when they leave the country or it will be compulsorily sold. Agents need to ensure that clients comply with this requirement.

6.4 COMPLIANCE

ORS undertakes a range of compliance activities to regulate Agents in accordance with the Act.
The Commissioner and Investigators are authorised to investigate any person carrying out an agent activity, whether licensed or not. Some of the more common complaints that are investigated against agents are:

- Performing an activity without a licence or registration; and
- Trust account complaints.

The ORS compliance strategies include:

- education;
- monitoring and inspections;
- self-regulation;
- information sharing; and
- enforcement.

The ORS conducts both routine inspections and audits. The routine inspections are generally in response to complaints or to follow-up on cancelled/suspended licences. Trust account audits are undertaken regularly, as are audits of CPD for compliance with legislation.

6.5 INSPECTIONS

Under the *Fair Trading (Consumer Affairs) Act 1973* the Commissioner and investigators have the power to enter premises at any time with the occupier’s consent or enter premises when open to the public or enter business premises during business hours at the premises or enter premises with a search warrant.

Once they have entered the premises investigators have a range of powers including the power to examine and copy documents, and take photographs and samples and seize items. Investigators can also require a person to give information or produce documents.

6.6 PENALTIES RESULTING FROM INSPECTIONS OR NON-COMPLIANCE WITH THE ACT OR REGULATION

6.6.1 TYPES OF PENALTIES

The Act provides for a range of penalties resulting from non-compliance with the Act or Regulation. In particular the Act provides for a series of criminal offences, infringement notices and for disciplinary action to be taken against a licensee or registered salesperson.

6.6.2 DISCIPLINARY ACTION

The Act provides for the ACT Civil and Administrative Tribunal (the Tribunal) to take action against licensed agents or registered salespeople following an application by the Commissioner. The Commissioner may apply to the Tribunal for a decision on whether to suspend or cancel an agent's licence if the agent:
has contravened or is contravening the fair trading legislation (e.g. Agents Act, Fair Trading Act);
has contravened or is contravening a rule of conduct or a condition of their licence;
becomes ineligible for the licence;
has contravened or is contravening an order of the Tribunal or if the licence was obtained as a result of fraud or a mistake.

The Act also provides for the tribunal to take action against salespeople. The Commissioner may apply to the Tribunal for suspension or cancellation if the salesperson:

- has contravened or is contravening the fair trading legislation;
- has contravened or is contravening a rule of conduct or a condition of their registration;
- becomes ineligible for registration
- has contravened or is contravening an order of the Tribunal or if the registration was obtained as a result of fraud or a mistake.

The Tribunal can make a variety of decisions, including a decision to suspend or cancel a licence, issue a direction or impose a monetary penalty. These actions usually happen following an inquiry by the Tribunal where the applicant has the opportunity to be heard on the matter and can be represented by a legal practitioner.

The Tribunal must consider all matters that come before it and the existence of facts relevant to those matters, on the basis of proof on the balance of probabilities.

Any decision made by the Tribunal can be appealed to the Supreme Court, with leave of the Court.
CHAPTER 7 - APPEALS AND COMPLAINTS

7.1 APPEALS AGAINST DECISIONS

There are a number of decisions made by the Commissioner under the Act that can be appealed. Appeals of decisions are heard by the ACT Civil and Administrative Tribunal (ACAT). The ACAT is the review body for the majority of government decisions in the ACT. There are time limits to appeal decisions and fees apply. For more information on ACAT or the appeals process go to http://www.acat.act.gov.au/.

7.1.1 REVIEWABLE DECISIONS

Below are listed decisions made by the Commissioner that are reviewable.

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### 7.2 COMPLAINTS

#### 7.2.1 COMPLAINTS ABOUT AN ORS OFFICER

The ORS is committed to providing customer service in a professional, efficient and respectful manner. All people have the right to raise concerns and make legitimate
complaints and expect that the issues raised will be handled in a fair, confidential and responsive manner and free from repercussion or prejudice.

The ORS Complaints Policy is available at the ORS shopfront and at www.ors.act.gov.au. The policy sets out the responsibility of the ORS to:

- Recognise, promote and protect the customer’s right to complain about their dealings with the ORS;
- Ensure an accessible and well publicised complaints procedure is in place;
- Recognise the need to be fair to both the complainant and the organisation or person complained about;
- Provide a mechanism for responding to complaints in a timely and courteous manner;
- Determine and implement remedies;
- Provide adequate resources to support the complaints management process;
- Record, assess and review complaints on a regular basis to ensure responsive and on-going commitment to service improvement.

7.3 HOW TO MAKE A COMPLAINT ABOUT A LICENSED AGENT OR REGISTERED SALESPERSON

To make a complaint about a licensed agent or registered salesperson, refer to the procedure set out in the External Complaints Policy available at the ORS shopfront and at www.ors.act.gov.au. Generally this policy indicates that a complaint can be made over the phone or by other informal means depending on the nature or severity of the complaint. A complaint can be made by phoning (02) 6207 3000.
ATTACHMENT 1: QUALIFICATION REQUIREMENTS

The qualifications for Real Estate, Stock and Station and Business Agents are the same. An Agent needs to hold a Diploma in the Property Development and Management Training Package (PRD01) or have completed 18 units from the Property Services Training Package (CPP07) consisting of 6 core, 4 common and 8 elective units.

The units studied under CPP07 must include the following:

- CPPDSM4006A Establish and manage agency trust accounts
- CPPDSM4007A Identify legal and ethical requirements of property management to complete agency work
- CPPDSM4008A Identify legal and ethical requirements of property sales to complete agency work
- CPPDSM4009A Interpret legislation to complete agency work
- CPPDSM4015A Minimise agency and consumer risk
- CPPDSM4080A Work in the real estate industry or
- CPPDSM4081A Work in the stock and station agency sector

And at least four of the following units:

- BSBFIM501A Manage budgets and financial plans
- BSBHRM402A Recruit, select and induct staff
- BSBMGT502B Manage people performance
- BSBMGT515A Manage operational plan
- BSBMGT605B Provide leadership across the organisation
- CPPDSM4005A Establish and build client-agency relationships
- CPPDSM5009A Coordinate risk management system in the property industry
- CPPDSM5012A Develop a strategic business plan in the real estate industry
- CPPDSM5018A Ensure a safe workplace in the property industry
- CPPDSM5020A Manage and monitor effective client service in the real estate industry
- CPPDSM5030A Manage projects in the property industry
- CPPDSM5032A Market the agency
- CPPDSM5036A Prepare tender documentation in the property industry

And at least 8 of the following units:

- CPPDSM3008A Maintain and protect condition of managed properties
- CPPDSM4001A Act as a buyer’s agent
- CPPDSM4002A Apply knowledge of state or territory legislative and regulatory framework to complete agency work
- CPPDSM4003A Appraise property
- CPPDSM4004A Conduct auction
- CPPDSM4005A Establish and build client-agency relationships
- CPPDSM4010A Lease property
- CPPDSM4011A List property for lease
- CPPDSM4012A List property for sale
- CPPDSM4013A Market property for lease
- CPPDSM4014A Market property for sale
- CPPDSM4016A Monitor and manage lease or tenancy agreement
- CPPDSM4017A Negotiate effectively in property transactions
- CPPDSM4018A Prepare and present property reports
- CPPDSM4019A Prepare for auction and complete sale
- CPPDSM4020A Present at tribunals
- CPPDSM4022A Sell and finalise the sale of property by private treaty
- CPPDSM4046A Manage tenancy disputes
- CPPDSM4049A Implement maintenance plan for managed properties
- CPPDSM3017A Work in the strata/community management sector
- CPPDSM4021A Sell and finalise sale of rural property by private treaty
- CPPDSM4023A Act as a tenant’s agent
- CPPDSM4029A Appraise business
- CPPDSM4030A Appraise rural property
- CPPDSM4033A Assess and value goods, chattels, plant and equipment
- CPPDSM4034A Assess and implement strata/community management agreement
- CPPDSM4036A Broker sale of industrial, commercial and retail property
- CPPDSM4038A Conduct goods, chattels or equipment clearing sale or auction
- CPPDSM4040A Contribute to life cycle maintenance strategy
- CPPDSM4041A Contribute to development of a tenancy mix strategy
- CPPDSM4043A Coordinate fit-out of property and facilities
- CPPDSM4050A Lease industrial, commercial and retail property

If a person was a registered agent immediately before the commencement of the Agents Act 2003 they do not need to hold any qualification, but they do need to undertake CPD.

REAL ESTATE AGENT LICENCE - CONDITIONAL TO SELL LAND BY AUCTION

A person has the qualifications for a real estate agents licence to only sell land by auction if the person has competency in PRDRE26A (Conduct property sale by auction) in the training package PRD01 or CPPDSM4004A (Conduct auction) in CPP07.

REAL ESTATE AGENT LICENCE - CONDITIONAL OWNERS CORPORATION MANAGING AGENT

There are no specific qualification requirements for this conditional licence, although the person needs to show that they have the skills, knowledge and experience appropriate for acting as an owners corporation managing agent.
EMPLEYMENT AGENT

There are no qualification requirements for an employment Agent under the Act.

COMPANIES

Companies are not required to show qualification for the company, but are required to have at least one director who holds an individual licence.