

DIY – Introductory Compliance Checklist for ACT

WARNING

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The following 'Do It Yourself' introductory compliance checklist is designed to cover the basic needs of the average real estate business in ACT

The following impact upon the day-to-day business of running a real estate agency practice within the ACT

- Agents Act 2003
- Agents Regulation 2003
- Trade Practices Act
- Civil Law (Sale of Residential Property) Act 2003
- Occupational Health & Safety Act 2000
- REIA Guidelines on the Trade Practices Act

The following REIA Guidelines to the Trade Practices Act, were prepared in collaboration with the ACCC

- Description of Property
Misleading and Deceptive Conduct
- Photographic Representations
- Price Offering
- Price Ranges for Properties
- Rebates on Advertising
- Property Inspections (REIA Guidelines)
- Publication 'Reality Check' www.reiaact.com.au/custom.asp?page_id=28

Realistically, while this tool will not make you as secure as having a Kaplan on-site Compliance Check undertaken by a specialist, it will help you get many of the important issues sorted out – especially on the sales side of your business

For example, if a disgruntled vendor, sent a letter of complaint to the Office of Regulatory Services (ORS) stating they, as the vendor, were led astray with an 'estimated selling price-guide' for a property, or one of your sales-team had led a prospective buyer astray with a 'price guide' for a property (whether auction or private treaty), are you confident in responding? This checklist could help you:

- survive an audit of all your recent sales and property management files by the ORS, and also
- coach staff through the compliance process and be assured they could correctly use simple procedures and checklists

The checklist starts at the front door of your business, then moves into licenses and certificates of registration requirements. As you will see, many of the items on the checklist cover the sales areas – in particular, the sales agency agreements and the filling-up process (mistakes can deem an agency agreement as invalid, and can lead to forfeiting commissions) Take your time and be honest with your self-assessment – however, then you, or someone else, must fix any areas of non-compliance.

	LICENCE DETAILS	Y	N
	<p>Company licences</p> <p>A company licence must nominate a licence holder who will supervise business operations.</p>		
S69	Each place of business to have licensed agent in charge		
S70	Licensed agent to be in charge of 1 place of business / cannot carry on business at two or more places		
S18-45	<p>Agents required to be licenced or certificate of registration holder</p> <p>Compare details of displayed employed licence and certificate of registration holders with information on currency of licences and certificates of registration holders by going to www.ors.act.gov.au then go to Trader Information/Public Register where you can, via the ACT Office of Fair Trading, check:</p> <ul style="list-style-type: none"> • are you employing a person who is not listed • do you have someone listed that is no longer employed by you • are dates of currency of licences and certificates of registration correct 		
	<p>Corporation licence</p> <ul style="list-style-type: none"> • can a copy of your current corporation licence be shown upon demand 		
	<p>Continuing Profession Development as per Agents (Continuing Professional Development) Guideline 2008 (No. 1)</p> <ul style="list-style-type: none"> • have you created a register of licence and certificate holders and CPD undertaken • are there dates of renewal / dates CPD training been undertaken <p>(good business practice would entail updating and maintaining a record of same evidencing that each employee is compliant)</p> <ul style="list-style-type: none"> • do all staff understand CPD training changes 		

	SALES PROCEDURES	Y	N
	<p>Do all sales staff know there must be a valid agency agreement, or commissions cannot be legally collected</p> <ul style="list-style-type: none"> • is the correct licensee name in agency agreement (entity - corporation, partnership or sole-trader) • is the correct licence number in agency agreement (entity - corporation, partnership or sole-trader) • is the estimated selling price procedure followed • are all estimated selling price supporting documents kept for substantiation • are rebates, discounts, and commissions disclosed in the agency agreement • are any alterations to agency agreements acknowledged correctly • is there proof of notification the agency agreement was served within 48 hours • is there an advertising checklist / not false and misleading competed and on-file • are any conflict of interest disclosed using the prescribed ACT ORS form • is a completed contract in-hand prior to commencement of marketing of the listed property • are all compulsory documents are required included in the contract for sale • are all offers presented to the agent (whether verbally or in writing) given to the vendor • are any commission-sharing agreements in writing 		

	RISK MANAGEMENT	Y	N
	<p>Policy and Procedures -- does your agency have a Policy & Procedure Manual containing up-to-date OH&S policies and procedures such as:</p> <ul style="list-style-type: none"> • procedures in place for armed hold up, fire etc • procedures for sexual harassment • procedures for anti-discrimination • procedures for out-of-office safety for tracking of staff • are fire extinguishers available and clearly marked • are exits + exit signs clearly placed • is there a commercial-sized first-aid kit in the office <p>– do all your staff know and understand the policies and procedures</p> <p>– have all your staff signed off on this</p> <p>– does your agency have a copy of the Agents Act 2003</p> <p>– does your agency have a copy of the Agents Regulation 2003</p> <p>Privacy Policy – does your agency have a privacy policy / statement drafted for use:</p> <ul style="list-style-type: none"> • where information is collected at open inspections • where information is collected at tenancy application • is it used by all relevant staff <p>Disclaimers</p> <ul style="list-style-type: none"> • does your agency have legally drafted disclaimers in use • are your staff trained to identify areas where disclaimers must be used <p>Disclosure – do your staff understand the need for disclosure documents</p> <ul style="list-style-type: none"> • S83 where financial or investment advice is given • S84 where an agent must disclose to the buyer the pre-contract information before the buyer enters into a contract for the purchase of land • S84 where a salesperson must disclose to the buyer the pre-contract information before the buyer enters into a contract for the purchase of land • S86 where an agent may be obtaining a beneficial interest • S87 where a salesperson may be obtaining a beneficial interest <p>Keeping of Records – do you have a system for the keeping of records, including storage (Agents Act 2003 S127-129)</p>		

