



**Fair
Trading**

PROPERTY STOCK AND BUSINESS AGENTS ACT 2002

**DIRECTOR-GENERAL'S GUIDELINES FOR
CONTINUING PROFESSIONAL DEVELOPMENT**

6 July 2009

PROPERTY STOCK AND BUSINESS AGENTS ACT 2002

CONTINUING PROFESSIONAL DEVELOPMENT

All personal licences and certificates are subject to a condition requiring continuing professional development. It is a requirement for licence or certificate of registration renewal under section 15(4) of the *Property, Stock and Business Agents Act 2002* that this condition be complied with. The guidelines apply to all licence and certificate types: real estate agents, strata managing agents, stock and station agents, business agents, buyers' agents and on-site residential property managers as well as certificate of registration holders.

The continuing professional development requirements are aimed at maximising consumer protection outcomes, maintaining public confidence by ensuring that industry participants are continually up-dating their skills, and reducing disputes in the NSW property agency industry. In particular, the requirements aim at the long term upgrading of the professionalism and performance of licence and certificate holders by:

- improving knowledge, skills and practice across industry in identified areas of marketplace concern; and
- maintaining or improving levels of competence, customer service and business management skills in the industry as a whole.

The Office of Fair Trading is responsible for the administration and monitoring of the continuing professional development requirements. The Director-General's Guidelines set out the requirements that must be fulfilled by licence and certificate holders in undertaking their continuing professional development.

These Guidelines took effect from 1 January 2008. Any continuing professional development completed in 2007 that complied with the Director-General's Guidelines in place at the time and not yet used to satisfy a declaration to renew a licence or certificate, may be credited towards the satisfying the declaration for a licence or certificate renewal that falls due in 2008. If you have completed more than 12 points the surplus may be carried over to the next renewal period.

DIRECTOR GENERAL'S GUIDELINES

1. NUMBER OF POINTS TO BE COMPLETED

A licensee or certificate of registration holder with a licence or certificate condition requiring continuing professional development must complete 12 points of professional development in the 12 month period immediately prior to the renewal due date of the licence or certificate regardless of the number of licences held. Surplus points may be carried forward for 12 months. As you must complete some continuing professional development each year, a maximum of 11 points may be carried forward.

2. LEARNING CATEGORIES

Continuing professional development in the broad learning areas specified in this document may be undertaken from any of the learning categories listed below. However, if training is undertaken under learning category 1 it must be combined with training from at least one other learning category.

Learning Category 1: An activity with an identifiable learning outcome. The training must be delivered interactively such as by CD-Rom, workshops, web-based tool, forums or conference presentation. A maximum of 4 points can be achieved in learning category 1.

Learning Category 2: An activity with an identifiable learning outcome delivered by an industry association, or a government agency such as Department of Primary Industry or Office of Fair Trading. Courses must be approved by the Director-General Trading except for courses delivered by Real Estate Institute of NSW; Estate Agents Co-operative Ltd; Australian Livestock and Property Association; Institute of Strata Title Management; Australian Institute of Business Brokers; Royal Institute of Chartered Surveyors and Australian Property Institute.

Learning Category 3: Structured learning with an assessed learning outcome linked to either a relevant Australian University qualification or a relevant national Training Package outcome delivered by a registered training organisation.

3. POINT ENTITLEMENT

A licensee or certificate holder is entitled to the following continuing professional development credits:

- learning category 1: One point per hour (maximum of 4 points each year)
- learning category 2: Two points per hour
- learning category 3: Three points per hour

4. LEARNING OUTCOMES

The continuing professional development activity must be of significant intellectual or practical content, be relevant to property agency work and provide an educational outcome.

5. TRAINING PROVIDERS

The continuing professional development must be conducted by persons qualified to provide the training to be covered. Training providers should have the appropriate state training accreditation to conduct training for the property agency industry or specialist industry expertise.

6. INDUSTRY ASSOCIATION

For the purpose of administering the Director-General's Guidelines for Continuing Professional Development for Property Agents, an industry association referred to in

Learning Category 2 is described as an organisation which the Director-General determines exists to promote high standards of agency practice through training.

7. BROAD LEARNING AREAS AND COMPULSORY TOPICS

The Director-General may determine broad learning areas for the continuing professional development activity. The Director-General may also determine compulsory topics which must be completed as part of the continuing professional development requirements. The Director-General may also establish a consultative reference group to advise about broad learning areas and any compulsory topics.

8. CERTIFICATION BY LICENSEE/CERTIFICATE HOLDER

A licensee or certificate of registration holder must certify whether or not he or she has undertaken 12 points of continuing professional development in the 12 month period immediately prior to the renewal due date as part of the application for renewal of a licence or certificate.

9. LICENSEE/CERTIFICATE HOLDER RECORD KEEPING

A licensee or certificate of registration holder must retain a record of the actual activities undertaken, details of the educational value of the activity and the corresponding number of continuing professional development points earned. The following records are acceptable:

learning category 1: proof of attendance, receipts or other records verifying the claim for points, proof that applicant has trained peers

learning category 2: proof of attendance, receipts or other records verifying the claim for points.

learning category 3: statement of attainment, certificate of part completion or qualification issued by a registered training organisation or Australian University.

The proof of attendance should contain:

1. Licence holder's name, contact details and his /her Office of Fair Trading licence or certificate number
2. Title of the course/event/activity/training which also identifies the broad learning area being covered
3. Course code (if any)
4. Date, time and place of the course/event/activity/training
5. Duration of the course/event/activity/training
6. Type of assessment (if applicable)
7. Name of the trainer and training organisation
8. Continuing professional development points earned
9. If training was provided by a registered training organisation, the learner will also receive a qualification or a statement of attainment or statement of achievement or statement of attendance or specifying what had been assessed.

The record must be kept for at least three years.

9. AUDIT OF LICENSEE/CERTIFICATE HOLDER RECORDS

Each year the Office of Fair Trading may verify compliance with the Director-General's Guidelines by conducting an audit of records kept by agents and certificate of registration holders. If it becomes apparent that false claims have been submitted action will be taken requiring the licensee or certificate of registration holder to show cause why the licence or certificate should not be suspended or cancelled.

10. EXEMPTIONS

In extenuating circumstances the Director-General may exempt a licensee or certificate holder from completing part or all of the requirements for continuing professional development. Circumstances for granting an exemption are limited and may relate to serious illness or misadventure.

11. NON-COMPLIANCE BY A LICENSEE/CERTIFICATE HOLDER

Failure to fulfil the continuing professional development requirement may result in the Director-General refusing an application for renewal of a licence or certificate of registration. Under section 15(4) of the *Property Stock and Business Agents Act 2002*, the Director-General may refuse an application if the applicant fails to comply with a condition on the licence relating to continuing professional development.

An application for restoration of the licence may be made in the three months after the expiry of the licence. The application for restoration may be granted once the continuing professional development requirements have been completed and all other requirements satisfied within the three month period.

Graeme Head
Director-General

CONTINUING PROFESSIONAL DEVELOPMENT LEARNING AREAS FOR LICENCE AND CERTIFICATE HOLDERS UNDER THE PROPERTY STOCK AND BUSINESS AGENTS ACT 2002

Continuing professional development training and education must relate to at least one of the learning areas set out in this document. These broad learning areas may be based on, but not limited to, elements or outcomes of the relevant units of competency from an endorsed training package. NOTE: If the learning area is to be assessed it must be on a relevant national training package outcome delivered by a registered training organisation or linked to a relevant Australian University qualification.

The term **property** includes agency practice in real estate, strata management, on-site residential management and/or business and stock & station.

1. Trust accounting principles and audit requirements

Example topics:

- Handling and use of trust money
- Understanding the rights and obligations in handling trust money
- Compliance responsibilities in handling trust money
- Trust account auditing and reporting requirements of the Property Stock and Business Agents Act 2002
- Accounting and bookkeeping for financial control
- Agency administrative routines and practices in respect to trust accounts
- Fiduciary duties and responsibilities for trust account management and associated legal compliance requirements
- Internal control mechanisms in system specifications
- Risks and risk management strategies for trust accounts
- Systems design, including fraud control, risk management and supervision of trust account entries and disbursements
- Use of third parties and other professionals to ensure compliance with legislative requirements

2. Risk management see also Legislation and Compliance and Ethics and Professional Responsibility

Example topics:

- Managing risk in your business
- Consequences of poor risk management
- Corporate governance
- Misleading and deceptive conduct
- Risk management concepts and practices within the property industry
- Anti-discrimination, equal employment opportunity (EEO) and occupational health and safety
- Employment and industrial relations
- Consumer protection, fair trading and trade practices
- Financial services, insurance policies, codes and operations
- Client and organisational confidentiality requirements, privacy and risk

3. Strata and community managers

Example topics:

- Preparing, planning and organising a strata meeting (including notification processes, types of meetings, structure and terminology)
- Using effective facilitation and interpersonal skills for meeting management
- Statutory and legislative requirements in relation to meetings
- Repairs and the management of risk
- Effective management of strata meetings (including roles and responsibilities, time management, attitude and cross cultural awareness)
- Strata Schemes Management Act
- Community Land Management Act

4. Stock and Station Agency Practice

Example topics:

- Conducting rural property and livestock auctions
- Best practice in auctioneering (Auctioneers Schools)
- Regulatory requirements, both state and national in rural environments such as the National Livestock Identification Scheme (NLIS), Chemical Residues, Australian Quarantine Inspection Service (AQIS), Livestock Production Assurance (LPA), National Vendor Declarations (NVD)
- Animal welfare for export
- Animal welfare for land transport
- Australian Code of Practice for the Selling of Livestock (including Guidelines for Structural requirements)
- Overseas market trends for Australian red meat
- Livestock assessment
- Owners risk of livestock
- Terms and conditions of livestock auction

5. Legislation and compliance

Example topics:

- Property Stock and Business Agents Amendment Act 2006
- Legislation such as Retail Tenancies Act, Trades Practices Act and Fair Trading Act
- Implementation of the supervision guidelines
- Avoiding misrepresentation
- Corporate requirements
- Legislative amendments affecting property agents

6. Ethics and professional responsibility

Example topics:

- Workplace practices, ethics and alternate dispute resolution
- Corporate governance
- Managing agency risk
- Client service strategies
- Maintaining the client relationship
- Industry codes of practice

7. Sale of business

Example topics:

- The effects of changing legislation on the sale of small/medium enterprises (including WorkCover contractors and employees, GST and going concerns, CGT, Superannuation, retail leases etc)
- Benchmarking best practice for business brokerages (including fees listings, marketing etc)
- Business migration, mergers & acquisitions
- Procedures for the sale of protected industries. (Taxis, Pharmacies, Newsagencies, Childcare, Post Offices, Hotel and Liquor licences etc)
- Financing alternatives
- Avoiding misrepresentation with transparent disclosure
- Managing the process of due diligence
- Comparing share transfers to asset sales

8. Commercial & Industrial Property practice

Example topics:

- Understanding a commercial lease
- Negotiation in commercial contracts
- GST and property
- Financial modelling and DCF
- Provision of advice to clients
- Interpretation of research and market data
- Risks in feasibility studies
- Expert Witness testimony
- Valuation cases – case studies
- Emerging issues
- DA's and the Land and Environment Court
- Understanding and determining outgoings and building operating costs
- Energy conservation and green issues – Building rating tools
- Planning issues updates

9. Communication skills

Example topics:

- Mediation skills
- Negotiation to achieve better outcomes
- How to use the skills of alternate dispute resolution to negotiate difficult sales
- Dispute resolution
- Quality of advice
- Communicating effectively and accurately with clients

10. Business practices

Example topics:

- Time management
- Core business skills
- Communications and technology
- Developing strategic business plans,
- Managing agency performance
- Client service strategies
- Managing human resources
- Staff skill development and training
- Managing efficient financial systems

- Explaining agreements in plain English
- (See also meeting management examples under Strata and Community Managers above)

11. Sales practices

Example topics:

- Best practice in conducting a residential property auction
- Conducting a property sale by auction
- Conducting a sale by private treaty
- Conducting a sale by tender

12. Marketing and quality control

Example topics:

- Marketing a property for sale
- Personal marketing plans
- Property appraisal for marketing purposes
- Advertising requirements under Fair Trading legislation
- Accurately describing the age and style of buildings in advertising
- Avoiding misrepresentation with transparent disclosure
- Truth in advertising (written and photographic representations)
- Age and style of buildings
- Explaining marketing and promotional campaigns to prospective clients

13. Occupational health and safety

Example topics:

- Workplace safety requirements for agency employees, managed properties, common property, sale properties and stock sale yards.
- Approaches for implementing and monitoring OH&S policies and procedures including out of office situations.

14. Property Management

Example topics:

- Effectively manage property and account to landlord
- Lease property,
- Provide property management services,
- Lease rural property,
- Manage properties for clients
- Repairs and condition of premises
- Tenant selection
- Appearing at the Consumer, Trader and Tenancy Tribunal

15. Property transaction legal requirements

Example topics:

- Agency agreements
- From sale to settlement (property and contract law)
- Conveyancing issues for the property industry\Cooling off periods and agents role in exchange