

WAIVER OF COOLING-OFF PERIOD

Section 59 Property, Stock and Business Agents Act 2002 (“the Act”)

Cooling off period

The Act provides that there is to be a cooling-off period for every agency agreement which relates to the sale of residential property or rural land in New South Wales.

What does this mean?

If you are the client of an agent licensed under the Act, you can decide to rescind the agency agreement by serving a written notice of rescission on the agent in accordance with s.60 of the Act, during the cooling-off period.

Effects of rescission

- Service of a notice of rescission terminates the agency agreement from the time the agreement was entered into.
- Neither the agent nor you are required to pay any amount by way of commission, damages, costs or expenses for or in connection with the agency agreement or its rescission.
- However, the agent must refund any money that you have already paid to the agent under the rescinded agreement.

Start and finish of cooling-off period

The cooling-off period commences when the agency agreement is signed by you or on the your behalf. If more than one person is to sign agreement the period will commence after the last person has signed.

When the agreement has been signed you have until 5 p.m. on the next day that is either a business day or a Saturday to rescind the agreement.

What is a business day?

A business day is a day other than a Saturday, Sunday, public holiday or bank holiday in New South Wales.

Can the cooling-off period be extended?

Yes. The cooling-off period may be extended by either:

- a provision in the agency agreement; or
- in writing by the agent before the period is due to end.

Giving up your right to a cooling-off period

You may give up your right to a cooling-off period by signing a waiver of the right in the form provided below.

What happens if you give up your cooling-off right

If you sign the attached form of waiver, you will lose the right to rescind the agreement during the cooling-off period.

Conditions that must be satisfied before you can sign a waiver

The Act requires that at least one business day before you sign an agency agreement the agent must provide you with copies of:

- the proposed agency agreement, and
- (if the agreement relates to residential land) the current consumer guide to agency agreements published by the Office of Fair Trading.

In addition, you must sign the form of waiver before you sign the agency agreement.

Important Note:

- You should keep all documents provided to you by the agent in a safe place.

WAIVER OF RIGHT TO COOLING-OFF PERIOD

1. I/We (name/s of client/s) of (details of client/s address) propose to enter into an agency agreement with (name of licensee) on (date) in respect of a property at (details of address, lot number, etc.)
2. In accordance with s.59(5) of the Act, I/We hereby waive the cooling-off period that would otherwise apply to the agency agreement referred to above.
3. I/We understand that as a consequence of this waiver I/We will not be able to rescind the agreement during the cooling-off period as provided for in s.60(1) of the Act.
4. I/We acknowledge that the agent provided me/us with:
 - a copy of the proposed agency agreement on (insert date) AND
 - a copy of the current consumer guide to agency agreements published by the Office of Fair Trading on (insert date).
5. I/We state that I/We did not sign the agency agreement prior to signing this form of waiver.

.....
(name of client/s and date)

[Copy to be given to client and agent to retain original]