

CLAUSE NOTES

Property Agents and Land Transactions Amendment Bill 2019

- Clause 1** **Short title**
The name given to the Act.
- Clause 2** **Commencement**
The Act will commence on a day to be proclaimed to allow all necessary legal instruments, processes and systems to be in place.
- Clause 3** **Principal Act**
The Principal Act being amended by this Bill is the *Property Agents and Land Transactions Act 2016*.
- Clause 4** **Section 3 amended (Interpretation)**
The definitions of “property management business” and “real estate agency business” are broadened to ensure anyone carrying out the functions of these businesses must be appropriately licensed.
- Clause 5** **Section 20 amended (Conditions of licence)**
This clause gives the licensee responsibility for notifying the Board of a change in details including name, address, phone and email address, as a condition of their licence.

By including this as a condition of a licence, a penalty for non-compliance is already provided under section 20(5).
- Clause 6** **Section 25 amended (Qualifications for real estate agent licence)**
This links the Property Agents Board’s determination of current qualifications to the licensing of a real estate agent.
- Clause 7** **Section 26 amended (Qualifications for property manager licence)**
This links the Property Agents Board’s determination of current qualifications to the licensing of a property manager.
- Clause 8** **Section 27 amended (Qualifications for general auctioneer licence)**
This links the Property Agents Board’s determination of current qualifications to the licensing of a general auctioneer.

- Clause 9** **Section 28 amended (Qualifications for property representative licence)**
This links the Property Agents Board's determination of current qualifications to the licensing of a property representative (see Clause 10).
- Clause 10** **Section 28A inserted**
This clause gives the Property Agents Board the power to make a determination specifying qualifications required for licensing, in line with national training standards. This allows the flexibility to respond to changing national qualifications.

The Board may vary or revoke a determination.

Any changes must be published and available to the public before a determination or variation takes effect and must include the period which applies to the change.
- Clause 11** **Section 29 amended (Board to maintain Register)**
Amended to clarify that the business address, not the personal address must be included on the Register.
- Clause 12** **Section 30 amended (Part 1 of Register)**
Amended to clarify that the business address, not the personal address must be included on the Register.
- Clause 13** **Section 31 amended (Part 2 of Register)**
Amended to clarify that the business address, not the personal address must be included on the Register.
- Clause 14** **Section 32 amended (Part 3 of Register)**
Amended to clarify that the business address, not the personal address must be included on the Register.
- Clause 15** **Section 33 amended (Part 4 of the Register)**
Amended to clarify that the business address, not the personal address must be included on the Register.
- Clause 16** **Section 36 amended (Management of real estate agency business)**
This is to ensure that a natural person is identified who is responsible for the management of the business.
- Clause 17** **Section 37 amended (Management of property management business)**
This is to ensure that a natural person is identified who is responsible for the management of the business.

- Clause 18** **Section 38 amended (Employment of property representatives)**
This clarifies that a licensed real estate agent or property manager, as well as a property representative, can contract their services to a real estate or property management business.
- Clause 19** **Section 56 amended (False or misleading advertising, &c., by property agents)**
Provides for believing on reasonable grounds that information provided by a third party to be true, to be a defence against prosecution.
- Clause 20** **Section 60 amended (Management of general auctioneering business)**
This is to ensure that a natural person is identified who is responsible for the management of the business.
- Clause 21** **Section 65 amended (False advertising, &c., by general auctioneers)**
Provides for believing on reasonable grounds that information provided by a third party to be true, to be a defence against prosecution.
- Clause 22** **Section 84 amended (Code of Conduct to be developed by Board)**
Removes the need to reprint and distribute a hard copy of the Code following any changes. An electronic copy will be available on the Board's website and a link emailed to all licensees following any change.

A hard copy will be available to licensees and members of the public at the public office of the Board.
- Clause 23** **Section 168 amended (Service of documents)**
Allows service of documents by email. Electronic communication as a means of service is acknowledged in the Court jurisdictions.
- Clause 24** **Section 172 amended (Savings and transitional provisions)**
This clause has now expired and can be removed from the Act.
- Clause 25** **Repeal of Act**
As an Amendment Bill, once the amendments have been made to the Principal Act, this Act will no longer be required and so is repealed.