

NORTHERN TERRITORY OF AUSTRALIA

COMMERCIAL AND PRIVATE AGENTS LICENSING REGULATIONS

As in force at 10 November 1999

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 10 November 1999

COMMERCIAL AND PRIVATE AGENTS LICENSING REGULATIONS

Regulations under the *Commercial and Private Agents Licensing Act*

1 Citation

These Regulations may be cited as the *Commercial and Private Agents Licensing Regulations*.

2 Reference to forms

A reference in these Regulations to a form by number is a reference to the form so numbered in the Schedule.

3 Applications

- (1) For the purposes of section 7(1) of the Act, the prescribed form of application for a licence is:
 - (a) where the applicant is a corporation – Form 1; and
 - (b) in any other case – Form 2.
- (2) For the purposes of section 7(2) of the Act, the statutory declaration shall be in accordance with Form 3.

4 Licences

A licence shall be in accordance with Form 4.

5 Changes in nominees

Where there is an alteration in the address of a nominee or where a new nominee is appointed the nominee or new nominee, as the case may be, shall lodge with the Local Court which issued the licence the return set out in Form 5, duly completed, within 7 days of the change.

6 Fees

For the purposes of section 15 of the Act the prescribed fee for the issue of:

- (a) a commercial agent's licence is \$70; and
- (b) any other licence is \$35.

7 Bonds

- (1) For the purposes of section 18(1) of the Act, Form 6 is the prescribed form of bond.
- (2) For the purposes of section 18(1) of the Act, the security for the satisfaction of the bond (a bond given by an insurance company excepted) shall be trustee securities equal to the amount of the bond accompanied by an authority to sell the securities authorizing the Territory to sell the securities upon breach of condition of the bond.

8 Prescribed records, &c.

- (1) For the purposes of section 25(1) of the Act, the prescribed records and other documents to be kept by an agent are records containing:
 - (a) in the case of an agent acting in connection with ascertaining the whereabouts of any goods delivered pursuant to a hire-purchase agreement or bill of sale:
 - (i) the full name and address of the person who requested the whereabouts of the goods to be ascertained;
 - (ii) the date the request was received;
 - (iii) a description of the goods;
 - (iv) the whereabouts of the goods;
 - (v) if any premises had to be entered to ascertain the whereabouts of the goods, how the entry was made, and the exact terms of the authority, document, arrangement or agreement under which legal power to make such entry is claimed; and
 - (vi) the fee charged for the service;

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- (b) in the case of an agent acting in connection with repossessing any goods delivered pursuant to a hire-purchase agreement or bill of sale:
- (i) the full name and address of the person who requested the goods to be repossessed;
 - (ii) the date the request was received;
 - (iii) the full name and address of the person from whom the goods were repossessed;
 - (iv) the date and time of day of the repos-session;
 - (v) the names of the agents who repossessed the goods;
 - (vi) a full description of the goods repossessed;
 - (vii) the address of the premises at which the goods were repossessed;
 - (viii) as to whether or not the person from whom the goods were repossessed was present at the time of the repossession;
 - (ix) if that person was not present at the time of the repossession, the names of any other occupants of the premises at which the goods were repossessed who were then present;
 - (x) if the person from whom they were repossessed was not present at the time of repossession, how entry was made into the premises from which they were repossessed;
 - (xi) the exact terms of the authority, document, arrangement or agreement under which legal power to make any entry is claimed;
 - (xii) what notice, if any, that the repossession had been made was given to or left for the person from whom the goods were repossessed;
 - (xiii) the address to which the repossessed goods were taken; and
 - (xiv) the fee charged for the service;

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- (c) in the case of an agent acting in connection with collecting or requesting payment of debts:
 - (i) the full name and address of the person who requested that the debt be collected or that a request for payment of the debt be made;
 - (ii) the date the request was received;
 - (iii) the full name and address of the person from whom the debt was collected or to whom the request for payment of the debt was made;
 - (iv) the amount of the debt;
 - (v) particulars of requests made for payment of the debt or of action taken to collect the debt; and
 - (vi) the fee charged for the service;
 - (d) in the case of an agent acting as a process server in relation to the service of any process:
 - (i) the name and address of the person requesting the process to be served;
 - (ii) the date the process was received;
 - (iii) the nature of the process;
 - (iv) the full name and address of the person to be served with the process;
 - (v) the date, place and time of day of service of the process;
 - (vi) whether the process was served personally on the person named therein;
 - (vii) if the process was not served personally on the person named therein, the name of the person with whom and the time, date and place the process was left.
 - (viii) in the event of non-service, the reason for failure to serve the process; and
 - (ix) the fee charged for the service; and

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- (e) in the case of an agent acting as an inquiry agent in relation to any inquiry:
 - (i) the full name and address of the person who requested the inquiry to be conducted;
 - (ii) the date the request was received;
 - (iii) a statement of the nature of the inquiry;
 - (iv) the date a written statement of the information or evidence obtained or other final report on the inquiry was delivered; and
 - (v) the fee charged for the inquiry.
 - (2) The particulars to be recorded in accordance with subregulation (1) shall be so recorded forthwith upon becoming available to the agent.

9 Copy of licence

For the purposes of section 35 of the Act, Form 7 is the prescribed form of application for a copy of a licence.

10 Exemption in relation to section 10(2) of the Act

- (1) In this regulation, **corporation** means a corporation that holds a licence under a law of a State or another Territory of the Commonwealth that corresponds to a licence that may be granted under the Act.
- (2) Subject to subregulation (3), a corporation referred to in section 10 of the Act is exempt from the requirement under section 10(2) of the Act that its nominee reside in the Territory (but the requirement that the nominee must be an officer of the corporation who is in bona fide control of its business in the Territory remains).
- (3) The exemption under subregulation (2) does not apply unless the nominee resides in the State or other Territory of the Commonwealth where the corporation was granted the licence that corresponds to the licence it is applying for under the Act.

11 Exemption in relation to section 36 of the Act

- (1) In this regulation, **corporation** means a corporation that holds a licence under a law of a State or another Territory of the Commonwealth that corresponds to a licence it holds under the Act.

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- (2) Subject to subregulation (3), a corporation referred to in section 36 of the Act is exempt from the requirement under that section that the natural person it appoints to manage its business is a resident in the Territory (but the requirement that the corporation appoint a natural person who holds a licence of the same category as that of the corporation to manage the business of the corporation remains).
 - (3) The exemption under subregulation (2) does not apply unless the natural person resides in the State or other Territory of the Commonwealth where the corporation was granted the licence that corresponds to the licence it holds under the Act.

Schedule

regulation 3(1)(a)

FORM 1

NORTHERN TERRITORY OF AUSTRALIA

Commercial and Private Agents Licensing Act

APPLICATION FOR LICENCE IN RESPECT OF A CORPORATION

To the Local Court at

1. a corporation, apply to the Local Court to be held at on the day of, 19...., for:

* a commercial agent's licence
an inquiry agent's licence
a process server's licence
a private bailiff's licence.

2. (a) The names and addresses of officers of the corporation are:

.....
.....
.....

- (b) the names and addresses of persons who are not officers of the corporation but who substantially control or could substantially control the affairs of the corporation are:

.....
.....
.....

- (c) the registered office of the corporation is:

.....

- (d) the address of the corporation to which all communications, letters, notices or other documents may be addressed is:

.....

- (e) the principal place of business of the Corporation is:

.....

(f) the other places of business of the corporation are:

.....

.....

.....

3. I,..... was on the.....day of....., 19..., appointed nominee of the corporation for the purposes of the *Commercial and Private Agents Licensing Act*, and am in bona fide control of the affairs of the corporation in the Territory.

.....
Nominee

/ /19 .

* Delete if inapplicable.

FORM 2

NORTHERN TERRITORY OF AUSTRALIA

Commercial and Private Agents Licensing Act

**APPLICATION FOR LICENCE
FOR A PERSON WHO IS NOT A CORPORATION**

To the Local Court at

1. I..... of.....in the Northern Territory of Australia, apply to the Local Court to be held at on the day of, 19...., for:

* a commercial agent's licence
an inquiry agent's licence
a process server's licence
a private bailiff's licence.

2. I attach:

- (a) a certified copy of, or an extract from my birth certificate;
(b) 2 testimonials, signed by different reputable persons, as to my character; and
(c) 3 passport-type photographs, showing clearly my facial features.

3. (a) My principal place of business is:

.....

- (b) my other places of business are:

.....

- (c) I *do/do not propose to carry on business as an agent in partnership with another person;

- (d) The name(s) and address(s) of the person(s) with whom I propose to carry on business as an agent in partnership are:

.....

.....

.....

(e) I am employed by
of as an agent.

.....
Applicant

/ /19 .

* Delete if inapplicable.

FORM 3

NORTHERN TERRITORY OF AUSTRALIA

Commercial and Private Agents Licensing Act

STATUTORY DECLARATION

I,

of.....do solemnly and sincerely declare:

*1. I am identical with the applicant named in the application for:

- * a commercial agent's licence
- an inquiry agent's licence
- a process server's licence
- a private bailiff's licence.

made on the day of, 19...,

to the Local Court at

*2. I am identical with the nominee named in the application for:

- * a commercial agent's licence
- an inquiry agent's licence
- a process server's licence
- a private bailiff's licence.

made by, a corporation,

on theday of, 19.,

to the Local Court at

*3. Now produced and shown to me and marked with the letter "A" is the certificate of incorporation of the corporation, or other evidence of its incorporation.

4. The facts stated in the application are, to the best of my knowledge and belief, true.

AND I make this solemn declaration by virtue of the Oaths Act and conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at.....

the day of, 19....

.....
(Applicant)

Before me.....

(Signature and title of person before whom declaration is made)

* Delete if inapplicable.

NOTE: A person wilfully making a false statement in a statutory declaration is liable to a penalty of \$1,000 or imprisonment for 6 months.

FORM 4

NORTHERN TERRITORY OF AUSTRALIA

Commercial and Private Agents Licensing Act

LICENCE

.....
(name of licensee)

of is
(address)

hereby licensed under the *Commercial and Private Agents Licensing Act* to act as and hold *himself/itself out as being, and to perform and hold *himself/itself out as willing to perform any of the functions of a *commercial agent/an inquiry agent/a process server/a private bailiff.

GRANTED the day of, 19.....

.....
Clerk of the Court

* Delete if inapplicable.

NOTE: This licence is not transferable.

FORM 5

NORTHERN TERRITORY OF AUSTRALIA

Commercial and Private Agents Licensing Act

**RETURN OF APPOINTMENT OF NEW NOMINEE OR CHANGE OF
PARTICULARS OF NOMINEE**

To the Local Court at.....

I,.....

of.....

in the Northern Territory of Australia was appointed nominee of.....

.....

a corporation to which a licence under the Act was granted on the
day of, 19.....

Former particulars

Name of former nominee:.....

Address of former nominee:.....

Current particulars

Name of nominee:.....

Address of nominee:.....

I am in bona fide control of the affairs of the corporation in the Territory.

.....
Nominee

/ /19 .

FORM 6

NORTHERN TERRITORY OF AUSTRALIA

Commercial and Private Agents Licensing Act

BOND

KNOW ALL MEN BY THESE PRESENTS THAT

.....
(name of applicant or insurance company)

of.....
(address)

binds *himself/itself and *his/its heirs, executors, successors and assigns to the Territory in the sum of *\$2,000/\$1,500/\$1,000 to be paid to the Territory in legal tender.

It is a condition of this bond that if..... is the holder
(name of applicant)

of a licence under the Commercial and Private Agents Licensing Act and during the currency of that licence complies with that Act as it applies to dealings with moneys held on trust, this bond is void.

*Provided that if.....
(name of insurance company)

gives written notice to
(name of applicant)

and the Local Court at
that it wishes to be relieved of further liability under the bond, the obligation of

.....
(name of insurance company)

under this bond is, on and from 30 days after the date of service of that notice on that Local Court, terminated in respect of transactions occurring after that last-mentioned date.

IN WITNESS WHEREOF:

.....
(name of applicant or insurance company)
has hereunto fixed *his/its hand and seal on the
.....day of, 19

*Delete if inapplicable.

FORM 7

NORTHERN TERRITORY OF AUSTRALIA
Commercial and Private Agents Licensing Act
APPLICATION FOR COPY OF LICENCE

I.....
(name of applicant)

of.....
(address of applicant)

apply for:

* a copy of a licence granted to
..... a corporation, on / /19 .

* a copy of a licence granted to me on / /19 .

*I am the duly appointed nominee of the corporation for the purposes of the
Commercial and Private Agents Licensing Act.

The original licence has been *lost/destroyed:
(set out in full the circumstances in which the licence was *lost/destroyed)

.....
.....
.....
.....

.....
Applicant

/ /19 .

* Delete if inapplicable.

ENDNOTES

1

KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

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LIST OF LEGISLATION

Commercial and Private Agents Licensing Regulations (Act No. 2, 1980)

Notified	11 January 1980
Commenced	12 September 1980

Amendments of the Commercial and Private Agents Licensing Regulations (SL No. 11, 1981)

Notified	22 May 1981
Commenced	22 May 1981

Amendment of Commercial and Private Agents Licensing Regulations (SL No. 35, 1999)

Notified	10 November 1999
Commenced	10 November 1999

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LIST OF AMENDMENTS

r 8	amd No. 11, 1981
rr 10 – 11	ins No. 35, 1999
sch	amd No. 11, 1981