

NORTHERN TERRITORY OF AUSTRALIA

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Regulations 1992, No. 41\*

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Regulations under the *Agents Licensing Act*

I, JAMES HENRY MUIRHEAD, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Agents Licensing Act*.

Dated 30 July 1992.

J.H. MUIRHEAD  
Administrator

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AMENDMENTS OF LAND AND  
BUSINESS AGENTS REGULATIONS

1. PRINCIPAL REGULATIONS

The Land and Business Agents Regulations are in these Regulations referred to as the Principal Regulations.

2. COMMENCEMENT

These Regulations shall come into operation on the commencement of the *Land and Business Agents Amendment Act 1991*.

3. REPEAL AND SUBSTITUTION

Regulation 1 of the Principal Regulations is repealed and the following substituted:

"1. CITATION

"These Regulations may be cited as the Agents Licensing Regulations."

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\* Notified in the *Northern Territory Government Gazette* on 5 August 1992.

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4. NEW REGULATION

The Principal Regulations are amended by inserting after regulation 6 the following:

"6A. CERTIFICATE OF ELIGIBILITY

"(1) For the purposes of section 22(3) of the Act, a certificate shall be in accordance with Form 2A in Schedule 1.

"(2) The certificate referred to in subregulation (1) shall be signed by a person specified in section 22(3) of the Act who has employed the applicant for a period not less than 3 years, or if the applicant has not been employed by one person for the period, the applicant shall provide a certificate from each person by whom the applicant was employed for an aggregate period of 3 years.

"(3) The person signing the certificate shall, in accordance with the form, indicate that the applicant is capable of performing the functions set out in the Schedule to the Act."

5. PRESCRIBED EDUCATIONAL QUALIFICATIONS FOR CONVEYANCING AGENT, &c.

Regulation 9 of the Principal Regulations is amended -

(a) by omitting "For the purposes of section 20(c) and 22(c)" and substituting "(1) For the purposes of section 22(1)(c)"; and

(b) by adding at the end the following:

"(2) For the purposes of section 22(1)(c) of the Act, the prescribed educational qualification for a licence to carry on business as a conveyancing agent is a Certificate in Conveyancing as accredited by the Northern Territory Employment and Training Authority under section 55 of the *Northern Territory Employment and Training Authority Act*."

6. NEW REGULATION

The Principal Regulations are amended by adding after regulation 24 the following:

"25. RULES OF CONDUCT

"(1) For the purposes of sections 65(n) and 127(j) of the Act, the general rules of conduct applicable to all agents are set out in Part 1 of Schedule 4 and additional rules for conveyancing agents are set out in Part 2 of that Schedule.

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"(2) The Rules of Conduct set out in Schedule 4 are in addition to the rules of conduct set out in section 65 of the Act."

7. SCHEDULE 1

Schedule 1 to the Principal Regulations is amended -

- (a) by inserting in Form 2 after item 5 the following:

"5A. Where the applicant does not have the prescribed qualifications, the application for conveyancing agent's licence is to be accompanied by a certificate in accordance with Form 2A in Schedule 1 relating to other prescribed qualifications or experience."; and

- (b) by inserting after Form 2 the following:

"FORM 2A

Regulation 6(A)

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*Agents Licensing Act*

Section 22(3)

CERTIFICATE OF QUALIFICATIONS OR EXPERIENCE

1. I, (*full name*) of (*address*)  
being, in accordance with the corresponding paragraphs of section 22(2) of the Act (*indicate authority for providing certificate*) -

- (a) authorised to act as a legal practitioner;
- (b) a conveyancing agent;
- (c) a land broker under law of South Australia;
- (d) a settlement agent under the law of Western Australia;
- (e) a prescribed person,

certify that (*name of applicant*) of (*address of applicant*) was employed during the period (*specify period of applicant's employment*) by (*name of employer*), and during that time was capable, to my knowledge, of performing the functions specified in the Schedule to the Act in the following manner (*briefly indicate applicant's experience and ability in relation to each of the following that are relevant*):

- (a) searching land titles including caveats;

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- (b) searching at Government offices and municipal offices, obtaining certificates of plants or other matters relating to the transaction involved;
- (c) preparation and execution of contracts of sale;
- (d) attendance at settlements;
- (e) lodging and uplifting documents;
- (f) completing powers of attorney;
- (g) drawing and arranging execution of documents;
- (h) making progress reports.

Dated 199 .

Signature".

8. SCHEDULE 2

Schedule 2 to the Principal Regulations is amended -

(a) by inserting after item 6 the following:

"6A. Issue of conveyancing agent's licence 31(1) 480.00"; and

(b) by inserting after item 9 the following:

"9A. Renewal of conveyancing agent's licence 32(2) 480.00".

9. SCHEDULE 3

Schedule 3 to the Principal Regulations is amended -

(a) by inserting after item 2 the following heading:

"SCHEME 1"; and

(b) by adding at the end the following:

"SCHEME 2

"6. An account opened pursuant to Scheme 2 shall be operated so that on any one day, a notional credit for each corporation may be readily ascertained.

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"7. Interest from an account opened pursuant to Scheme 2 shall be paid to the Fund."

10. NEW SCHEDULE

The Principal Regulations are amended by adding at the end the following:

"SCHEDULE 4

Regulation 25

RULES OF CONDUCT

Part 1 - General Rules

1. An agent shall not advise his or her client on matters in which the agent is not trained or qualified.
2. An agent shall advise his or her client to seek advice from a solicitor who specialises in conveyancing concerning the appropriate course of action where, in a transaction, there are substantial legal complexities.
3. An agent shall not give an undertaking without the approval of his or her client and shall fulfil all conditions of an undertaking given in the course of a transaction to another agent or to a solicitor.
4. An agent shall, in the investigation of a matter that may be grounds for revocation of a licence under section 68 of the Act or that may be the subject of an inquiry to be held by the Board, co-operate with the Board, the Registrar, an inspector and the Commissioner of Police.
5. Subject to any other specific rules of conduct, a real estate or business agent shall have due regard to and comply with -
  - (a) rules of real estate practice published or approved by the Real Estate Institute of the Northern Territory; and
  - (b) guidelines concerning fair trading practices issued by the Trade Practices Commission.
6. In a transaction for the purchase and sale of land, an agent shall not act in the capacity of conveyancer for the buyer of the land, whether or not for reward, if -
  - (a) the agent acted for the seller of the land in the capacity of a real estate agent; or
  - (b) the agent has a financial connection with the real estate agent involved in the transaction.

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7. An agent shall ensure that he or she has a thorough knowledge of the practices and procedures of government offices relevant to transactions in which he or she may be involved with a client, in addition to a knowledge of the Act, the regulations, these rules and other relevant legislation as in force from time to time.

Part 2 - Additional Rules applicable to  
Conveyancing Agents

1. A conveyancing agent shall strictly observe promises and duties in relation to the interest of his or her client and shall be aware that the agent's obligation to his or her client is one of the utmost good faith that requires the agent not to put his or her duty to the client in conflict or in likelihood of conflict with his or her own interests or the interests of any other person.

2. A conveyancing agent shall perform his or her duties in a diligent and conscientious manner with proper regard to the relationship of principal and agent due to his or her client.

3. A conveyancing agent may advertise his or her professional qualifications and services but shall not compete for business with another agent or solicitor so that the client may become liable for 2 fees in respect of the same matter.

4. Subject to any other specific rules of conduct, a conveyancing agent shall have due regard to and comply with -

- (a) guidelines as to good conveyancing practices issued from time to time by the Board;
- (b) professional conduct rules as they relate to good conveyancing practice issued by the Law Society of the Northern Territory.

5. A conveyancing agent shall not carry on a business of a finance broker, being a person who, as agent and in the course of the agent's business, negotiates or arranges a loan of money for or on behalf of another person.

6. A conveyancing agent shall, at the same time as the agent presents to the client a form of appointment for signature in accordance with clause 1(1) of Part 2 of the Schedule to the Act, provide a bona fide quote of the cost of the services to be rendered in respect of the particular transaction for which the appointment is to be made. The amount of the cost shall be based on a fair and reasonable fee for the service at the prevailing rate in the Territory.

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7. A conveyancing agent shall ensure that the agent, or a partner or employee of a firm of which the agent is a member does not act for 2 or more parties with conflicting interests in a transaction unless the agent has given notice in writing to all parties to a transaction that the agent is acting for more than one party and that their interests may not be the same. Where a conflict arises between the parties for whom the agent is acting, the agent has an obligation to cease to act for either of them and shall give advice that the parties obtain alternative advice. The agent is entitled to charge a proportional fee until the time when he or she ceased to act for the parties.

8. A conveyancing agent shall, in the interest of a client, co-operate with and, where possible, assist, other persons involved in a transaction. In this rule -

'assist' includes reporting progress under item 1(a) in Part 1 of the Schedule to the Act and advising the parties and other persons involved of delays or requirements that are incidental to the functions of a conveyancing agent set out in that Part;

'other persons involved in a transaction' includes surveyors and engineers, real estate agents, government officers, solicitors, financial advisers and other conveyancing agents.

9. A conveyancing agent shall be responsible for the supervision and control of the persons, whether or not licensed conveyancing agents, engaged in the conduct of the agent's business and for that purpose -

(a) where the licensee of the business is a natural person - the conveyancing agent; or

(b) where the licensee of the business is a firm or a body corporate - the principals or the directors who are conveyancing agents,

shall spend sufficient time at the office where the business is transacted -

(c) to enable supervision of a person conducting the business; and

(d) to ensure satisfactory completion of each transaction."

11. **FURTHER AMENDMENTS**

The Principal Regulations are further amended as set out in the Schedule.

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SCHEDULE

Regulation 11

Regulation	Amendment	
	omit	substitute
Regulation 4	"or both"	"or both, or as a conveyancing agent"
Regulation 6	"or both"	"or both, or as a conveyancing agent"
Regulation 6(d)	"Form 2,"	"Form 2, 2A,"
Regulation 9(1)(b)	"Darwin Community College"	"Northern Territory University"
Regulation 9(1)(c)	"Community College of Central Australia"	"Alice Springs College of Technical and Further Education"
Regulation 10	"Darwin Community College or equivalent certificate issued by any other educational institution approved by the Minister"	"Northern Territory University or an equivalent certificate accredited by the Northern Territory Employment and Training Authority under section 55 of the <i>Northern Territory Employment and Training Authority Act</i> "
Regulation 11	"or business agent"	", business agent or conveyancing agent"
Regulation 20	"or the Register of Licensed Business Agents"	", Register of Licensed Business Agents or the Register of Licensed Conveyancing Agents"
Schedule 1		
Form 1		
Note (a)	"business agent's"	", business agent's, conveyancing agent's"



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Form 2 Note (a)	"or business agent's"	", business agent's, or conveyancing agent's"
Form 3 Item 2(2)	the whole subitem	
Item 10	paragraphs (a) and (c)	
Form 3 Note (a)	"or business agent's"	", business agent's, or conveyancing agent's"
Form 8	"and/or BUSINESS AGENT" (twice occurring)	", BUSINESS AGENT OR CONVEYANCING AGENT"
Form 9	"and/or BUSINESS AGENT" (twice occurring)	", BUSINESS AGENT OR CONVEYANCING AGENT"
Form 10	"and/or BUSINESS AGENT"	", BUSINESS AGENT OR CONVEYANCING AGENT"
Forms 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12	" <i>Licensing and Business Agents Act</i> " (wherever occurring)	" <i>Agents Licensing Act</i> "
Schedule 3	"Regulation 16B"	"Regulation 16A"
Clause 2	"this scheme"	"Scheme 1 or Scheme 2"
Clauses 3, 4 and 5	"clause 2"	"Scheme 1"

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