

Australian Capital Territory

Agents (Continuing Professional Development) Guideline 2005

Notifiable Instrument NI2005-139

made under the

Agents Regulation 2003, s7A, s10A (licence and registration conditions)

1. Name of Instrument

This instrument is the *Agents (Continuing Professional Development) Guideline 2005*.

2. The Guideline

I hereby make the Guideline for Continuing Professional Development for licensees and registered persons under section 7A and section 10A respectively of the *Agents Regulation 2003*. The Continuing Professional Development Guideline is set out in Schedule 1.

Brett Phillips
Commissioner for Fair Trading
15 April 2005

SCCHEDULE 1: Agents (Continuing Professional Development) Guideline 2005

The Agents (Continuing Professional Development) Guideline 2005 sets out a three year comprehensive continuing education program for agents.

1. Licence conditions

It is a condition of a real estate agent's licence for an individual that:

- (1) the agent completes 12 points of continuing professional development in the 12 month period ending 31 March each year prior to the renewal of the licence for that year; and
- (2) maintains a log and other records of continuing professional development in accordance with these guidelines; and
- (3) produces this information to the Commissioner for Fair Trading or investigators appointed under the *Fair Trading (Consumer Affairs) Act 1973* within a reasonable time after a request that the information be produced;
- (4) real estate agents who hold a conditional licence to sell land by way of auction are not required to undertake continuing professional development under subparagraph (1) as a condition of their licence (refer paragraph 5).

Note: It is a condition of a licence that the licensee satisfy the relevant requirements for continuing professional development as set out in the guideline (Agents Regulation 2003, s7A).

2. Registration conditions

It is a condition of a real estate salesperson's registration for an individual that:

- (1) the salesperson completes 12 points of continuing professional development in the 12 month period ending 31 July each year prior to the renewal of the registration for that year; and
- (2) maintains a log and other records of continuing professional development in accordance with the guideline; and
- (3) produces this information to the Commissioner for Fair Trading or investigators appointed under the *Fair Trading (Consumer Affairs) Act 1973* within a reasonable time after a request that the information be produced.

Note: It is a condition of registration that the registered person satisfy the relevant requirements for continuing professional development as set out in the guideline (Agents Regulation 2003, s10A).

3. Continuing Professional Development Points

- (1) There are four categories of learning in relation to which points may be obtained for continuing professional development.
- (2) Category 1 continuing professional development involves undertaking self paced activity with a stated learning outcome. In relation to category 1:
 - (a) points for continuing professional development shall be calculated at the rate of half a point per hour of the activity;
 - (b) only 2 points per annum may be credited for the watching of videos, and
 - (c) only the hours of the actual presentations may be counted for seminars or conferences.

Note: Category 1 includes self-paced learning which does not require formal assessment. Typical examples of these types of activities are attending seminars, conferences and forums, watching videos, and on the job learning. The content of the learning must relate to the work activities of the licensee or registered salesperson and provide an educational outcome. On the job learning for the purposes of fulfilling the continuing professional development requirements will only be accepted in the case where a person undertakes a new project and extends their competency base. Functions the individual routinely performs as part of his/her employment are not claimable.

- (3) Category 2 continuing professional development involves undertaking a workshop or seminar activity with a stated learning outcome. **The content of the workshop or seminar must cover elements of the compulsory units or priority learning areas.** In relation to category 2:
 - (a) points for continuing professional development shall be calculated at the rate of one point per hour of the activity;
 - (b) a person must undertake aspects of learning in relation to items 1, 2, 3 and either 4, 5 or 6 of the compulsory units and priority learning areas; and
 - (c) the continuing professional development may only be considered category 2 where the person delivering the training is competent to deliver the training.

Note: This category includes workshops, a web-based tool or CD Rom that requires a student to input responses. These activities must be relevant to the Training Package and comply with PRD01 to provide a pathway to achieving a qualification and must have an identifiable learning outcome. This category may also include workshops or seminars organised and delivered by professionally qualified people including, but not

limited to, lawyers, accountants, auditors, valuers or other renowned experts in a relevant field.

Note: A person competent to deliver the training would include an accredited trainer (for the purposes of category 3, below) or a person with significant industry knowledge such as an industry expert or a leading real estate trainer.

- (4) Category 3 continuing professional development involves undertaking a workshop or seminar activity with a stated learning outcome with assessment. **The content of the workshop or seminar must cover elements of the compulsory units or priority learning areas.** In relation to category 3:
- (a) points for continuing professional development shall be calculated at the rate of two points per hour of the activity;
 - (b) a person must undertake learning in relation to items 1, 2, 3 and either 4, 5 or 6 of the compulsory units, and the priority learning areas; and
 - (c) the continuing professional development may only be considered category 3 where the person delivering the training is competent to deliver the training.

Note: This category involves training with assessment. The learner must be assessed as competent to be entitled to claim the relevant points from learning category three. Learners assessed as not yet competent will be entitled to claim the points relevant to learning category two. The learning activities must be conducted by a Registered Training Organisation accredited to conduct training for the real estate sector. These activities should be aligned to the Property Development & Management Training Package PRD01.

Note: Where applicable, training providers must have any required Australian National Training Authority (or [Department of Education Science and Training from 1 July 2005](#)) Office of Training & Adult Education accreditation. Registered training organisations may enter into partnerships with non-registered organisations for the delivery of specialised training.

- (5) Category 4 continuing professional development involves teaching of learning category 2 or 3 by a person competent to undertake the training. In relation to category 4 points for continuing professional development shall be calculated at the rate of three points per hour.

Note: This category includes presentation to peers of a learning category 2 or 3 course or training for the first time the course, seminar, or lecture is presented.

- (6) Where a licensee or salesperson is required to obtain 12 points of continuing professional development in a twelve month period, the person

must obtain learning in any combination of at least two of the categories set out above, one of which must include either category 3 or 4.

4. **Records**

(1) A person shall maintain a log of continuing professional development which includes the following information:

- (a) date;
- (b) type of session;
- (c) session topic;
- (d) training provided;
- (e) venue;
- (f) duration of session.

(2) A person shall maintain evidence of the activity (eg, evidence of attendance at a seminar and a written summary of any video they viewed). The following evidence is acceptable:

- (a) Category 1: proof of attendance/details of video or on the job learning.
- (b) Category 2: proof of learner interaction/ or detail of learning outcome.
- (c) Category 3: registered training organisation assessment.
- (d) Category 4: proof that the applicant has trained peers.

5. **Conditional licences to sell land by way of auction only**

Where a conditional licence is granted or renewed subject to the condition that a person sell land by way of auction only, it is a condition of the licence that the person must demonstrate competence in PRDRE26A - Conduct property sale by auction. The underpinning knowledge must include the new auction provisions of the *Civil Law (Sale of Residential Property) Act 2003*.

6. **Discretion**

Where a condition is imposed on a licence or registration under the guideline, it is a further condition that, where the Commissioner believes that extenuating circumstances have been shown (eg, serious illness or misadventure), the Commissioner may, by notice in writing, waive the requirement to complete continuing professional development for a given month or months.

7. **Continuing Professional Development commencement**

The continuing professional development requirement for licence and registration renewals will take effect in 2006. Licensees will be required to earn 12 points of continuing professional development from 1 April 2005 to 31 March 2006 to qualify for licence renewal. Similarly, registered salespeople will be required to earn 12 points of continuing professional

development from 1 August 2005 to 31 July 2006 to qualify for registration renewal. For these purposes, the continuing professional development may have occurred in 2004 and 2005. For those applying for licences or registrations throughout 2005/2006, when they come to renew their licences or registrations, they will be required to complete CPD on a pro rata basis of one point per month until the end of the CPD completion period.

COMPULSORY UNITS

1. Overview of the *Agents Act 2003*.
 - (a) Licensing, registration and qualification requirements.
 - Licence and registration categories
 - Eligibility for a licence or registration
 - Disqualified persons
 - New qualification requirements for licences and registrations
 - Auctioneer accreditation
 - Corporate licences
 - Conditions on licences
 - Continuing Professional Development.
 - (b) The business conduct of agents.
 - Responsibility of licensee to properly supervise business
 - Responsibility of licensees for employees
 - Rules of Conduct
 - Conflicts of interest including the new disclosure requirements
 - Advertisements and representations
 - Price estimates.
 - (c) Agency agreements – a general overview of the new agency agreement requirements including the prescribed forms, the consumer guide, disclosure of rebates, discounts and commissions and the cooling-off period.
 - (d) Property Sales and Auctions – a general overview of the new auction requirements including the bidders register.
 - (e) Disciplinary scheme.
 - Disciplinary procedures
 - Unlicensed trading
 - Penalties
 - Public register.

For the purposes of learning category 3, training must be relevant to the Property Development and Management Training Package and for learning category 4 it must be aligned to the training package. As an example, training for the real estate sector could relate to elements of the following units of competency:

PRDRE06A	Manage human resources
PRDRE07A	Implement staff skill development and training
PRDRE10A	Manage agency risk
PRDRE13A	Obtain property listings
PRDRE14A	Market property
PRDRE16A	Monitor sales process
PRDRE26A	Conduct property sale by auction
PRDRE28A	Maintain trust account
BSXFM1511A	Contribute to the development of a workplace learning environment.

2. Knowledge of the Rules of Conduct prescribed under the *Agents Regulations 2003*:

- General objectives of the Rules of Conduct prescribed in the *Agents Regulations 2003*.
- Understanding of the core rules that apply to all licence and registered salespersons.
- Understanding the specific rules that apply to the different categories of agency work.

For the purposes of learning category 3, training must be relevant to the Property Development and Management Training Package and for learning category 4 it must be aligned to the training package. As an example, training for the real estate sector could relate to elements of the following units of competency:

PRDRE03A	Develop and implement client service strategies
PRDRE06A	Manage human resources
PRDRE07A	Implement staff skill development and training
PRDRE10A	Manage agency risk
PRDRE13A	Obtain property listings
PRDRE14A	Market property
PRDRE16A	Monitor sales process
PRDRE23A	Maintain agency/client relationship
PRDRE25A	Respond to property enquiry
PRDRE35A	Communicate effectively and accurately with clients.

3. Understanding of the types and terms of the agency agreement – what this means for the agent and the consumer:

- What is the agency agreement
- The prescribed terms of the agency agreement
- Types of agency agreement
- Commission, fees, expenses including disclosure
- Explaining the agency agreement to a client – Agency agreements for the sale of residential property
- Serving the agency agreement
- Cooling-off period
- Ending the agreement.

For the purposes of learning category 3, training must be relevant to the Property Development and Management Training Package and for learning category 4, it must be aligned to the training package. As an example, training for the real estate sector could relate to elements of the following units of competency:

PRDRE10A	Manage agency risk
PRDRE11A	Provide property appraisal
PRDRE13A	Obtain property appraisal
PRDRE14A	Market property
PRDRE15A	Undertake property sale by private treaty
PRDRE23A	Maintain agency/client relationship
PRDRE35A	Communicate effectively and accurately with clients.

4. Understanding of property management:

- Overview of the *Residential Tenancies Act 1997*
- Best practice in arranging for repairs and maintenance
- Legal responsibility for undertaking repairs
- Strategies for minimising risk
- Use of checklists
- Procedures for registering and arranging for repairs.

For the purposes of learning category 3, training must be relevant to the Property Development and Management Training Package and for learning category 4, it must be aligned to the training package. As an example, training for the real estate sector could relate to elements of the following units of competency:

PRDRE10A	Manage agency risk
PRDRE 17A	Effectively manage property and account to landlord
PRDRE18A	Lease property
PRDRE19A	Provide property management services
PRDRE20A	Provide strata management services.

5. The sale process:

- An overview of the *Agents Act 2003* and the *Civil Law (Sale of Residential Property) Act 2003* and *Regulations*
- Contract for sale for residential property requirements
- Required documents to be attached to the contract for sale.
- Availability of contract for sale
- Cooling-off period under contract for sale
- Buyer's right to waive cooling-off period; right to rescind the contract; and consequences of rescission
- Agent's right to commission where contract is rescinded
- Buyer to reimburse seller for cost of certain reports
- Responsibility to the principal during the sale process
- Rules of conduct relating to the sale process

- Conflicts of interest and the sale process
- Estimated selling price
- New auction laws
- The bidders guide
- Registering bidders in the bidders record
- Proof of identity
- The bidder number
- Late arrivals
- Single vendor bid
- Displaying auction conditions
- Multi-property auctions
- Keeping the bidders record
- Privacy of bidders' details
- Auctioneers – licence accreditation.

For the purposes of learning category 3, training must be relevant to the Property Development and Management Training Package and for learning category 4 it must be aligned to the training package. As an example, training for the real estate sector could relate to elements of the following units of competency:

PRDRE10A	Manage agency risk
PRDRE23A	Maintain agency/client relationship
PRDRE15A	Undertake property sale by private treaty
PRDRE16A	Monitor sales process
PRDRE26A	Conduct property sale by auction
PRDRE35A	Communicate effectively and accurately with clients.

6. Understanding of the sale and lease of commercial property.

An overview of the:

- *Dangerous Substances Act 2004*;
- *Forfeiture & Validation of Leases Act 1905*;
- *Heritage Act 2004*;
- *Land (Planning & Environment) Act 1991*;
- *Leases (Commercial & Retail) Act 2001*;
- *Planning and Land Act 2002*; and
- *Unit Titles Act 2001*.

PRIORITY LEARNING AREAS

Part A – 2005 - 2008

The compulsory units may be supplemented by training in the priority learning areas during the calendar years of 2005 - 2008.

1. Business management practices

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE01A	Develop a strategic business plan
PRDRE02A	Manage agency performance
PRDRE03A	Develop and implement client service strategies
PRDRE04A	Manage and monitor effective client service
PRDRE05A	Manage agency
PRDRE06A	Manage human resources
PRDRE07A	Implement staff skill development and training
PRDRE08A	Manage efficient financial systems.

2. Auction practices

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE26A	Conduct property sale by auction
PRDRE23A	Conduct auction sale
PRDSSA32A	Conduct livestock sale by auction.

3. Ethics and professional responsibility

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE03A	Develop and implement client service strategies
PRDRE10A	Manage agency risk
PRDRE23A	Maintain agency:client relationship.

4. Communications Skills

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE25A	Respond to property enquiry
PRDRE31A	Negotiate effectively with landlords and tenants
PRDRE35A	Communicate effectively and accurately with clients
PRDSSA19A	Respond to enquiry.

5. Trust accounting

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE28A	Maintain trust account.
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6. Risk Management

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE10A	Manage agency risk
PRDRE34A	Maintain key register.

7. Marketing and quality control

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE14A	Manage property
PRDRE30A	Implement personal marketing plan
PRDSSA21A	Market property for sale.

8. Anti-discrimination

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE23A	Maintain agency:client relationship
PRDRE25A	Respond to property enquiry.

9. Occupational health and safety

Training may be based on, but is not limited to, the following units of competency from the Property Development and Management Training Package:

PRDRE10A	Manage agency risk
PRDSSA30A	Select stock for sale
PRDSSA31A	Prepare stock for sale.