

Property Occupations Bill 2013

Amendments during consideration in detail to be moved by
The Honourable the Attorney-General and Minister for Justice

1 **Clause 2 (Commencement)**

Page 16, line 7, after ‘This Act’—

insert—

, other than part 15A,

2 **Clause 6 (Administrators etc.)**

Page 18, lines 26 to 33—

omit, insert—

(3) For subsection (2), the provisions are—

(a) sections 84 and 85; and

(b) part 3, division 2; and

(c) sections 97, 100 and 102.

3 **Clause 80 (Term of licence)**

Page 69, line 17—

omit, insert—

(1) A licence may be issued for a 1-year or 3-year term.

(2) However, a regulation may prescribe the circumstances under which a licence may be issued or renewed for a shorter term.

Example—

A licence may be issued for a shorter term to ensure multiple licences held by the same person expire on the same day.

4 Clause 106 (Other requirements—statement that appointment may be revoked by notice)

Page 90, line 19, after ‘appointment for’—

insert—

an open listing or

5 Clause 113 (Assignment of appointment)

Page 94, line 6, after ‘assignee’—

insert—

, unless the client and the assignee agree, in writing, to an earlier day for the appointment to end

6 Clause 114 (Revocation of appointment)

Page 94, line 16, after ‘appointment for’—

insert—

an open listing or

7 Clause 114 (Revocation of appointment)

Page 94, after line 23—

insert—

- (1A) Despite any agreement to the contrary by the parties to an appointment of a property agent or resident letting agent, a party is only required to give the other party to the appointment at least 30 days written notice of the revocation, unless both parties agree, in writing, to an earlier day for the appointment to end.
- (1B) A provision of an agreement is void if it requires a party to an appointment of a property agent or resident letting agent to give a notice of revocation of the appointment to the other party to the appointment other than in accordance with subsection (1A).

8 Clause 137 (Offence to sell, lend or borrow registration certificate)

Page 109, line 22, ‘licence’—

omit, insert—

registration certificate

9 Clause 142 (Immediate suspension)

Page 113, after line 6—

insert—

(ii) has contravened PAMDA; or

10 Clause 142 (Immediate suspension)

Page 113, line 7, ‘(ii)’—

omit, insert—

(iii)

11 Clause 204 (Orders District Court may make)

Page 160, line 10, ‘(b)’—

omit, insert—

(c)

12 Clause 207 (Misleading conduct)

Page 163, line 24, ‘Proceedings’—

omit, insert—

QCAT proceedings

13 Clause 208 (Unconscionable conduct)

Page 164, line 2, ‘Proceedings’—

omit, insert—

QCAT proceedings

14 Clause 209 (False representations and other misleading conduct relating to residential property)

Page 166, line 15, ‘Proceedings’—

omit, insert—

QCAT proceedings

15 Clause 214 (Auctioneer not to disclose reserve or other price)

Page 170, line 32, ‘or may be’—

omit, insert—

may be or is being

16 Clause 214 (Auctioneer not to disclose reserve or other price)

Page 171, after line 8—

insert—

- (2A) However, if during the auction, the reserve price is reached or exceeded, the auctioneer does not contravene subsection (2) only by disclosing, to persons present at the auction, that the reserve price has been met.

Example of a disclosure that the reserve price has been met—

the auctioneer announcing during the auction that the property is on the market

- (2B) Also, an auctioneer does not contravene subsection (2)(c) only because a price or price range for the property is disclosed by the auctioneer to an electronic listings provider to establish search criteria for listing the property for sale on the provider’s website or other electronic medium.

- (2C) However, subsection (2B) applies only if the auctioneer is satisfied on reasonable grounds that—

- (a) the electronic listings provider will list the property for sale on the website without disclosing the price or price range; and
- (b) the listing will include any statement prescribed under a regulation.

17 Clause 216 (Real estate agent not to disclose reserve or other price)

Page 172, line 2, 'or may be'—

omit, insert—

may be or is being

18 Clause 216 (Real estate agent not to disclose reserve or other price)

Page 172, line 4, after 'be'—

insert—

, may be or is being

19 Clause 216 (Real estate agent not to disclose reserve or other price)

Page 172, line 8, 'property agent'—

omit, insert—

real estate agent

20 Clause 216 (Real estate agent not to disclose reserve or other price)

Page 172, line 18, 'property agent'—

omit, insert—

real estate agent

21 Clause 216 (Real estate agent not to disclose reserve or other price)

Page 172, after line 22—

insert—

- (3A) A real estate agent does not contravene subsection (2)(c) or (3)(b) only because a price or price range for the property is disclosed by the real estate agent to an electronic listings provider to establish search criteria for listing the property for sale on the provider's website or other electronic medium.
- (3B) However, subsection (3A) applies only if the real estate agent is satisfied on reasonable grounds that—
 - (a) the electronic listings provider will list the property for sale on the website without disclosing the price or price range; and
 - (b) the listing will include any statement prescribed under a regulation.

22 Clause 227 (Power of court)

Page 180, line 15, '219(4)'—

omit, insert—

219(1)

23 Clause 228 (Power of court for particular offences)

Page 180, line 19, '219(4)'—

omit, insert—

219(1)

24 Clause 236 (Regulation-making power)

Page 183, line 26, 'entities'—

omit, insert—

persons

25 Clause 249 (Existing appointments to act as agent)

Page 192, after line 2, table, column 2, ‘Motor Dealers and Auctioneers Act’—

omit, insert—

Motor Dealers and Chattel Auctioneers Act

26 Clause 249 (Existing appointments to act as agent)

Page 193, lines 12 and 13—

omit.

27 After clause 250—

Page 193, after line 29—

insert—

250A Chief executive may accept PAMDA forms

- (1) Instead of an approved form under an Agents Act, the chief executive may accept—
 - (a) for an application relating to a transitioned licence—the PAMDA form for the corresponding application for the existing licence to which the transitioned licence relates; or
 - (b) for an application relating to a transitioned certificate—the PAMDA form for the corresponding application for the existing registration certificate to which the transitioned certificate relates.
- (2) In this section—

PAMDA form means an approved form under PAMDA in force immediately before the commencement.

28 Clause 263 (Return of beneficial interest if in form of commission)

Page 205, after line 18, table, column 1, ‘221(2)’—

omit, insert—

222(2)

29 Clause 265 (Buyer’s rights if notice about land not given or materially defective continue)

Page 206, line 7, ‘and 189’—

omit, insert—

, 189 and 227

30 Clause 271 (Refund of fees paid under PAMDA)

Page 208, line 27, after ‘regulation’—

insert—

under this Act or an Agents Act

31 After clause 282

Page 212, after line 15—

insert—

**Part 15A Amendment of Youth
Justice Act 1992**

282A Act amended

This part amends the *Youth Justice Act 1992*.

282B Amendment of s 363 (Application of amendments about transfer direction for a child who will turn 17 years)

- (1) Section 363(2) ‘This’—

omit, insert—

Subject to subsection (2A), this

- (2) Section 363—

insert—

- (2A) A requirement under section 276C(1) to give a prison transfer direction within 28 days after the child is sentenced to serve a period of detention is taken to be a requirement to give a prison transfer direction before, or as soon as practicable after, the commencement of this subsection.

282C Amendment of s 364 (Application of amendments about transfer direction for a person who is 17 years)

Section 364—

insert—

- (3) For subsection (2)—

- (a) a reference in section 276C to a child includes a reference to the person; and
- (b) a requirement under section 276C(1) to give a prison transfer direction within 28 days after the person is sentenced to serve a period of detention is taken to be a requirement to give a prison transfer direction before, or as soon as practicable after, the commencement of this subsection; and
- (c) a reference in section 276C(2) and (3) to the transfer day is, for the person, taken to be a reference to the commencement of this subsection; and

- (d) a reference in section 276C(2) to the unserved period of detention is, for the person, taken to be a reference to the part of the period of detention that the person would have to serve under a detention order if the prison transfer direction was not given.

32 Schedule 1 (Decisions subject to review)

Page 213, after line 2, table, column 1, ‘section 62(1)’—

omit, insert—

section 63(1)

33 Schedule 1 (Decisions subject to review)

Page 213, after line 2, table, column 1, ‘section 134(1)’—

omit, insert—

section 135(1)

34 Schedule 3 (Dictionary)

Page 224, after line 2—

insert—

electronic listings provider means an entity that lists real property for sale on a website or other electronic medium that is used by buyers to search for properties for sale.

35 Schedule 3 (Dictionary)

Page 224, after line 26—

insert—

goods see the *Motor Dealers and Chattel Auctioneers Act 2014*, schedule 4.

36 Schedule 3 (Dictionary)

Page 224, line 30, ‘as’—

omit, insert—

is

37 Long title

Long title, ‘to amend the *Body Corporate and Community Management Act 1997*’—

omit, insert—

to amend the *Body Corporate and Community Management Act 1997* and the *Youth Justice Act 1992*

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Authorised by the Parliamentary Counsel