



ALPA

Submission

Property Industry Reforms Regulations, Qualifications, CPD.

Explanatory Paper – September 2019

To:

Better Regulation Division
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27/9/19

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ALPA General Introduction

The Australian Livestock & Property Agents Association Ltd (ALPA) submission is in response to the Department of Customer Service (DCS) seeking public feedback on the Amendment Regulation, Qualifications Order and CPD requirements. Sept 2019.

We understand that interested organisations and individuals are invited to provide a submission. All submissions will be considered before finalising the draft documents.

The paper highlights particular areas of the draft documents where new policy is being implemented and feedback is encouraged, while emphasising feedback is welcome on any or all aspects of the documents.

Australian Livestock & Property Agents Association (ALPA)

ALPA is the national peak industry body for livestock and property agents.

ALPA represents more than 1,200 agency businesses across Australia. Collectively this group plays an important role in livestock, wool, merchandise and rural property sales and marketing.

ALPA members handle in excess of 97% of rural agency business Australia wide.

ALPA is one of the largest national organisations of small rural business men and women, relied on to protect the interests of agents and producers nationally.

ALPA national membership includes Elders, Landmark, Ruralco and private livestock agencies across Australia.

ALPA appreciates the opportunity to provide this submission to the NSW Commissioner for Fair Trading.

NSW has over 200 private member businesses and over 100 Elders and Landmark branches.



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ALPA membership is a signature of professionalism in the industry

ALPA Comments:

Property Industry Reforms Explanatory Paper: Regulation, Qualifications, CPD

ALPA believes that the Explanatory paper is a little confusing as to what the grandfathering and changing of licenses involves.

However, we do question why some of these changes are not what was agreed at the Real Estate Reference Group (RERG) over the past four years and will lead to significant costs and red tape to some current licence holders.

We appreciate the opportunity to participate in the consultation process.

Part B Currently licensed agents Page 10 Explanatory Paper.

ALPA would like to point out that it was agreed at the RERG since these reforms were first discussed that all licence holders would have a choice to take on a Class 1 or Class 2 licence. This has been relayed to agents by ALPA and other Association bodies also Fair Trading representatives at agents days held by ALPA, REINSW and others around the state.

ALPA would like clarification on the proposal if there is not an option to take up a Class 1 licence, what happens in a business if there is only one Class 1 person who is the LIC and that person goes on holidays, sick leave or leaves the business? The business would not be able to access the trust account until someone became a Class 1. This would take time and a cost to the business.

ALPA strongly oppose the transition to a Class 2 licence only for those who are not a current Licensee In Charge (LIC).

Under the current situation only one person is the LIC as that is all that is required. This new proposal will mean that a person would have to do further education at a cost to become a Class 1 agent. This could stop someone getting a promotion or a transfer to another branch as the LIC due to costs and time to complete.

ALPA do not agree to this and strongly oppose this new position.

Part C Dual licence as a real estate agent and stock and station agent. Page 10 Explanatory Paper.

ALPA believes that this reads as if it is only for class 2 and not class 1. It also suggests a person will have to do 18 units to qualify. A simple sentence at the end of the last paragraph would clear this up. That sentence should be **“or who currently hold both licences.”**

Also see wording from Property and Stock Agents (Qualification) Order 2019. Page 9. Clause 15. Class 2—stock and station agent's licence

A person has the qualifications required for the issue of a class 2 stock and station agent's licence if—

(a) the person held a class 2 stock and station agent's licence in the 12 months preceding the making of an application for the licence, or.....

Same for Class 1 Stock & Station Agents Licence Clause 9 Page 4.

Property and Stock Agents Amendment Regulation 2019.

ALPA would like to see Page 3 Clause 4A (3) (a) **or transaction** taken out. This also goes for 4B (3) (b) and 4C (3) (a).

ALPA does not agree with Page 5 and 6 Clause 54 (c) and (d). Misrepresentation by licensee or registered person by failing to disclose material facts.

(c) that the property was the scene of an offence under the Drug Misuse and Trafficking Act 1985 within the last 2 years,

ALPA wonders how would an agent know if someone who lived there smoked pot, took pills, sold drugs or took anything else under *the Drug Misuse and Trafficking Act 1985*?

Has anyone in Fair Trading read this ACT?

This is ridiculous, unenforceable and if it was a serious drug offence wouldn't it be captured in part *(b) that the property was the scene of a serious indictable offence within the last 5 years?*

This has "snuck in" without consultation with the RERG from the 18/6/19 version.

(d) that a person has committed suicide in the property within the last 5 years,

ALPA is of the firm view that an agent will hear of a murder but perhaps will not know or hear about a suicide or a death of natural causes. In this day and age we must respect at least some privacy of our vendors. **ALPA** believe that the assisting dying laws in NSW will change to make it legal to assist death.

This has also "snuck in" without consultation with the RERG from the 18/6/19 version.

ALPA would like to remind the department that an agent works for the vendor and we are not detectives for the convenience of buyers.

Continuing Professional Development (CPD) Requirements for licence and certificate holders under the Property and Stock Agents Act 2002. (Consultation Draft)

ALPA have a strong view on “compulsory” CPD that it is in some cases a waste of time and money. The stock and station sector does not change as much as the residential real estate sector. There would be a majority of stock and station agents that never have and never will sell a rural property and they only deal with livestock. When there are changes within the livestock industry they generally need to be implemented immediately and the attendance at a CPD course is not the answer.

The costs of attending CPD in rural areas is sometimes prohibitive. It is not simply the training cost, but the many hours out of a business to travel to a regional area to complete CPD is a huge cost to a small business for little to no benefit to the person attending. The problem with CPD in NSW is the way it was introduced with no regard given to the relevance for participants. Fair Trading decided what they thought was best for agents to learn and made it mandatory with no understanding of the differences within the industry.

ALPA delivers CPD where possible, to our members that is relevant to the livestock and or rural property sector. In most instances there is no new information to disseminate as most livestock industry changes that occur require immediate adoption by stock agents, as we are dealing with live animals. However, livestock handling and welfare is a key professional requirement of a Stock and Station Agent.

The livestock sector is highly regulated under various state and federal legislations including the Stock Diseases Act; various animal welfare standards and guidelines; land transport standards and guidelines; livestock traceability requirements; biosecurity requirements; WH&S; and live export protocols to name just a few, which are administered by numerous bodies including the federal Dept of Ag, NSW DPI, Local Land Services, NSW Police Force, NSW Food Authority, and so on. Stock agents are complying by understanding and keeping up to date with these various laws dealing with livestock. To do so requires ongoing professional development to keep abreast of these changes without it being an actual course and as such there is no CPD point recognition.

It has been proven that there are some RTO's delivering CPD just on payment and or at a very reduced time. Some online CPD can be done in under 15 minutes. We do not see this changing and CPD being a money making exercise for some RTO's.

ALPA has a very strong view that if CPD must be continued, it should be for the Licensee In Charge only. It is their ultimate responsibility that all licensed agents and certificate holders under their control are compliant. This will reduce costs and red tape to the vast majority of small business owners, especially those in rural and remote NSW.

ALPA believes that CPD for Stock & Station Agents should be scrapped.

Item 4.**CPD obligations for class 1 licence holders — stock and station agents**

Class 1 stock and station licence holders must complete at least 6 hours of CPD activity in each year, including:

- a) 3 hours of compulsory CPD topics and
- b) 3 hours of business skills topics.

ALPA asks does 3 hours of business skills include animal welfare, traceability, food safety, bio-security, WH&S courses etc, run by others than an RTO?

Item 9.**CPD obligations for certificate of registration holders — assistant stock and station agent with stock-only condition**

Assistant stock and station agents who have requested a condition on their certificate of registration restricting them to stock only, must undertake 3 hours of compulsory CPD topics each year.

[Note: this only applies to assistant stock and station agents who were stock and station salespersons at the time of the commencement of the reforms and who have elected to have a condition placed on their licence restricting them to stock-related functions only.]

ALPA asks who will set these and can a course as stated above in **Item 4** be acceptable?

Item 13.**Elective CPD topics for Class 1 licence holders**

Class 1 licence holders must complete 3 hours of general elective topics and 3 hours of business skills topics.

ALPA asks are these the only general elective topics as listed in the paper or can we do others? See ALPA question from **Item 4** above.

Item 14.**Elective CPD topics for class 2 licence holders**

Class 2 licence holders must complete 3 hours of elective topics drawn from the following list of learning areas relevant to the property industry:

ALPA asks are these the only general elective topics as listed in the paper or can we do others? See ALPA question from **Item 4** above.

ALPA also wonder why some of these topics have to be done by a class 2 agent when in our view some topics only relate to a class 1 agent, such as, trust accounting principles and audit requirements and supervision requirements.

Item 15.**Approved providers of CPD topics**

Compulsory learning topics can only be delivered by an industry association, government agency or an entity approved by the Secretary (who is defined for the time being under the Act as the Commissioner for Fair Trading).

ALPA asks who is approved for elective topics as it states who can deliver the compulsory topics? **(END)**