

LICENSING, REGULATION AND ALCOHOL STRATEGY

Licences under the *Commercial and Private Agents Licensing Act*

This fact sheet has been developed to inform business and individuals of the responsibilities when operating as an Agent in the Northern Territory, and details the licensing requirements under the *Commercial and Private Agents Licensing Act*.

A person must not carry on business as a commercial agent, inquiry agent, process server or private bailiff unless he or she has been issued an appropriate licence. Operating as an Agent without a licence is an offence that may incur a maximum fine of 500 penalty units. The *Penalty Units Act* prescribes the monetary value of a penalty unit, its indexation and change of value by regulation.

Definitions from Part 1 of the *Commercial and Private Agents Licensing Act*

Agent

means a Commercial Agent, Inquiry Agent, Process Server or Private Bailiff licensed under the *Commercial and Private Agents Licensing Act*

Commercial Agent

means a person who, for monetary or other consideration, performs any of the following functions:

- ascertaining the whereabouts of, or repossessing any goods or chattels that are the subject of a hire purchase agreement or bill of sale;
- collecting, or requesting the payment of debts;
- executing any legal process for the enforcement of any judgment or order of a court;
- executing any distress for the recovery of rates, taxes or monies;
- obtaining evidence for the purpose of any legal proceedings; or
- searching for missing persons on behalf of any other person.

Inquiry Agent

means a person who, for monetary or other consideration, performs any of the following functions:

- Obtaining or providing information as to the personal character or actions of any person, or as to the business or occupation of any person;

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- Obtaining evidence for the purposed of any legal proceedings; or
- Searching for missing persons on behalf of any other person.

Private Bailiff

means a person who holds a licence as a private bailiff under this Act; A private bailiff can execute warrants and processes and make arrests.

Process Server

means a person who, for monetary or other consideration, performs the function of serving any writ, summons or other legal process on behalf of any other person.

Character Test

Applicants (including all officers of corporations) must be of good character and not have a criminal history containing, for example; dishonesty, fraud or physical violence offences.

The Commissioner of Consumer Affairs will take into account the reputation of the applicants in deciding whether they are fit and proper persons to be granted a licence. Members of the public have an opportunity to object to the granting of a licence on specific criteria.

Fees and Duration of Licences

An application processing fee* and additional fee for each Authority to Release Criminal History apply however you must attend the police station to pay the money and have the check undertaken. (Please note all fees are GST exempt). These are non-refundable and cover the costs of assessment. A licence fee* per category applies upon the grant of a licence or a pro rata fee for a lesser period is applied.

A licence is not transferable.

Applicants must apply for renewal of their licence not more that six months prior to the expiry of the licence period but not less than three months prior to the expiry of the licence period.

Undertaking a Criminal History Check

Please note applicants for a criminal history check are required to attend a police station to lodge their criminal history check. The Police will photocopy your identification (drivers licence/ 18+ card, birth certificate/extract or passport) and witness the Authority to Release Criminal History. The criminal history check can only be witnessed by an authorised officer. Authorised officers are Northern Territory Police Fire and Emergency Services employees and interstate and overseas Police Officers.

The fee for lodging a criminal check is to be paid at the police station.

Please supply a copy of a receipt showing payment of your criminal history check fee when lodging your application.

Key Steps in Obtaining an Agent's Licence

Determine which type of application is required. A licence can be granted to either a natural person or a corporation.

Obtain the relevant forms being:

- an application for licence form by a corporation (form 1); or
- an application for licence form by a natural person (form 2); together with
- an Authority to Release Criminal History form for each officer of the corporation or each natural person

When lodging the completed application, all applicants shall provide current photographic proof of identity in the form of a current passport or drivers licence and an Authority to Release Criminal History form and pay the prescribed fee*. If the application is being lodged by post, the applicant should ensure the relevant fees are enclosed, and include a certified true copy of proof of identity for each person associated with the application.

Applicants must place an advertisement in the Northern Territory News (and another local newspaper if available) notifying the public of the application and inviting objections within a period of 14 days. (Refer to the Guide to Advertising for further details and a pro-forma advertisement).

Applicants for a commercial agent or a private bailiff licence are required to provide proof of a bond in the prescribed form.

Cheques payable to the Receiver of Territory Monies, or electronic payment (Visa and Mastercard) can be made through Territory Business Centres, telephone 8982 1700.

The Commissioner of Consumer Affairs will only accept applications completed in full.

Applications under the Mutual Recognition Act

If an applicant holds a current individual (not corporate) licence that was issued in another State of Australia or the ACT, the applicant will be able to register and obtain an equivalent Agent's Licence granted in the Northern Territory under the *Mutual Recognition Act*. Queries regarding applications under these criteria should be raised direct with Licensing, Regulation and Alcohol Strategy.

Obligations of a Commercial and Private Agent Once Licensed

A licensed Agent must maintain the records as prescribed in Regulation 15 of the Commercial and Private Agents Licensing Regulations.

Licensed commercial agents and private bailiffs must maintain a current form of bond.

An agent must not carry on business unless there is present and in charge of the operations of the business a manager, for a corporation this must be a natural person approved by the Commissioner and where the agent is a natural person, either the agent or another natural person approved by the Commissioner.

**Please refer to the relevant schedule of fees.*

TERRITORY BUSINESS CENTRES

TOLL FREE LINE: 1800 193 111 (Australia Wide)

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