

FREQUENTLY ASKED QUESTIONS

Real Estate Agents Act 2008

What changes does the new Real Estate Agents Act make?

The key changes introduced by the new Act are:

- agents, branch managers and salespersons must all be licensed individually
- an independent Real Estate Agents Authority is established that is responsible for licensing, complaints, disciplinary action in relation to unsatisfactory conduct, industry standards, and providing information for consumers
- new complaints and disciplinary processes, including the appointment of Complaints Assessment Committees and the establishment of an independent [Real Estate Agents Disciplinary Tribunal](#)
- new responsibilities apply to real estate licensees, including duties in relation to the information that must be provided to consumers
- it is no longer compulsory for agents to be members of the Real Estate Institute of New Zealand (REINZ).

Why was the law changed?

In 2007 the Government issued a public consultation paper, *The Government's Preferred Options for Reform of the Real Estate Agents Act 1976*. The report identified a number of issues that needed to be addressed, including:

- a need for more independent oversight of entry standards, conduct and complaints handling
- consumers did not have sufficient information about how to make complaints
- there was a lack of independence and transparency in the complaints process, and penalties were inadequate
- consumers needed more information when buying or selling property.

What do the new licensing requirements mean for consumers?

All agents, branch managers and salespersons have to be licensed and consumers have better access to information about people working in the industry. There is a [public register](#) which shows who has a licence, and records whether a licensee has had any disciplinary action taken against them as an individual in the last three years by the Authority or the [Real Estate Licensing Board](#).

How does the Real Estate Agents Authority benefit consumers?

The independent Real Estate Agents Authority began issuing licences and receiving complaints on 17 November 2009. The Authority plays a key role in ensuring the quality and professionalism of the industry. The Authority:

- provides a code of professional conduct and client care for agents, branch managers and salespersons
- oversees licensing of all real estate agents, branch managers and salespersons
- provides information for consumers
- investigates complaints.

What does the new complaints process involve?

One of the main concerns about the 1976 Act was that consumers did not have ready access to an independent complaints and disciplinary process. Under the new Act people are able to take a complaint about a licensee or a former licensee to the Real Estate Agents Authority, which refers the complaint to a Complaints Assessment Committee to investigate. This process is fair and impartial for consumers and for agents, branch managers and salespersons.

A Complaints Assessment Committee is able to deal with the complaint in several ways, including by directing that the parties explore the possibility of resolving the complaint by negotiation, conciliation or mediation. Where a Committee finds that the licensee has engaged in unsatisfactory conduct, it has a range of measures at its disposal to deal with the complaint, such as:

- reprimanding the agent, branch manager or salesperson
- requiring the agent, branch manager or salesperson to do any of the following:
 - make an apology
 - undergo further training
 - refund fees
 - rectify an error
 - pay a fine of up to \$10,000 in the case of an individual or \$20,000 in the case of a company
 - pay the complainants costs of the inquiry or investigation.

[Click here](#) for information on how to make a complaint.

What happens in serious cases?

In serious cases appearing to involve misconduct, a Complaints Assessment Committee can lay a charge with the [Real Estate Agents Disciplinary Tribunal](#).

If the Disciplinary Tribunal determines that the licensee is guilty of misconduct it can impose a more serious range of penalties, including:

- cancelling or suspending the agent's, branch manager's or salesperson's licence
- ordering the licensee's employment be terminated and order that no agent employ or engage that person in connection with any real estate agency work
- ordering the licensee to pay compensation to the complainant for any actual loss suffered up to \$100,000.

Can decisions of the Complaints Assessment Committee and the Real Estate Agents Disciplinary Tribunal be appealed?

A decision made by a Complaints Assessment Committee on a complaint can be appealed to the [Real Estate Agents Disciplinary Tribunal](#). A decision of the Disciplinary Tribunal can be appealed to the High Court, whose decision is final, apart from questions of law, which can be appealed to the Court of Appeal.

Who sits on the Real Estate Agents Authority and the Real Estate Agents Disciplinary Tribunal?

The Real Estate Agents Authority has seven members appointed by the Minister of Justice, with members representing a broad range of interests, including consumer and industry interests. The Chairperson must be a lawyer with not less than seven years legal experience. Two members must be licensees or former licensees. Details of the current Board can be found [here](#).

Complaints Assessment Committees are appointed by the Authority and must have three members, one of whom must be an Authority member. One member must be a lawyer with not less than seven years legal experience.

The [Real Estate Agents Disciplinary Tribunal](#) will have a Chairperson and up to four other members, who are also appointed by the Minister of Justice. The Chairperson must be a barrister or solicitor with not less than seven years legal experience. One member must be a member of the real estate industry. The Disciplinary Tribunal is serviced by the Ministry of Justice.

Do the law changes affect what I pay for real estate services?

Fees and commission continue to be something that clients should negotiate with their agent.

What if I bought or sold my property before 17 November 2009?

The terms of the 1976 Act will continue to apply to any contracts or agreements entered into prior to 17 November 2009.

If a complaint has been made about an event that occurred before 17 November 2009, but the complaint was not dealt with under the 1976 Act by that time, a Complaints Assessment Committee may consider the complaint. The Real Estate Agents Disciplinary Tribunal may also hear a charge.

In these circumstances, a complaint can only be made about something that could have been the subject of a complaint under the 1976 Act, and the orders that can be made are restricted to those that would have been available under the 1976 Act.

How can I find out more?

You can find out more in the [consumer](#) section of the Real Estate Agents Authority website, or by [contacting](#) the Real Estate Agents Authority.

National Certificate in Real Estate (Salesperson)

How many papers are in the new salesperson entry level qualification?

The National Certificate in Real Estate (Salesperson) is the new entry level qualification for salespersons. The qualification is made up of 11 unit standards, compared to 6 in the old 'Salespersons' Certificate' qualification.

How do I register to attend the new salesperson entry level qualification?

Registering to attend the National Certificate in Real Estate (Salesperson) through the Academy follows the same process that was required when registering for the old 'Salespersons' Certificate' course. Go to [Harcourts One](#) > Products and Services: Academy > [Course Details](#) > [National Industry Qualifications](#) > Pre-Course Pack – Auckland, Christchurch or Wellington. Complete the paperwork and post to Susan Naylor in the Auckland Regional Office. Further details are outlined in the pre-course packs.

What employment contracts do our new recruits start on?

New recruits that are in the process of completing the National Certificate in Real Estate (Salesperson) are employed on the 'Agreement for Provision of Administration Assistant Services'. To access a copy of this Agreement go to [Harcourts One](#) > Products and Services: Academy > [Course Details](#) > [National Industry Qualifications](#) > Agreement for Provision of Administration Assistant Services.

Why do we use this employment contract?

Our recruits are required to be in employment so that they may have a study contract with the REAL ITO in order to complete the qualification. Under the Real Estate Agents Act 2008, as the recruits are not licensed sales consultants, they cannot be employed as 'independent contractors' like they were under the Real Estate Agents Act 1976. You will move them onto the standard sales consultants 'independent contractor' arrangement once they become licensed.

What time frame do I allow in Clause 1 of the Agreement for Provision of Administration Assistant Services?

1. This contract shall commence on[Date] and expire on[Date] unless the term is extended by a fresh agreement in writing.

It is suggested that you allocate three months as this will allow time for both study and the licensing process.

Do I have to enter an hourly rate as per Clause 3 of the Agreement for Provision of Administration Assistant Services?

3. The contract rate applicable to the Services provided under this agreement is \$per hour. If the Contractor is registered for GST and provides a GST invoice, the Company will also pay GST in addition to the contract rate.

Yes, you are required to enter an hourly rate for the contract to be valid. Choose a minimum wage rate such as \$15 per hour.

Do I have to pay the recruit the agreed hourly rate?

No, you do not have to pay the recruit because you will make it very clear to the new recruit that your franchise will **not** be requiring them to provide 'administrative assistant services' as per Clause 2 of the Agreement for Provision of Administration Assistant Services. No services provided means no payment.

2. The Contractor agrees to provide administrative assistant services ("the Services") to the Company from time to time as agreed between them, depending upon demand for the Services, the availability of the Contractor to provide the Services, and various other contingencies.

How much does the National Certificate in Real Estate (Salesperson) cost?

The costs associated with the National Certificate in Real Estate (Salesperson) is \$995.00 for the 11 unit standards.

All costs are including GST.

What additional costs may a new salesperson incur?

Salespersons new to the industry and Harcourts may incur the following additional costs:

Harcourts Academy Sales Programme: \$705.00*
Real Estate Agents Authority Licence: \$1132.75

*Please visit <http://one.harcourts.co.nz/e-cademy/sales%20programme.aspx> to see what this Programme entails.

What does the Open Poly charge for their National Certificate in Real Estate (Salesperson) course?

It is rumoured that the Open Poly charges over \$1,300 for the 11 unit standards; however at present there is no information on their website.