



OFFICE USE ONLY
Application No. _____

Professional Indemnity Insurance

For information about your obligation to be insured under a policy of professional indemnity insurance, refer to the information attached to this form.

Property, Stock and Business Agents Act 2002
Application for a Licence - CORPORATION

LICENCE FEE: \$493.00 - applicable from 1 July 2014 to 30 June 2015
(GST exempt, includes a non refundable processing component)

For payment options please refer to page 5.

Note

It is an offence for the applicant corporation to act as or carry on the business of an agent under the Property, Stock & Business Agents Act 2002 while this application for a corporation licence is being processed and prior to it being granted.

Please allow up to six weeks for the processing of this application.

Forward the completed application, required documentation and payment to:

Property Licensing
NSW Fair Trading
Locked Bag 5104
PARRAMATTA NSW 2124

or

Lodge in person at any Fair Trading Centre or Service NSW Service Centre.

For the location of your nearest Fair Trading Centre or Service NSW Service Centre call 13 32 20 or visit www.fairtrading.nsw.gov.au

For any enquiries regarding this application contact the Property Licensing unit:

Tel: (02) 9619 8799

Fax: (02) 9619 8711

TTY: (02) 9619 8673

1. APPLICANT DETAILS

Name of corporation: _____

Australian Company Number (A C N): _____

Corporation's postal address (for all correspondence): _____

_____ Postcode: _____

Telephone No: _____ Facsimile No: _____

Email Address (if any): _____

2. PREVIOUS LICENCE PARTICULARS

Has the corporation held a licence under the *Property, Stock and Business Agents Act 1941* or under the *Property, Stock and Business Agents Act 2002*?

YES

NO

If YES, provide licence number: _____

3. DETAILS OF DIRECTOR(S) / SECRETARY

Provide the following particulars for each director and/or secretary of the applicant corporation.

If there is insufficient space, please provide the particulars of each additional director or secretary on a separate sheet of paper.

Any discrepancies between the directors / secretaries listed in this application and those recorded by the Australian Securities and Investments Commission for the applicant corporation will delay the processing of this application.

Director 1:

Surname: _____ Given Names: _____

Other names the director is, or has been known by (if any, including maiden name): _____

Date of Birth: _____ Place of Birth: _____

Licence No. held under the *Property, Stock & Business Agents Act 2002*: _____

Residential Address: _____

Postcode: _____

Director 2:

Surname: _____ Given Names: _____

Other names the director is, or has been known by (if any, including maiden name): _____

Date of Birth: _____ Place of Birth: _____

Licence No. held under the *Property, Stock & Business Agents Act 2002* (if applicable): _____

Residential Address: _____

Postcode: _____

Secretary (if applicable):

Surname: _____ Given Names: _____

Other names the secretary is, or has been known by (if any, including maiden name): _____

Date of Birth: _____ Place of Birth: _____

Licence No. held under the *Property, Stock & Business Agents Act 2002* (if applicable): _____

Residential Address: _____

Postcode: _____

Note: At least one director must be licensed under the *Property, Stock and Business Agents Act 2002*.

4. IDENTIFICATION REQUIREMENTS

All persons nominated in this application must attach clearly legible evidence of their identity such as a copy of your driver's licence, photo card, passport, birth certificate or change of name certificate.

5. BUSINESS DETAILS

Business Address (must be a street address): _____

Postcode: _____

Telephone No: _____ Mobile No: _____ Facsimile No: _____

Business Name (if any, provide evidence that the applicant corporation is the business name holder):

ABN: _____

Declaration by nominated Licensee-in-Charge

Surname: _____ Given Names: _____

Licence No. of Licensee-in-Charge: _____

I declare that I am (delete whichever is not applicable)

a) not the Licensee-in-Charge of any other corporation;

OR

b) presently the Licensee-in-Charge of _____ and undertake to resign as Licensee-in-Charge of that corporation prior to the issue of the licence for which this application is being made.

Signature of nominated Licensee-in-Charge Date:.....

NOTE:

A licensee MUST have a registered office in New South Wales. If however a licensee carries on the business of an agent pursuant to a licence or other authorisation under the laws of another State at an office that is within 50 kilometres of New South Wales, then the licensee may have their registered office at the interstate office (even though it is not in New South Wales).

The address nominated above at which the applicant corporation proposes to carry on business will be taken to be the registered office of the licensee. If the applicant corporation intends to carry on business at more than one location the address nominated above will be taken to be the principal place of business and registered office of the applicant corporation, for the purposes of the *Property, Stock and Business Agents Act 2002*, when licensed.

Please provide details of each additional business address (including nominated licensee in charge) on a separate sheet of paper.

6. PARTNERSHIP DETAILS

If the applicant corporation intends to carry on business in a partnership under the *Property, Stock and Business Agents Act 2002*, a *Notification of Partnership Particulars* form must be completed and attached to this application.

To download the form, visit the Fair Trading website - www.fairtrading.nsw.gov.au - select *Forms* in the *Quick Links* box on the home page and follow the prompts or call 13 32 20.

7. DISCLOSURE QUESTIONS

If you answer Yes to any of the following questions, please provide full details on a separate sheet.

1. Has any director or person concerned with the management of the applicant corporation:
 - a) been convicted in NSW or elsewhere of ANY offence that was recorded in the last 10 years? Yes No
 - b) been convicted in the last 5 years of an offence of licence or certificate lending under this Act? Yes No
 - c) in the preceding 3 years, been an undischarged bankrupt or applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his/her creditors or made an assignment of his/her remuneration for their benefit? Yes No
 - d) in the preceding 3 years been a director or person concerned in the management of ANY externally-administered body corporate (within the meaning of the Corporations Act 2001)? Yes No
If Yes, provide relevant company names and Australian Company Numbers (ACN).
 - e) in the preceding 3 years ceased to be a director or person concerned in the management of ANY corporation that became an externally-administered body corporate within 12 months of the date they ceased? Yes No
If Yes, provide relevant company names and Australian Company Numbers (ACN).
2. Is any director or person concerned with the management of the applicant corporation currently:
 - a) an undischarged bankrupt? Yes No
 - b) a director or person concerned in the management of ANY externally-administered body corporate (within the meaning of the Corporations Act 2001)? Yes No
If Yes, provide relevant company names and Australian Company Numbers (ACN).
3. Is the applicant corporation or any director or person concerned with the management of the applicant corporation:
 - a) disqualified from holding a licence, certificate of registration, permit or other authority under legislation administered by the Minister for Fair Trading or under a corresponding law? Yes No
 - b) the holder of a licence, certificate of registration, permit or other authority that is suspended under legislation administered by the Minister for Fair Trading or under a corresponding law? Yes No
 - c) owe a monetary penalty payable in relation to disciplinary proceedings or failed to comply with a direction given by the Director General under the Act? Yes No
4. Does the applicant corporation or any director or person concerned with the management of the applicant corporation:
 - a) owe an amount to the Crown for the recovery of payments from the Compensation Fund? Yes No
5. Is the applicant corporation the subject of a winding up order or the appointment of a controller or administrator? Yes No

Complete DECLARATION BY APPLICANT on the next page.

8. DECLARATION BY APPLICANT

I, on behalf of the applicant corporation, apply for the grant of a licence under the *Property, Stock and Business Agents Act 2002* and certify that the particulars specified in this application and all attachments are, to the best of my knowledge, true and correct in every detail.

Statement under the Privacy and Personal Information Protection Act 1998.

The applicant for this licence:

1. authorises NSW Fair Trading to make any inquiries and to receive and disclose any information which is relevant to the applicant's initial and ongoing eligibility to hold this licence;
2. acknowledges that information will be placed on a register open to the public in accordance with the *Property, Stock and Business Agents Act 2002*;
3. accepts that failure to supply information required on this application form may delay the processing of the application; and
4. has a right to seek access to and correction of information supplied.

Note: It is an offence under the Crimes Act 1900 to make a false or misleading statement in this document. The maximum penalty is imprisonment for two years or a fine of up to \$22,000 or both.

Signature of Director: _____ Date: _____

Full Name: _____

PAYMENT OPTIONS

Indicate your payment method.

Credit Card Cheque Money Order

ONLY MasterCard and Visa are accepted. **Credit Card payments are subject to a 0.4% merchant fee.**

Cheques and money orders should be made payable to NSW Fair Trading.

DO NOT SEND CASH THROUGH THE POST

If paying by credit card, provide the credit card particulars below.

MasterCard Visa

Credit Card Number:

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Expiry Date:

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Amount \$:

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Card Holder's Name (BLOCK LETTERS)

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Card Holder's Signature

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PROFESSIONAL INDEMNITY INSURANCE INFORMATION SHEET

Property Stock and Business Agents Amendment (Professional Indemnity Insurance) Regulation 2012

Licensees under the *Property, Stock and Business Agents Act 2002* are required to be insured under a policy of professional indemnity insurance.

The *Property Stock and Business Agents Regulation 2003* provides requirements for a policy of professional indemnity insurance, that licensees must hold as a condition of their licence, under section 22 of the Act.

The *Property Stock and Business Agents Amendment (Professional Indemnity Insurance) Regulation 2012*, introduced new clause 13B to the regulation, that commenced on 1 January 2013.

Which classes of licensee will be required to have insurance?

The requirement for mandatory professional indemnity insurance applies to all licensees under the Act – including real estate agents, stock and station agents, business agents, strata and community managing agents, and on-site residential property managers.

However, a licensee is required to be insured only if the licensee engages in activities for which a licence is required under the Act. This means licence-holders who are not so engaged – such as trainers/educators, unemployed licensees, or licensees employed in other industries – do not need to hold professional indemnity insurance coverage unless or until they are.

Licensees that do engage in activities requiring a licence must be covered under a complying policy that is in force with respect to themselves, or their employer.

An 'employer', for the purposes of the clause, means a person (including a corporation) who employs or otherwise engages the licensee to perform services for which a licence is required under the Act.

What are the requirements in the Amendment Regulation that the professional indemnity insurance policy must comply with?

The regulation requires policies to provide a minimum level of indemnity coverage of not less than \$1 million for any one claim; and not less than \$3 million in the aggregate, for all claims made during the period of insurance. These indemnity amounts are inclusive of costs incurred or payable by the claimant, in connection with any claim.

Policies must provide cover for civil liability (including for personal injury) of the following types, and as described in the regulation, that arise in the conduct of an agency business:

- liability arising from any acts or omissions of the licensee that constitute:
 - negligence, or
 - unintentional misleading or deceptive conduct, or
 - breach of professional duty, or
 - unintentional defamation, or
 - unintentional interference with intellectual property rights;

- vicarious liability arising from any acts or omissions of an employee, agent or other person engaged in the agency business that constitute:
 - negligence, or
 - misleading or deceptive conduct, or
 - breach of professional duty, or
 - defamation (for which the claimant is not at fault), or
 - interference with intellectual property rights (for which the claimant is not at fault), or
 - fraud or dishonesty by the employee, agent or other person (for which the claimant is not at fault).

An 'agency business' is a business that is described in section 8(1) of the Act.

The required types of coverage and level of cover are only minimum requirements. Licensees may obtain a higher level of cover if they consider it necessary. Licensees are also free to obtain a policy for a range of other insurance events that can be covered by professional indemnity insurance, provided the policy they obtain has coverage that meets the mandatory requirements.

Licensees should also note that providers of professional indemnity insurance must be authorised to provide insurance under the Commonwealth *Insurance Act 1973*.

NOTE: The requirement for licensees to be insured under a policy of professional indemnity insurance does not change the entitlement of consumers who suffer a pecuniary loss because of a failure to account for trust funds, held by a licensee, to lodge a claim on the Property Services Compensation Fund.

If you have any queries please forward an email to: policy.user@finance.nsw.gov.au

February 2013 [updated Feb. 2014]