

WESTERN AUSTRALIA

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**REAL ESTATE AND BUSINESS  
AGENTS AMENDMENT ACT 1994**

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**No. 43 of 1994**

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**AN ACT to amend the *Real Estate and Business Agents Act 1978*.**

*[Assented to 31 August 1994.]*

The Parliament of Western Australia enacts as follows:

**Short title**

1. This Act may be cited as the *Real Estate and Business Agents Amendment Act 1994*.

### **Commencement**

2. (1) Subject to subsection (2), this Act comes into operation on the day on which it receives the Royal Assent.

(2) Sections 7 and 8 (b) (i) come into operation on such day as is, or days as are respectively, fixed by proclamation.

### **Principal Act**

3. In this Act the *Real Estate and Business Agents Act 1978\** is referred to as the principal Act.

[\* *Reprinted as at 7 November 1985.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, p. 177.]*

### **Sections 12A and 12B inserted**

4. After section 12 of the principal Act the following sections are inserted —

“

#### **Minister may give directions**

12A. (1) The Minister may give directions in writing to the Board with respect to the exercise of its powers and functions, either generally or in relation to a particular matter, and the Board shall give effect to any such direction.

(2) The text of any direction given under subsection (1) is to be included in the annual report submitted by the accountable authority of the Board under section 66 of the *Financial Administration and Audit Act 1985*.

**Minister to have access to information**

**12B.** (1) The Minister is entitled —

- (a) to have information in the possession of the Board; and
- (b) where the information is in or on a document, to have, and make and retain copies of, that document.

(2) For the purposes of subsection (1) the Minister may —

- (a) request the Board to furnish information to the Minister;
- (b) request the Board to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of the staff of the Board to obtain the information and furnish it to the Minister.

(3) The Board shall comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

**“document”** includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

**“information”** means information specified, or of a description specified, by the Minister that relates to the functions of the Board.

”

**Section 131H amended**

**5.** Section 131H of the principal Act is amended —

- (a) in subsection (2), by deleting paragraph (a) and substituting the following paragraph —

“

- (a) one shall be a person with experience in commercial finance appointed by the Minister;

”;

and

- (b) in subsection (3), by deleting paragraph (a) and substituting the following paragraph —

“

- (a) the member referred to in subsection (2) (a);

”.

**Section 131K amended**

**6.** Section 131K of the principal Act is amended —

- (a) in subsection (1), by deleting “(2) (c)” and substituting the following —

“ (2) (a) or (c) ”; and

- (b) in subsection (2), by deleting “(2) (c) —” and substituting the following —

“ (2) (a) or (c) — ”.

**Section 131L amended**

**7. Section 131L of the principal Act is amended —**

- (a) in subsection (1), by deleting “on behalf of the person lodge with the Registrar of Building Societies” and substituting the following —

“  
    , not later than 60 days after the date of  
    the contract to purchase the dwelling, on  
    behalf of the person lodge with the  
    Registrar  
”;

and

- (b) by repealing subsections (2) and (3) and substituting the following subsection —

“  
    (2) A reference in this section to a  
    dwelling in relation to the making of a loan  
    is a reference to a dwelling that is, or is  
    intended to be, used by the person to whom  
    the loan is made as a home for that person,  
    whether alone or with another person or  
    other persons.  
”.

**Section 131M amended**

**8. Section 131M of the principal Act is amended —**

- (a) in subsection (1), by deleting “of Building Societies”; and

(b) in subsection (3) —

(i) by deleting “current criteria formulated under section 131O (2)” and substituting the following —

“

criteria formulated under section 131O (2) which were current at the date of the lodging of the application under section 131L (1)

”;

and

(ii) in paragraph (a), by inserting after “\$1 000” the following —

“

or such other maximum amount as is prescribed

”.

### **Section 131O amended**

**9.** Section 131O (1) of the principal Act is amended —

(a) by deleting paragraphs (a) and (d);

(b) in paragraph (e), by deleting “Societies,” and substituting the following —

“ Societies; and ”; and

(c) by inserting after paragraph (e) the following paragraph —

“

(f) such other persons as may be prescribed,

”.

**Section 145 amended**

10. Section 145 (2) of the principal Act is amended by inserting after paragraph (j) the following paragraphs —

“

(k) prescribe a maximum amount for the purposes of section 131M (3) (a);

(ka) prescribe persons for the purposes of section 131O (1) (f);

”.

**Amendment of penalties**

11. The sections referred to in Column 1 of the Table to this section are amended in the manner set out opposite them in Column 2.

**TABLE**

Column 1	Column 2
section 17 (1)	Delete “\$300.” and substitute the following —  “ \$3 000. ”.
section 20 (2)	Delete “\$500.” and substitute the following —  “ \$5 000. ”.
section 26	Delete “\$2 000.” and substitute the following —  “ \$20 000. ”.

- section 36 (1) Delete "\$100." and substitute the following —  
" \$1 000. "
- section 37 (1) Delete "\$100." and substitute the following —  
" \$1 000. "
- section 37 (2) Delete "\$100." and substitute the following —  
" \$1 000. "
- section 39 Delete "\$500." and substitute the following —  
" \$20 000. "
- section 40 Delete "\$100." and substitute the following —  
" \$1 000. "
- section 44 (1) Delete "\$300." and substitute the following —  
" \$3 000. "
- section 44 (2) Delete "\$300." and substitute the following —  
" \$3 000. "
- section 44 (3) Delete "\$300." and substitute the following —  
" \$3 000. "



section 45 (1) Delete "\$300." and substitute the following —

" \$3 000. "

section 45 (2) Delete "\$300." and substitute the following —

" \$3 000. "

section 45 (3) Delete "\$200." and substitute the following —

" \$3 000. "

section 46 Delete "\$200." and substitute the following —

" \$2 000. "

section 52 (2) Delete "\$300." and substitute the following —

" \$3 000. "

section 54 (1) Delete "\$300." and substitute the following —

" \$3 000. "

section 54 (2) Delete "\$300." and substitute the following —

" \$3 000. "

section 55 (1) Delete "\$300." and substitute the following —

" \$3 000. "

section 55 (2) Delete "\$300." and substitute the following —

" \$3 000. "

section 55 (3) Delete "\$300." and substitute the following —

" \$3 000. "

section 56 (1) Delete "\$2 000." and substitute the following —

" \$10 000. "

section 56 (2) Delete "\$2 000." and substitute the following —

" \$10 000. "

section 57 (1) Delete "\$100." and substitute the following —

" \$1 000. "

section 58 (1) Delete "\$100." and substitute the following —

" \$1 000. "

section 60 (3) Delete "\$500." and substitute the following —

" \$5 000. "

- section 61 (5) Delete "\$500." and substitute the following —  
" \$5 000. ".
- section 64 (1) Delete "\$500" and substitute the following —  
" \$5 000 ".
- section 64 (2) Delete "\$500" and substitute the following —  
" \$5 000 ".
- section 66 (1) Delete "\$500." and substitute the following —  
" \$5 000. ".
- section 84 (1) Delete "\$300." and substitute the following —  
" \$3 000. ".
- section 96 Delete "\$400." and substitute the following —  
" \$4 000. ".
- section 99 (5) Delete "\$400." and substitute the following —  
" \$4 000. ".
- section 103 (1) (b) Delete "\$1 000" and substitute the following —  
" \$10 000 ".

- section 103 (3) (b) Delete "\$200" and substitute the following —  
" \$3 000 ".
- section 105 (1) (b) Delete "\$1 000" and substitute the following —  
" \$10 000 ".
- section 106 (1) Delete "\$500." and substitute the following —  
" \$10 000. ".
- section 106 (2) Delete "\$500." and substitute the following —  
" \$5 000. ".
- section 142 (2) Delete "\$200." and substitute the following —  
" \$2 000. ".