

# **State Penalties Enforcement (Property Occupations) Amendment Regulation 2025**

Explanatory notes for SL 2025 No. 35

Made under the

*State Penalties Enforcement Act 1999*

## **General Outline**

### **Short Title**

*State Penalties Enforcement (Property Occupations) Amendment Regulation 2025*

### **Authorising law**

*Section 165 of the State Penalties Enforcement Act 1999*

## **Policy objectives and the reasons for them**

The *Property Occupations Act 2014* (PO Act) provides an occupational licensing framework for real estate agents, real property auctioneers, resident letting agents and real estate salespersons (property agents). While real estate agents, real property auctioneers, and resident letting agents hold a licence under the PO Act, real estate salespeople hold a registration certificate.

The PO Act is supported by the *Fair Trading Inspectors Act 2014* (FTI Act). The FTI Act enacts common provisions for fair trading legislation concerning the appointment and powers of inspectors, and the procedures relating to the exercise of those powers, including in relation to the enforcement of relevant provisions of the PO Act. The Office of Fair Trading (OFT) within the Department of Justice administers the PO Act, including by exercising the powers afforded to inspectors under the FTI Act.

On 23 May 2024, the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024* (Amendment Act) was passed by the Queensland Legislative Assembly. The Amendment Act received assent on 6 June 2024. The Amendment Act includes amendments to the PO Act to introduce mandatory continuing professional development (CPD) for property agents from 6 June 2025 (Part 1, section 2(2) for commencement provision and Part 3, Divisions 2 and 4 for CPD requirements).

The new CPD provisions require property agents (both licensees and registration certificate holders) to complete CPD requirements (for example, training courses) approved by the chief executive for each CPD year. A CPD year for a property agent is

the period of 12 months ending the day before an anniversary of the date the property agent's licence or registration certificate was first issued.

Mandatory CPD requirements are intended to facilitate an increase in the skills of property agents on an ongoing basis, recognising that property agents hold a position of trust for their clients. In addition, mandatory CPD requirements will support agents to adapt to changes and challenges in the marketplace while minimising the burden on industry.

As part of the CPD amendments, property agents will be required to comply with record keeping obligations (section 92C of the PO Act for licensees and section 151C of the PO Act for registration certificate holders):

- a property agent must keep a record of the CPD requirements completed by that person for each CPD year (maximum penalty of 10 penalty units); and
- a property agent must keep records of completed CPD requirements for a period of 5 years after the end of the CPD year to which the record relates (maximum penalty of 10 penalty units).

The policy objective of the *State Penalties Enforcement (Property Occupations) Amendment Regulation 2025* (the Amendment Regulation) is to amend the *State Penalties Enforcement Regulation 2014* (SPE Regulation) to prescribe that the failure of property agents to comply with record keeping obligations under sections 92C or 151C of the PO Act are penalty infringement notice (PIN) offences.

Amending the SPE Regulation to prescribe PIN offences will provide OFT inspectors with the option to issue PIN fines to property agents who fail to comply with CPD record keeping obligations under the PO Act.

## **Achievement of policy objectives**

The Amendment Regulation will achieve the policy objective by amending Schedule 1 of the SPE Regulation to prescribe the following as PIN offences, noting that section 92C applies to licensees and section 151C applies to registration certificate holders:

- the failure of a licensee to keep a record of the CPD requirements completed by the licensee as required under section 92C(1) of the PO Act, with a corresponding infringement notice fine of two penalty units;
- the failure of a licensee to keep a record for five years after the end of the CPD year to which the record relates as required under section 92C(2) of the PO Act, with a corresponding infringement notice fine of two penalty units;
- the failure of a registration certificate holder to keep a record of the CPD requirements completed by the certificate holder as required under section 151C(1) of the PO Act, with a corresponding infringement notice fine of two penalty units; and
- the failure of a registration certificate holder to keep a record for five years after the end of the CPD year to which the record relates as required under section 151C(2) of the PO Act, with a corresponding infringement notice fine of two penalty units.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objective of the authorising Act.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the objectives of other legislation.

## **Benefits and costs of implementation**

The Amendment Regulation will not impose a significant financial or regulatory burden on property agents. The prescribed PIN fine amounts of two penalty units represent a reduced penalty in comparison to the maximum penalty of 10 penalty units that may be imposed by a court if a CPD record keeping offence is successfully prosecuted. The prescribed PIN fine amount of two penalty units is also intended to act to encourage property agents to complete CPD requirements for a particular CPD year and maintain records of completed CPD requirements in accordance with the PO Act.

Allowing OFT inspectors to issue a PIN to property agents who fail to comply with CPD record keeping obligations will provide the OFT with the ability to promptly address property agent non-compliance by issuing a PIN fine, rather than prosecuting the matter through the courts. The capacity to issue a PIN in appropriate cases will enable the OFT to take an appropriate and proportionate approach to ensuring compliance with the CPD record keeping requirements.

Any costs to the OFT in implementing new PIN offences for CPD record keeping obligations will be met from within existing resources.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles. Fundamental legislative principles relevant to the Amendment Regulation are addressed below.

### **Legislation has sufficient regard to rights and liberties of individuals – *Legislative Standards Act 1992 – section 4(2)(a)***

The Amendment Regulation is considered to be consistent with fundamental legislative principles (FLP), including the principle that legislation must have sufficient regard to the rights and liberties of individuals. For legislation to have sufficient regard to the rights and liberties of individuals, penalties should be proportionate and relevant to the offence and be consistent with similar offences.

Four new record keeping obligations are prescribed in the SPE Regulation as PIN offences, with corresponding PIN fines for each PIN offence set at two penalty units.

The PIN offences and corresponding PIN fine amounts are intended to incentivise property agents to comply with CPD requirements prescribed by the PO Act and their corresponding obligations to keep records of completed CPD requirements.

The PIN fine amounts are relatively low (two penalty units), reflecting the administrative nature of the offences. Also, the PIN fine amounts are commensurate with fine amounts for PIN offences for similar record keeping obligations under sections 15 and 16 of the *Property Occupations Regulation 2014* (PO Regulation) where the PIN fine amounts are set at two penalty units (with a maximum penalty of 10 penalty units applying to contraventions of these requirements).

## **Consultation**

The Office of Best Practice Regulation was notified of the objectives of the Amendment Regulation. A Summary Impact Analysis Statement has been prepared for the Amendment Regulation, noting that regulatory impact analysis is not required under the *Queensland Government Better Regulation Policy*.