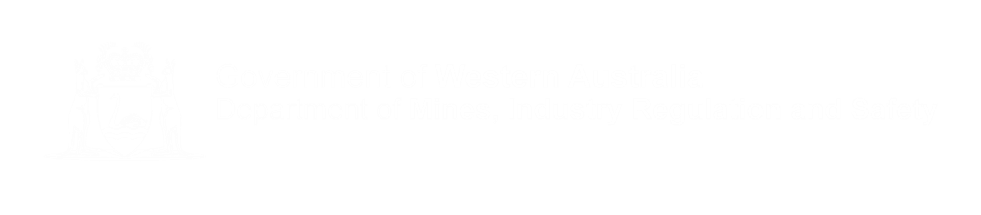


# Real Estate & Business Agents Compliance Self-Assessment Checklist



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|  | **DESCRIPTION** | **LEGISLATION** *(refer to Legend on page 4)* | **🗹** |
|  | **Licensing / Records** | | |
| **1** | Do you have a documented dispute resolution process in place to ensure you are advised of the issues? | Code r.14  BP |  |
| **2** | Are all staff provided with regular training on handling disputes including when matters should be escalated? | Code r.14  BP |  |
| **3** | Is the current licence and Triennial Certificate (TC) of the licensee displayed as required? | REBA Act s.26, s.41(1), s.37 |  |
| **4** | Is the current Business Name recorded on the TC? | REBA Act s.40(1) |  |
| **5** | Do the required particulars appear on correspondence and documents? | REBA Act s.26, s.41(2) |  |
| **6** | If a branch office, does the branch manager hold a correctly endorsed and current TC? | REBA Act s.41(1), s.37, s.38 |  |
| **7** | Has the department been advised of all current registered and licensed employees? | REBA Act s.51(1)  Code r.14 |  |
| **8** | Are there processes in place to ensure that the registrations of all sales representatives are current? | REBA Act s.44,s.45, s.46,   s47, s.48  REBA Regs r.4AB, r.4AC |  |
| **9** | Is the property manager registered or, if licensed as an agent, is a current Triennial Certificate held? | REBA Act s.44,s.45, s.46 |  |
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|  | **Conflict of Interest** | | |
| **10** | Do you or any staff have any potential/actual conflict of interests or any affiliation with any settlement agency or any other significant relationship requiring disclosure? | REBA Act s.64(1)  Code r.16 |  |
| **11** | If required, is the disclosure adequate? | REBA Act s.64(1)  Code r.16 |  |
| **12** | Is the disclosure provided prior to signing of an Offer & Acceptance?  Ref. REBA vs Landa [[2008] WASAT 114](https://ecourts.justice.wa.gov.au/eCourtsPortal/Decisions/ViewDecision?returnUrl=%2feCourtsPortal%2fDecisions%2fSearch%3fsearchText%3dLanda%26jurisdiction%3dSAT%26advanced%3dFalse&id=3e0bc9e1-f779-baf5-c825-746e00229319) | REBA Act s.64(1)  Code r.16 |  |
| **13** | Do you or any staff members recommend a third party service provider to clients? | Code r.16 |  |
| **14** | Is a written disclosure of the relationship provided? | Code r.16 |  |
| **15** | Has a client been referred by a third Party? | Code r.16 |  |
| **16** | Do you provide a written disclosure of any commission or fee paid in acceptance of the referral? | Code r.16 |  |

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|  | **DESCRIPTION** | **LEGISLATION** | **🗹** |
|  | **Identification** | | |
| **17** | Do you undertake appropriate searches e.g. CT, ASIC, encumbrances, property interest reports? | Code r.25 |  |
| **18** | Where there is a Power of Attorney, is this retained on file? | Code r.25 |  |
| **19** | Do you have sufficient procedures in place to identify clients? | Code r.5, r.6, r.14, r.25 |  |
| **20** | Is ID obtained and evidence retained on all sales and property management files? | Code r.5, r.6, r.14  BP |  |
| **21** | Are security passwords used for updating lessor's information on property management transactions? | Code r.5, r.6, r.13, r.14  BP |  |

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|  | **Advertising** | | |
| **22** | Do you review and authorise advertisements and all promotional material before they are published? | REBA Act s.62(1), s.62(2)  Code r.23 |  |
| **23** | Do you regularly review properties advertised on various websites to ensure any listings are accurate? | Australian Consumer Law (ACL) s.18 |  |
| **24** | Do you ensure sold and settled properties are removed from agency's website? | ACL s.18 |  |
| **25** | Are you able to validate any testimonials you provide on any websites? | ACL s.29(1)(e), s.29(1)(f) |  |

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|  | **Trust Accounting** | | |
| **22** | Are trust accounts and interest bearing trust accounts (IBTAs) including cheques designated in accordance with the REBA Act and REBA Regs? | REBA Regs r.6D |  |
| **23** | Are all trust accounts opened during the year disclosed to DMIRS and the auditor? | REBA Act s.68C(1), s.70(1) |  |
| **24** | Are all IBTAs opened during the year disclosed to the auditor? | REBA Act s.70(1) |  |
| **25** | Do trust account(s) receipts conform to the REBA Act and REBA Regs? | REBA Regs r.6G |  |
| **26** | Is banking done by the next business day including for strata management? | REBA Act s.68(6)(b) |  |
| **27** | Are trust accounts reconciled on a monthly basis (to the last day of the month)? | REBA Act s.68(6)(d)  BP |  |
| **28** | Do you review and certify the monthly reconciliations within 10 working days after the end of month? | Code r.6, r.14(3)  BP |  |
| **29** | Do you investigate unidentified deposits, follow up unpresented cheques and take appropriate action to deal with those monies? | REBA Act s.68(6)(a) |  |
| **30** | Are you proficient in performing bank reconciliations? | REBA Act s.27(1)(d)  Code r.14(3) |  |
| **31** | Do you include IBTAs in monthly reconciliations? | REBA Act s.68(6)(d) |  |
| **32** | Are written instructions for IBTAs retained? | REBA Act s.68A  Code r.13  BP |  |

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|  | **Settled Sales Files** | | | |
| **33** | Is the appointment to act in writing? | | REBA Act s.60(1)(b)  Code r.17(1)  REBA Regs r.6BA(2),  r.6BA(2),   r.6BA(3) |  |
| **34** | Does it clearly set out the services to be rendered? | | REBA Act s.60(2)(a)(i), s.60(2)(a)(ii) |  |
| **35** | Does it clearly identify the property/business e.g. address, title details? | | REBA Act s.60(2)(a)(ii)  REBA Regs r.68A(2), r.6BA(2),   r.6BA(3) |  |
| **36** | Is it signed by the person(s) for whom the services are being provided or his/her lawfully authorised agent/representative? | | REBA Act s.60(1)(b) |  |
| **37** | | Does the appointment to act contain the prescribed information i.e.:   * a statement that commission charges are not pursuant to any scale fixed by law and are to be agreed upon; and that * clients may seek assistance from the Commissioner for Consumer Protection in relation to fee disputes? | REBA Regs r.6BA(2), r.6BA(3) |  |
| **38** | | Does the appointment to act set out the method by which the remuneration is to be calculated? | REBA Act s.60(2)(a)(ii)  REBA Regs r.6BA(1) |  |
| **39** | | If it is expressed as a percentage, does it provide a clear relevant example of this calculation (e.g., selling price, gross rental)? | REBA Act s.60(2)(a)(ii)  REBA Regs r.6BA(1) |  |
| **40** | | Is a maximum amount specified where the remuneration is expressed as an hourly, weekly or periodic rate? | REBA Act s.60(2)(a)(ii)  REBA Regs r.6BA(1) |  |
| **41** | | Does the appointment to act specify the nature of any expenses that you will recover and the basis upon which it will be calculated e.g. marketing expenses specified, agreed and initialled by both parties? | Regs r.6BA(1)(d)  Code r.20 |  |
| **42** | | Are material facts relating to the transaction ascertained, verified and disclosed? | Code r.24 |  |
| **43** | | Is any requirement for a foreign resident withholding tax disclosed? | Code r.24 |  |
| **44** | | Are all deposits received into the trust account? | REBA Act s.68(1) |  |
| **45** | | Do you have a process in place to ensure that commissions are drawn from trust accounts after you have been advised that settlement has taken place? | REBA Act s.61(4) |  |
| **46** | | Do you review files and records and ensure that they are properly maintained? | Code r.14 |  |
| **47** | | Do you supervise staff to ensure employees comply with relevant legislation? | Code r.14 |  |
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|  | | **Off-the-Plan Sales** | | |
| **48** | | Does the appointment to act match the Certificate of Title? | REBA Act s.60  Code r.17(1), r.25 |  |
| **49** | | Have you verified that the vendor/developer is the proprietor? | SOLA s.13(1), s.13(2), s.13B,   s.13C |  |
| **50** | | How many lots are being sold? | SOLA s.13, s.13A, s.13B,   s.13D |  |
| **51** | | Do the contracts comply with the new provisions of the SOLA? | SOLA s.13, s.13A, s.13B,   s.13C, s.13D |  |
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|  | **DESCRIPTION** | **LEGISLATION** | **🗹** |

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|  | **Property Management Files** | | |
| **52** | Are the appointments to act (residential/commercial) valid? | REBA Act s.60(1), s.(2)  REBA Regs r.6BA  Code r.17(1) |  |
| **53** | Are funds paid by the tenant at the commencement of the lease paid into the trust account? | RTA s.27  REBA Act s.68(1) |  |
| **54** | Do you keep a record of every tenancy agreement sign up to ensure funds are deposited into the trust account? | RTA s.27  REBA Act s.68(1)  BP |  |
| **55** | Are actual costs/disbursements recouped as per the appointment to act? | Code r.6, 7, r.19, r.20 |  |
| **56** | Does the owner statement match the terms of the appointment to act? | Code r.6, 7, r.17, r.19, r.20  Regs r.6BA(1) |  |
| **57** | Are residential tenancy bonds reconciled regularly? | BP |  |
| **58** | Do you know who is on your list of Bonds Online users? | RT Regs r.7H  Code r.6, r.14 |  |
| **59** | Do you have a process to ensure only authorised personnel have access? | RT Regs r.7H  Code r.6, r.14 |  |
| **60** | If you use a third party such as BPay or ipay rent to collect rental funds do you ensure that tenants are provided with a fee free means to make the payment? | RTA s.27 |  |
| **61** | Are lease agreements in the prescribed form (Form 1AA)? | RTA s.27A  RT Regs r.10AA |  |
| **62** | Is the lessor’s full name being included in the lease agreement? | RTA s.51 |  |
| **63** | Do property condition reports contain the prescribed minimum content? | RTA s.27C  RT Regs r.10AC |  |
| **64** | Do you provide a copy to tenants within 7 days of their moving into the rental premises? | RTA s.27C |  |
| **65** | Do additional clauses in part C of the lease agreements conflict with or contract out of the RTA or contain unfair contract terms? | RTA s.82  ACL s23, s.24, s.25 |  |
| **66** | Do you provide a notice to prospective tenants advising that a tenancy database is being used? | RTA s.82C to s.82K |  |
| **67** | Have you found anyone on a database in the last 2 years?   * If so, has the required information been provided? | RTA s.82D |  |
| **68** | If you have listed anyone on a database in the past 3 years, has the person been advised of the intention to list and been provided with a copy of the proposed listing? | RTA s.82E to s.82K |  |
| **69** | Do you have a process in place for arranging for repairs to be conducted within a reasonable period after the need for repair arises? | RTA s.42(2)(b) |  |
| **70** | Do you review files and ensure that records are properly maintained? | Code r.14 |  |
| **71** | Are you and your staff aware of the key changes to tenancy laws for tenants affected by family and domestic violence (FDV) which commenced on  15 April 2019? | RTA s.17B,s.56A,s.47(4),   s.47(5),s.71AA to s.71AE FV Regs r.12BA, r.12CA,   Schedule 4 Form 2,   Schedule 5 |  |
| **72** | Are all staff aware of the confidentiality provisions relating to the disclosure and security of information as part of the FDV changes? | RTA s.71AB(3), s.71AB(4),  s.71AD(3) |  |
| **73** | Have appropriate procedures been established to manage the FDV changes? | Code r.6, r.9, r.14 |  |
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**Legend:**

ACL Australian Consumer Law (WA)

BP Best Practice

Code Real Estate and Business Agents and Sales Representatives Code of Conduct 2016

FV Regs Commerce Regulations Amendment (Family Violence) Regulations 2019

REBA Act *Real Estate and Business Agents Act 1978*

REBA Regs Real Estate and Business Agents (General) Regulations 1979

RTA *Residential Tenancies Act 1987*

RT Regs Residential Tenancies Regulations 1989

SOLA *Sale of Land Act 1970*

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|  | **TO DO LIST: TASKS AND FOLLOW UPS** | |
|  | **As a result of your compliance self-assessment, you may have questions to ask, tasks to undertake or other follow-up actions that are now necessary to ensure your current and future compliance with regulatory requirements. Use the space below to record these items and check them off the list as you complete them.** | |
|  | **Item** | **🗹** |
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