



Better Trading

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Development of National Occupational Licensing System Continues

The detailed proposals for the Council of Australian Government’s National Occupational Licensing System (NOLS) were, after extended delays, released for consultation in September this year.

The development of these proposals has been undertaken by the Commonwealth Government’s NOLS Taskforce. Although there was some limited consultation undertaken by the Taskforce (a single session held in Perth for each of the affected occupations), the Department of Commerce undertook its own engagement process with licensees in this State. While these sessions had to occur within the timeframe imposed by the Commonwealth, the Department was committed to ensuring individual licensees and small businesses had the opportunity to voice their opinions on the scheme.

The Department held six sessions in Perth as well as sessions in Bunbury, Geraldton and Karratha. For those who could not attend, copies of the presentations (including a video of the presentation) were also made available on the Department’s website. All interested parties were invited to make submissions to the Commonwealth Government and to the Department.

When presented with the detail of the proposed scheme, attendees provided robust and forthright comments. The subsequent

submissions received by the Department reinforced an overall negative view and provided more detailed criticism of the proposed scheme.

In summary, the consultation process highlighted that there is considerable support for the principle of a national licensing scheme that could improve the mobility of tradespeople between States and Territories. It was also evident, however, that there is a deep concern that the model proposed will negatively impact on standards in the industries affected and, therefore, levels of consumer protection and safety within the broader community.

It was noted by many that the proposed scheme only deals with matters relevant to obtaining and maintaining a licence. Licensees wanting to work in more than one jurisdiction would still face considerable barriers as the day-to-day conduct requirements would continue to be regulated differently in each State and Territory.

More than 300 stakeholders from the electrical and gas fitting industries attended the Department’s sessions and expressed strong concerns the



NOLS proposals amount to a “dumbing down” of local standards.

The intent to remove additional qualifications as prerequisites for an electrical contractor licence and to allow trade contractors who are not qualified electricians (i.e. builders) to contract directly with licensed electricians to carry out electrical work were the subject of considerable criticism. Also heavily criticised were proposals to allow electricians to be licensed without any practical experience and to remove the licensing of apprentices.

The property occupations were not as well represented at the sessions, but those who attended noted the proposal failed to demonstrate

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There's a knock at your door and standing there is someone ready to move in to your home.

They have replied to an online advertisement which has used images of your home, saying it is available for rent. The unsuspecting renter has sent a bond and some rent in advance, sometimes up to \$2,000, to whom they thought was the landlord. They have travelled from interstate or overseas expecting to move straight into a home, only to find that they are homeless and out of pocket.

Far too often, we at Consumer Protection hear these alarming stories from victims of rental accommodation scams. Fraudsters steal images of homes from the internet and post them on free classified websites, usually offering them at below market rent and exploiting the current tight rental property market. They give a variety of excuses as to why the property can't be inspected and provide a credible story as to why the deal has to be done remotely. The renters often receive official lease agreements from these bogus landlords, giving the impression of authenticity but it is just a clever scam.

We have been working with the real estate industry to look at ways to reduce the chances of property images being stolen, including watermarking of photos and preventing them from being downloaded.

Property is just one area affected by scams, another major concern for us are romance scams where internet criminals use false profiles on dating websites to hook their targets with fake affection and false promises and, in the end, devastating their victims emotionally and financially. It's not unusual for victims to report losing hundreds of thousands of dollars.

Other common scams involve phone calls, letters, emails and texts enticing people to respond and get drawn in to giving up their hard-earned money. We encourage people to ignore these scam attempts. If you are enticed to see if

this *'too good to be true'* offer is real do your own independent research and go to the agency or company through the normal channels. If in doubt, contact us at Consumer Protection on 1300 30 40 54 or check the WA ScamNet website. No-one should ever send money to someone they have not met in person and never send money by wire transfer.

The fraudsters are becoming increasingly sophisticated in their tactics and are experts at forging documents, creating fake websites and even hacking into victims' email accounts. There have been cases of the criminals masquerading as Police and Consumer Protection officers, sending fake emails with government electronic signatures which give false advice that the offer being made is legitimate and encouraging victims to send more money. So we must all be on our guard.

Consumer Protection works closely with the WA Police Major Fraud Squad to investigate these scams. In a recent operation, the Police tracked the transfer of large amounts of money from WA consumers to west African countries. The senders were contacted to alert them to the fact they could be the victims of a fraud and prevent them from sending more money to these professional cyber criminals. Many of these victims were transferring money by bank transfer but it was still impossible to recover the money once it had been withdrawn from accounts in other countries. Help us to prevent further tragic losses by talking to family and friends about these ever common issues.

During the first half of 2013 we expect new regulations to come into force to support the revamped Residential Tenancies Act. The changes will give tenants greater protection and rights in a number of key areas.

These include using plain language written lease agreements, making property condition reports compulsory, setting minimum security standards for rental properties and capping option fees that prospective tenants might be asked to pay when applying to rent a property. There will also be greater transparency to the operation of tenancy databases which can sometimes result in people being excluded from the rental market.

These are important reforms that have been in development for some time and it is pleasing to see they will soon become reality.

The next area Consumer Protection's policy branch will be looking into is the issues faced by boarders and lodgers. Apart from some local government regulations covering health and safety, there are currently no tenancy regulations in

WA covering residents in boarding houses and those sub-letting.

We have begun looking at laws covering this area in other states and are consulting with key stakeholders, to gain a better understanding of the issues facing boarders and lodgers. We expect a discussion paper will be released in 2013.

As Christmas creeps closer, it's important to remember your rights as consumers under the Australian Consumer Law. The ACL provides a guarantee that products you buy are safe, as described in advertising, fit for the purpose they were intended and are not defective in any way.

If the products don't live up to this guarantee, you are entitled to a refund, repair or replacement and Consumer Protection is here to help when there is a dispute with a retailer, whether they are in the local shopping mall or online.

It helps us argue your case if you retain the receipt or some proof of purchase.

The online shopping environment can sometimes compromise those rights if the trader is operating overseas and does not voluntarily provide you with the same resolution as you can expect from an Australian seller. This issue of Better Trading has a feature on online shopping with some tips to reduce potential problems and ensure it is an enjoyable experience.



Development of National Occupational Licensing System (continued)

labour mobility was an actual issue for property occupations.

The submissions received by the Department also revealed considerable criticism of the proposal to reduce the entry qualifications for real estate agents in WA from Diploma level to Cert IV level. There were also concerns a licence would no longer be required to act as an agent in relation to the sale of commercial, industrial or rural real estate, and the obligation to complete annual professional development training would be removed.

Removing consideration of any criminal offences committed by a person (e.g. assault and drug related offences) as part of the licence application process was also an issue for real estate agents who attended the consultation sessions.

In general, plumbing industry stakeholders were more positive about the scheme although most submissions indicated a preference to retain the status quo. These stakeholders raised concerns about the scheme not requiring the completion of apprenticeships and that some work was not included within the scope of the licence (e.g. roof plumbing and stormwater work).

At the conclusion of the consultation period over 3500 submissions were lodged with the State and the Commonwealth Governments. The Department has compiled a summary of the submissions but is still waiting to receive copies of submissions which were lodged directly with the Commonwealth's NOLS Taskforce.

The Department has advised the Government of the outcome of the consultation process and is awaiting a response from the Commonwealth's NOLS Taskforce to the many issues raised during the consultation process.

Due to the level of criticism levelled at the detailed NOLS proposals, it is not yet clear what the future holds for the NOLS.

For information and updates visit our website in the Licences section.

Smartphone = Smarter Consumer

The use of the internet and smartphones is rapidly growing, changing the way consumers behave and bringing with it new challenges for consumer agencies to address.

A recent survey and strategy released by the European Commission (EC) highlights the importance of developing innovative ways to educate consumers.

“Commission staff working document, on knowledge-enhancing aspects of consumer empowerment, 2012 – 2014” focuses on the close correlation to consumer confidence and knowledge, and how consumers become informed.

A key agenda of the EC is to provide empowerment by: ‘improving information and raising awareness of consumer rights and interests among both consumers and traders’ and ‘building knowledge and capacity for more effective consumer participation in the market’.

This can only be achieved by understanding how consumers access their information, where they get it and how they use it.

The survey showed consumers use a mix of offline and online information sources including:

- Asking friends and family;
- Physically shopping around;
- Traditional media stories i.e. television and radio;
- Price comparison websites;
- User review websites; and
- Online shops.

The internet, including mobile applications, is becoming the key channel for consumer information. The research showed many consumers (59%) used online sources and internet access seems strongly related to self-perceived consumer empowerment.

In particular, development of mobile web applications may become the main consumer information source of the future. Some researchers anticipate

mobile application downloads will reach 48 billion in 2015.

The internet has empowered consumers with information on prices, competitive products and reviews 24 hours a day, 7 days a week. Smartphone technology gives consumers access to this information in their hands at the point of sale, resulting in stronger buying power to negotiate their best deal while in the store or decide to buy online.

Although the internet has made a vast amount of information available to consumers, a great benefit to time poor consumers, it has brought along its unique challenges of information overload and reliability of sources.

According to the research, consumers generally consider it too much work to find out about their rights and responsibilities before they purchase, unless it is for more expensive items like a bathroom or kitchen.

Otherwise consumers only get interested in information about their rights when they cannot sort out a problem with a business directly. It’s then they will resort to their social or virtual networks to find other ways of solving their problem. This area is rapidly developing. Consumers will directly share feedback in blogs, community sites and social media forums like Twitter and Facebook.



Consumers sharing experiences and feedback about brands and products can help highlight issues to other consumers and encourage corporate responsibility.

The EC report implied social networking provides faster and better solutions to consumer problems than formal complaints. Furthermore, smartphone applications give immediate access to purchasing information and online assistance or support.

It also suggests education strategies based on ‘social norms’ have a better chance of success than traditional approaches and therefore encourage the use of social marketing.

So what do consumers need from government agencies? To make the best purchasing decisions, consumers need information given:

- In clear simple and transparent format;
- When they want it (on demand);
- How they want it (online via smartphone application or website); and
- Where they want it (Twitter, Facebook and other preferred websites).

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New Tenancy Laws are on the way

Residential Tenancies

New residential tenancy laws are anticipated to commence early in 2013.

The changes cover five key areas:

- mandatory residential tenancy agreements;
- mandatory property condition reports;
- capped option fees;
- security obligations; and
- urgent repairs considered to be essential services.

A landlord's fact sheet to assist property owners to prepare for the new laws already available on our website.

Additional resources including publications, a series of mini videos and a new phone app called "iRent" are being developed and will be available in 2013.



Commercial Tenancies

New laws for Commercial Tenancies will come into effect on 1 January 2013.

Key changes include:

- landlords no longer being able to pass on their certain legal costs to tenants;
- a requirement for landlords to give tenants prior notice about the expiry date of their option to renew a lease;

- a more comprehensive and improved disclosure statement for tenants about their lease;
- a revised tenant guide outlining a tenant's rights and obligations; and
- strengthened tenant rights regarding redevelopment and relocation clauses.

Information for commercial tenants and landlords about the changes is available from the our website.

Smartphone = Smarter Consumer (continued)

It is still true the most vulnerable consumers are from low income and low education backgrounds. However, there is the potential for all consumers to be vulnerable because of information overload, unreliable and non-timely information, lack of technical capabilities and time pressures.

It is anticipated the internet will continue to grow as a key channel for consumer information because it empowers through immediate access to information and the ability to act collectively. The anticipated increasing adoption of mobile internet use will further this. The multiplication of sources and growing quantity of information means reliability and trust are becoming key issues for the future.

Consumer Protection has been strong believer in being accessible via the internet and social media channels and has moved into the online space as a trusted source for consumer information. Over recent years, Consumer Protection has created Facebook, Twitter and LinkedIn profiles. We currently have more than 2,200 Twitter followers. Other platforms, such as Pinterest, are being explored.

Consumer Protection is also moving towards ensuring its websites are mobile accessible and towards the implementation of smartphone apps, such as iShopWA.

A strategic priority for Consumer Protection in 2012/2013 is to build better educational tools about online shopping for both consumers and businesses.

The future for consumers, businesses and governments is online.



Unfair contract terms can be declared void

“Always read the fine print” is one of the key messages promoted by Consumer Protection but sometimes the terms and conditions are all in favour of the seller of goods or services, and not presented in a way consumers can understand. That’s when consumer law comes into play.

Under the Australian Consumer Law contracts must be written in clear language, be legible and also readily available to anyone affected by the document.

A contract term will be classed as unfair if it:

- causes significant imbalance to the rights and obligations of each party;
- is not really needed to protect the supplier; or
- causes consumer detriment, or is very likely to (this is not just limited to monetary loss).

The value of a contract or the price of goods and services is not something that is regulated by the unfair contract terms provisions of the Australian Consumer Law but Consumer Protection regularly receives complaints about potentially unfair contract terms and looks carefully at the wording and whether it stands up legally.

Recently negotiations took place with a major fencing company about their standard contracts, after a number of enquiries and complaints over a prolonged period. A number of contract terms were considered unfair and therefore void.

The result of these negotiations was a significant improvement in the terms and conditions of deals now being offered to WA consumers by this fencing contractor.



EXAMPLES

Condition: *Term of payment is fifty per cent of the total cost on acceptance of the quote and then balance in full on completion of manufacture prior to installation and supply.*

Why it's unfair: After receiving full payment prior to installation, the company may not complete the contract. It is unfair for the consumer to have paid in full without the trader providing at least some services first. If the contract is for building services and the value exceeds \$7500, the company is legally only entitled to 6.5% deposit – asking for 50% would be in breach of the Home Building Contracts Act.

Condition: *The company accepts no liability for delays arising from any cause whatsoever.*

Why it's unfair: This condition is one-sided because it gives the company the right to vary the terms of the contract and attempts to absolve them of all liability, including non-performance such as failure to deliver and install goods on the date specified in the contract. It also excludes consumer guarantees – such as the guarantee of due skill and care in providing services – which the Australian Consumer Law says cannot be excluded.

Condition: *Whilst all reasonable care will be taken while drilling and fixing, the company and its installers will not be responsible for the failure from any cause whatsoever of any masonry/timber or rendered surfaces while drilling or fixing by cracking or collapsing.*

Why it's unfair: It attempts to exclude the company from having to take precautions while drilling and fixing. Under the Australian Consumer Law all services must be carried out with due care and skill and a company cannot exclude liability for breaching this guarantee.

Industry advice leads to scam prevention

A recent attempt by scammers to illegally sell a Perth home was thwarted after the agent followed Consumer Protection's new guidelines to combat identity fraud.



The Codes of Conduct for real estate and settlement agents in WA were strengthened following the fraudulent sale of a Karrinyup home in 2010 and a Ballajura home in 2011.

Client identity verification requirements and real estate fraud identification guidance notes were introduced last year in cooperation with REIWA and the Australian Institute of Conveyancers.

In October, an overseas organised criminal network emailed the Property Manager at Peard and Associates in North Beach to start the process of selling a house in Edgewater. The email was from a fake email address in the real owner's name and requested a document relating to the property. There were also follow-up phone calls.

The agency followed a suggestion in the new procedures aimed at preventing real estate fraud; to send a confirmation of the change of contact details to the original address on file.

It was then the real owners in South Africa were alerted and informed the agency the sale request was bogus. The real owners confirmed

a property condition report sent to them earlier had not been received and it is assumed it was intercepted by the criminals.

WA Police (Major Fraud Squad) detectives are investigating the scam attempt and have confirmed the fraud originated in Nigeria.

Detective Senior Sergeant Pete Davies said, "In the past two years, major fraud squad detectives have presented numerous fraud awareness presentations to the WA property industry to educate agents about how to detect these fraud attempts. Our presentations and the new identity verification guidelines have successfully stopped several recent attempts to illegally sell WA homes."

Similar training was also required by the Department of Commerce as part of the mandatory Compulsory Professional Development program.

Consumer Protection is pleased agents are putting the advice into practice. However, this latest scam attempt goes to show all agents must continue to be vigilant to confirm the identity of owners wishing to sell their properties.

Director of Property Industries Steve Meagher said, "It is essential for agents to verify any change of contact and banking details with original addresses on file.

"During any transaction involving absentee owners, agents should also thoroughly check signatures against originals on file and have any doubtful documents verified by the issuing authority. Requests for urgent sales should come under greater scrutiny.

"All homeowners, particularly absentee owners, should ensure their Property Managers have suitable protocols in place to prevent the possibility of their homes being sold without their knowledge or permission.

"Owners could also consider placing a caveat on their property which was part of a range of anti-fraud measures introduced by Landgate, which also includes overseas owners having to personally present at consulates for identity verification."

Scam attempts should be reported to Consumer Protection on 1300 30 40 54 or consumer@commerce.wa.gov.au or WA Police on 13 14 44.



Be secure when online shopping

It seems computer screens are replacing shop windows for many Australians. Earlier this year one online shopping report estimated a \$16 billion spend by Australian internet shoppers in 2012, with almost half that money going to overseas retailers. A more recent report said Australians had spent \$32 billion online in the last twelve months.

Buying things at the click of a mouse and having goods delivered is pretty handy and consumers can often net a bargain. Because of the inability to touch potential purchases, or see the person or business selling the goods, how can consumers be sure what they're getting, if it's value for money and if they'll be protected if something goes wrong?

Consumer Protection has been promoting the following tips to online shoppers:

- It might be the World Wide Web, but the Australian Consumer Law (ACL) is generally only enforceable if you buy from an Australian business, so you should consider the benefits of shopping with online retailers based here. Verify a site's Australian Business Number (ABN) at www.abr.business.gov.au.
- Try to use reputable, well-known retail websites. For smaller or lesser known online sellers, look for a phone number and physical address and call them if you feel unsure.
- Do some internet research before using an online retailer to see what reviews/blog posts come up when you type in the name of the site into your search engine.
- Check whether the site is secure – does it say **https** at the start of the web address or is there a padlock symbol on the page? Just because a site looks professional doesn't mean it's legitimate – it's cheap and easy to make a good looking website.
- Shop around to compare prices and what you're getting for your money. Remember to include shipping charges and any taxes in the total and convert the amount if the price shown is not Australian dollars (there are plenty of free converters online).
- When looking at images remember the camera angle or digital effects can distort your perception of the quality of the goods.
- Think about using a secure payment system. These payment providers act between you and the seller, offering protection when you pay and screening your financial details from the seller. You could also consider having a credit card just for internet shopping with a lower limit than your usual credit card. You can even do pre-paid credit cards now to control the amount on them.
- Never send money by 'wire transfer'. Scammers use wire transfer services to get money fast and once it's been collected you can't get it back.



You can find extra tips at
www.moneysmart.com.au and learn more
about scams via
www.scamnet.wa.gov.au

Delivery delays

With Christmas fast approaching there's no doubt many Australians will be buying presents on the internet. While online shopping may seem quick and easy because from a home computer, tablet or smartphone consumers should be mindful that delivery delays are a distinct possibility.

In the six months from May – October 2012, Consumer Protection received 142 enquiries and 76 complaints about delayed or non-delivery of online purchases. The late or non-arrival issue was in relation to a variety of goods; most predominantly kitchen or household appliances, followed by clothing, shoes and accessories and cameras/photography products.

Internet-based businesses invariably only communicate with consumers electronically and Western Australians are telling Consumer Protection they often have difficulty gaining a response to emails and no option of a phone number to call. Many customers have reported waiting months for their purchases and some don't receive anything at all.

New rights for seniors in retirement villages

New laws passed in Parliament on 23 October 2012 introduce some significant changes and enhance the rights of retirement village residents.

The laws strike a good balance between addressing the concerns of retirement village residents in Western Australia, while maintaining viable arrangements for retirement village providers. The laws will come into effect when the regulations amendments have been gazetted.

Some of the key issues addressed in the amendments to the Retirement Villages Act include:

- Non-owner residents will be able to defer payment of recurrent charges, should they wish to do so, until settlement of their unit.
- Capping the time recurrent charges are required to be paid by non-owner residents after they leave a village. Non-owner residents' liability for recurrent charges will cease after six months for existing contracts and three months for new contracts.
- If there are excessive or unwarranted fee increases

proposed, the residents of a retirement village will be able to pass a special resolution and appeal to the State Administrative Tribunal (SAT) for the increases to be reviewed.

- In relation to charges for costs not directly related to the village's operations, the regulations will prescribe certain fees and charges that cannot be recouped from village residents.
- Residents will be provided more time to consider contract information, with longer disclosure and cooling-off periods.
- The SAT, on application by the Commissioner for Consumer Protection, will be able to make orders appointing a statutory manager to a retirement village if that village is being seriously mismanaged.
- Unsuitable people will be prohibited from operating or managing a village.



- The power of the SAT to make orders relating to the provision of services and amenities, including ordering operators to provide promised services and amenities, will be clarified.

Retirement village management will also benefit from the reforms, with premium payments from residents able to be released to the operator from a trust once a resident is entitled to occupy a unit, rather than the previous arrangement where the operator had to wait until physical occupancy occurred.

This is the first stage of the reform process. The State Government is committed to resolving issues related to the retirement village industry while ensuring the sector has a prosperous future.

Be secure when online shopping (continued)

Under the ACL, goods or services for personal, domestic or household use must be supplied to consumers within a reasonable amount of time.

Consumer Protection recommends the following:

- When you place an order, confirm the timeframe for delivery or if possible a set date.
- Keep a record of your transaction by printing or taking a screenshot of your order confirmation, invoice or receipt.
- Be sure to check the seller's policy on returns, refunds, shipping, insurance, warranties etc. especially if they are based overseas.
- If you use a secure payment system, check whether the provider offers a dispute resolution service with a refund option if your goods don't arrive.
- Remember if you pay by credit card and do not receive your purchase, you should seek a chargeback from your financial institution.





Charities

It is expected the Australian Charities and Not-for-profits Commission (ACNC) will be launched in December 2012.

The ACNC will initially regulate charities, however it is intended this will be extended to include other types of not-for-profit organisations in the future (e.g. incorporated associations).

Charities which are registered to receive charity tax concessions with the Australian Tax Office (ATO) will be automatically registered with the ACNC. Registration with the ACNC will not be compulsory, but will be a requirement for those charities wishing to access Commonwealth tax concessions and grants.

From the 2013/14 financial year, all registered charities will be required to submit an Annual Information Statement to the ACNC and comply with governance requirements.

The Commonwealth Government expects to release draft regulations detailing the proposed financial reporting requirements by the end of the year.

It is expected larger charities will be required to submit annual financial reports to the ACNC, with

- large entities (those with annual revenue of more than \$1 million)

being required to have their financial reports audited, and

- medium entities (those with annual revenue of between \$250,000 and \$1 million) having the option of having their financial reports either audited or reviewed.

In addition to the draft financial reporting requirements, draft regulations regarding external conduct and governance standards for registered charities are expected to be released for consultation soon. Details about consultations will be made available at www.acnctaskforce.treasury.gov.au.

There has been some confusion among charities currently operating in Western Australia as to how they will be impacted by the establishment of the ACNC:

- Incorporated associations (under the *Associations Incorporation Act 1987*) will continue to be regulated by the Department of Commerce in Western Australia.
- Organisations which collect funds from the public to support their activities, must continue to comply with reporting requirements under the *Charitable Collections Act 1946*. Any reporting required by the ACNC will be additional to the State-based reporting requirements.

The Department of Commerce is working with the ACNC and the Commonwealth Government to identify ways to minimise any additional burden the Commonwealth legislation will create for charities and, eventually, other not-for-profit organisations.

Small high powered magnets

In August 2012, the Minister for Commerce approved the introduction of an interim product safety ban on magnetised novelty items.

The ban prohibiting the supply of small high powered magnets came in response to an incident involving magnetised novelty items resulting in the death of a young child and injuries to several other children throughout Australia.

In Western Australia specifically, Princess Margaret Hospital reports there have been 33 cases of children swallowing magnets since 2006 and four were admitted to hospital for treatment. In April 2012, a two year old boy underwent emergency surgery to remove 27 small magnets from his stomach.

Sold under various names including BuckyBalls, Neocubes and Neodymium Sphere Magnets, the small metal balls, with diameters of 4-5 millimetres, pose a danger to children if swallowed.

The order introducing the interim ban on these products was made by the Minister under the provisions of the *Fair Trading Act 2010* (Australian Consumer Law) pending the introduction of a national permanent ban the Commonwealth.

Details of the interim ban are published on the product safety pages of Consumer Protection's website.

Tobacco

Tobacco products must now be in plain packaging. Key dates this year were:

- 1 October 2012 – All tobacco products **manufactured** or **packaged** in Australia, for the Australian market, **must** be in plain packaging.
- 1 December 2012 – All tobacco products **sold**, offered for sale or otherwise supplied in Australia **must** be in plain packaging and be labelled with the new and expanded health warnings.

The Commonwealth Government Standard covers all retail tobacco products sold in Australia, that are made for human consumption, be it smoking, sucking, chewing or snuffing.

Travel Agents

Travel Agents Amendment Regulations (No. 3) 2012 – were gazetted on 11 September 2012 to prescribe a new unit of competency in the qualifications required to obtain travel agent's licence under the *Travel Agents Act 1985*.

Settlement Agents

Settlement Agents Amendment Regulations 2012 – were gazetted on 11 September 2012 to prescribe a new examination which a person must complete for the grant of a real estate settlement agent's licence or a business settlement agent's licence under the *Settlement Agents Act 1981*.

Real Estate and Business Agents

Real Estate and Business Agents (General Amendment Regulations) (No. 2) 2012 – were gazetted on 23 October 2012 to prescribe a new Home Buyers Assistance Account application form and two new infringement notice offences and modified penalties under the *Real Estate and Business Agents Act 1978*.

Consultation updates



Boarders and lodgers

Consumer Protection has commenced reviewing issues relating to the boarding and lodging industry in WA.

Initial meetings with key industry stakeholders are currently being undertaken to gain a better understanding of the core issues and concerns of the sector.

This feedback will be used to prepare an issues paper which Consumer Protection intends releasing in 2013 for public consultation about the need to regulate the boarding and lodging industry.

Residential Parks

The recent consultation period reviewing residential parks legislation in WA closed on 30 November 2012. Those submissions will now be reviewed and a Consultation Regulatory Impact Statement drafted.

Prepaid Funerals

A three-month consultation period on the proposals for regulation of prepaid funerals in WA closed on 6 March 2012. The Decision Regulatory Impact Statement, noting the recommendations of the consultation, is currently being finalised.

November

27th: Backyard dog dealer banned and fined \$34,000

Fay Marie Armstrong, a backyard dog dealer, has been permanently banned from keeping more than one dog and fined a total of \$34,000 after being convicted of 17 animal cruelty charges and was also ordered to pay court costs of \$9,507. The charges under the Animal Welfare Act followed the execution of a search warrant on the two properties in October 2010 where several dogs and puppies were found to be in poor health and living in appalling conditions. The investigation by Consumer Protection was as a result of complaints from consumers about the poor health of dogs being sold by Armstrong.

In August this year, the Commissioner for Consumer Protection took Supreme Court action against Ms Armstrong and obtained an injunction against her to stop selling diseased animals and to pay \$3,374 in compensation to consumers and the Commissioner's costs of \$5,362.50. Ms Armstrong provided an enforceable undertaking in July 2011 not to sell diseased animals, or any animal which has not been vet-checked and vaccinated, but had not honoured the undertaking.

5th: Fine for Armadale Real Estate over bond breach

A real estate agency has been fined \$500 for the late lodgement of a tenant's bond money. **Drie Pty Ltd**, trading as **Armadale Real Estate**, was also ordered to pay court costs of \$253 on 31 October 2012. Legal action was taken after previous warnings about late bond lodgements were issued to the agency.

2nd: Life ban for real estate salesman following drug conviction

Samuel Marc Barnes Siddall, a former real estate sales representative, has been banned for life from holding a certificate of registration following a drug conviction. Mr Siddall was also ordered to pay costs of \$1,012. Commissioner for Consumer Protection Anne Driscoll said these licensing requirements ensure only fit and proper people qualify to hold licences.

1st: Unlicensed vehicle repairer misled consumers

A motor vehicle repairer who operated without a licence and misled customers about his licence status has been fined \$5,500. **Raymond John Goodall**, the proprietor of **The Force in Smash Repairs** businesses located in Morley and Bayswater, was also ordered to pay \$2,000 in Court costs on 31 October 2012. The vehicle repairer had applied for a licence but did not submit the necessary supporting documents and was given several warnings by the department over a two year period to complete the application. The repairer also printed what appeared to be a licence number on two invoices, giving customers the false impression that he held a licence.

October

15th: Legal action against rent to buy property promoters (Susilo)

Consumer Protection is seeking an injunction against promoters of a rent to buy property scheme in WA. Commissioner for Consumer Protection Anne Driscoll will allege **Patricia Mirawati Susilo** and **Bryan Artawijaya Susilo**, have engaged in misleading and deceptive conduct in breach of the Australian Consumer Law. The Commissioner further alleges that

they breached the Real Estate and Business Agents Act by acting as unlicensed real estate agents or giving people they were dealing with the impression they were licensed real estate agents.

The Commissioner is particularly concerned about cases where the tenant/buyers do not have sufficient resources to pay the upfront option fee, Ms Susilo has taken wedding rings and various family collectables as part of the payment for the deposit. These included a Real Madrid jersey signed by David Beckham and a Franklin Mint edition Monopoly board. In another instance, Ms Susilo brokered the sale of a tenant/buyer's vehicle to raise the required deposit funds.

4th: \$30,000 fine for "briefcase dealing" or "licence borrowing"

Adam David Golding, a former car yard manager who bought and sold more than a hundred vehicles without a dealer's licence has been fined \$30,000 and ordered to pay court costs of \$800.

2nd: Action against concrete tradesman

Joel McLeod, formerly trading as **1st Choice Concrete Specialist** (deregistered), has been ordered to repay a total of \$41,495 to five clients who have demanded refunds. He has been the subject of complaints in the past two years from 12 customers alleging poor workmanship and work not completed.

September

27th: \$33,000 in fines for Wangara car dealer

A Wangara car dealer who made false representations to customers about the true history of three hail-damaged cars he was selling has been fined a total of \$33,000. Dalbir Singh Kandola, a Director of Deepam Investments Pty Ltd trading as Linear Concept Car Company, pleaded guilty on 26 September 2012 to five charges of making false and misleading representations to consumers. The company pleaded guilty to the same offences. The company was fined a total of \$26,025 and Mr Kandola was fined a total of \$6,975. The company must also pay Court costs of \$2,250 and Mr Kandola must pay Court costs of \$250. The Court also made a compensation order for the dealership to refund \$900 to a customer.

19th: Real estate agent fined over lack of disclosure in Karratha deal

A Cottesloe-based real estate agent has been fined \$2,000 by the State Administrative Tribunal (SAT) for failing to disclose to a purchaser during a Karratha commercial property deal that the strata company was involved in litigation. Beverly Jean Ockerby was working for Gemstone Holdings Pty Ltd, trading as Ockerby Real Estate. In April 2009, Ms Ockerby was the selling agent for a group of commercial units in Hedland Place, Karratha. The property was being sold by Gemstone Holdings Pty Ltd and, at the time, Ms Ockerby was a director and shareholder of the company. Gemstone Holdings Pty Ltd and the strata owners of the property were being sued by an air conditioning contractor for the non-payment of \$30,000 from work carried out on the unit.

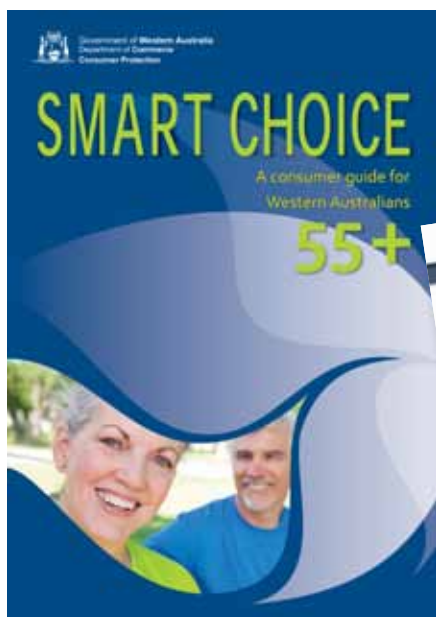
10th: \$8,000 fine for Victoria Park car dealer

Zabiullah Sadat, a partner in the business Gold Myer Autos & Spare Parts on Albany Highway has been fined a total of \$8,000 and ordered to pay Court costs of \$1,732 for nine breaches of the Motor Vehicle Dealers Act.

New publications

Publications

Smart Choice – a consumer guide for Western Australians 55 plus.



Fact sheets

Commercial tenancy for tenants and landlords – new rights and obligations from 1 January 2013.

Residential tenancies for landlords – new laws expected in 2013.

Food labelling for consumers – knowing your rights and what needs to be disclosed.

Bond administration for landlords and agents – about lodging security bonds.



November

- 28/11/2012 – Fuel price advice for Perth drivers
- 27/11/2012 – Backyard dog dealer banned and fined \$34,000
- 21/11/2012 – Fuel price advice for Perth drivers
- 14/11/2012 – Fuel price advice for Perth drivers
- 14/11/2012 – Consumers warned to brush off dodgy painters
- 13/11/2012 – New online system to find licensed service-providers
- 07/11/2012 – Fuel price advice for Perth drivers
- 07/11/2012 – Athena cruises cancelled – advice for passengers
- 05/11/2012 – Fine for Armadale Real Estate over bond breach
- 02/11/2012 – Life ban for real estate salesman following drug conviction
- 01/11/2012 – Unlicensed vehicle repairer misled consumers (Goodall)



October

- 31/10/2012 – Fuel price advice for Perth drivers
- 31/10/2012 – Passengers affected by cruise company's financial trouble
- 29/10/2012 – 30,000 intercepted scam letters to be destroyed
- 22/10/2012 – Consumers affected by travel agency closure
- 17/10/2012 – Fuel price advice for Perth drivers



- 16/10/2012 – Real estate scam attempt thwarted
- 16/10/2012 – Consumer Protection applauds housing information kit
- 15/10/2012 – Legal action against rent to buy property promoters (Susilo)
- 10/10/2012 – Fuel price advice for Perth drivers
- 04/10/2012 – Action to pull plug on Microsoft scammers welcomed
- 04/10/2012 – \$30,000 fine for "briefcase dealing" or "licence borrowing"

- 03/10/2012 – Fuel price advice for Perth drivers
- 02/10/2012 – Action against concrete tradesman (Joel McLeod)



September

- 27/09/2012 – \$33,000 in fines for Wangara car dealer
- 26/09/2012 – Fuel price advice for Perth drivers
- 21/09/2012 – Product safety guide targets discount and toy stores
- 20/09/2012 – Chance to have your say on national licensing
- 19/09/2012 – Fuel price advice for Perth drivers
- 19/09/2012 – Real estate agent fined over lack of disclosure in Karratha deal
- 12/09/2012 – Fuel price advice for Perth drivers
- 10/09/2012 – \$8,000 fine for Victoria Park car dealer
- 10/09/2012 - Consumer Protection in Wyndham, Kununurra, Warmun and Kalumburu
- 05/09/2012 - Fuel price advice for Perth drivers

Contact us

If you need information or advice on any consumer protection issue:

- contact our Consumer Protection Advice Line on 1300 30 40 54 from anywhere in Western Australia for the cost of a local call; or
- visit our website at: www.commerce.wa.gov.au/consumerprotection

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