



Changes to application requirements for renewal of licences

As you may be aware, the *Settlement Agents Act 1981* (the SA Act) will soon be amended by the *Consumer Protection Legislation Amendment Bill 2013* (the Bill) which was recently passed by the Parliament. The Bill's enactment will make a variety of amendments across 14 pieces of legislation administered by the Commissioner for Consumer Protection (the Commissioner).

As a result of the amendments, the SA Act will provide that, when considering the renewal of a licence or a triennial certificate, the Commissioner must take into account the same factors that she would consider for the initial grant of a licence.

Specifically, the amendments provide for the Commissioner to consider the continued fitness and propriety of all of the natural persons involved in the management and or control of the agency, as well as the licensee's ongoing financial viability at the time they seek to renew their triennial certificate.

As such, the Commissioner will now require settlement agents to provide a police check for the licensee, or for each partner and director of the licensee in support of triennial certificate renewal applications.

Applicants must also include a statement of assets and liabilities as part of the application.

In addition, the Commissioner will obtain a credit history report on the applicant's behalf and the result of that report will be taken into consideration in determining the application.

Most agents will recall that the former Settlement Agents Supervisory Board had similar requirements at renewal. A review of the SA Act by the Commissioner in 2011 resulted in an adjustment of the requirements for settlement agents at renewal as notified in [Bulletin 3](#).

The Bill has simply amended the SA Act to clarify the Commissioner's power to ensure the ongoing integrity of the industry.

To assist the industry in obtaining the necessary police checks, the Commissioner currently accepts several providers of National Police History Checks (NPHC). A NPHC is a police check available from authorised private organisations and can be used in place of a National Police Certificate which is issued by law enforcement agencies. In some cases, NPHCs can be obtained faster and at a lower cost than certificates purchased from the Police. Click [here](#) for further information and the list of accepted providers.

[CPD Information](#)

[News & Forms](#)

[Contact Us](#)

...from page 1

Should the Commissioner consider making an adverse decision (refusing the application or imposing conditions on the triennial certificate) the licensee will continue to be afforded an opportunity to provide further information in support of the renewal application. When an adverse decision is made the applicant will still be eligible to seek a review of the decision through the State Administrative Tribunal in accordance with section 23 of the SA Act.

The other significant amendment to the SA Act is the removal of the requirement for a notice of licence applications to be published in the newspaper. This will save applicants hundreds of dollars. The purpose of publishing a notice is to give the public an opportunity to object to the grant of a licence. As the Honourable Paul Miles, Parliamentary Secretary, stated when introducing the Bill, “advertising such applications no longer appears to serve any worthwhile purpose...experience shows that the response rate from the public to newspaper notices is extremely low. In the past 10 years, there have been only five recorded objections to licence applications across all licensing Acts administered by the Commissioner for Consumer Protection. No application has been refused on the basis of these objections.”

The Bill also amends the SA Act to provide for the reissue of a duplicate licence when the original licence is lost or destroyed (for a prescribed fee).

It is anticipated that the amendments to the SA Act will come into force from around the middle of November 2014.

Consumer Protection’s Licensing Branch is now located at:

Level 5
WestCentre
1260 Hay Street
West Perth WA 6005

For enquiries about the licensing process for settlement agents please call 1300 30 40 64 or email licensingenquiries@commerce.wa.gov.au.

Amended forms that include the new requirements for the renewal of a triennial certificate will soon be available on our [website](#).