



## Rewards for referrals

The Department of Commerce (the Department) would like to remind agents and sales representatives about the legislative requirements in relation to rewards for referrals.

Section 44(7) of the *Settlement Agents Act 1981* (the SA Act) prohibits any person, including a real estate agent or sales representative, from directly or indirectly demanding, receiving or holding any reward for referring business involving the performance of functions of a settlement agent.

In addition section 44(8) of the SA Act prohibits a licensed settlement agent from paying or giving rewards, whether directly or indirectly, to a person in return for referrals of business involving the performance of functions of a settlement agent.

A reward is not limited to a monetary payment. It can include any other benefit, examples include:

- distribution of income via company and unit trust structures, etc.;
- free titles searches;
- gifts (wine, football tickets, holidays etc);
- free secretarial services;
- free office space and equipment; or
- higher than market value paid to real estate agents for rental of office space.

A breach of section 44(7) of the SA Act carries a maximum fine of \$20,000 and is a criminal offence under the criminal code. So it is important to ensure that you do not demand or receive a reward for referral of business to a settlement agent.

Receiving a reward for a referral may also be a breach of the Code of Conduct for Agents and Sales Representatives 2011.

Any allegation of rewards for referrals to settlement agents will be investigated by the Department and may result in enforcement action being taken.