



Deregulation of fees for settlement agents

Following [consultation](#) with industry in 2014, the Minister for Commerce has [announced](#) that the scale of maximum fees for settlement agents will be removed.

From Wednesday 3 February 2016, regulation of fees will cease. Settlement agents will be able to determine what fee to charge their client for their services in executing the transaction.

A new fee disclosure rule will be included in the [Settlement Agents' Code of Conduct 1982](#). This is to ensure that consumers can make fully informed decisions about fees.

The Department expects the new rule will reinforce current good business practice, whereby many settlement agents already outline all their fees and charges to clients prior to entering into an agency agreement.

Under this new rule, a settlement agent must provide their client with a written costs disclosure setting out the maximum amount they will be charging for their services, before the client signs the Form 1 appointment to act.

Settlement agents can choose the format they will use to disclose the service amount and also whether they provide a breakdown of individual items in order to provide greater transparency for their clients.

A settlement agent will not be able to receive payment for a service that exceeds the amount in the costs disclosure unless:

- There is an unforeseen significant change in the scope of the work required to provide the service; and
- The settlement agent informs the client in writing of that change; and
- The client agrees to the settlement agent continuing to provide the service; and
- The reward that exceeds the amount disclosed is reasonable having regard to that change.

The maximum service amount disclosed to clients must include all fees, commissions, charges and general office disbursements payable for the settlement agent's service in relation to the transaction. Please be aware this differs from current practice where the cost recovery of general office and other disbursements are charged separately from the maximum fee for the settlement agent's services. General office disbursements may include items such as telephone calls, facsimiles, photocopying, postage, courier fees and stationery.

The service amount that the settlement agent must disclose does not include any of the following costs paid on the client's behalf by the settlement agent:

- Duty chargeable under the Duties Act 2008;
- Any other tax, duty, fee, levy or charge under a written law (for example fees for searching land titles and records at Landgate);
- Fees payable to financial institutions;
- Commissions chargeable by an agent, developer or any other third party.

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Whilst settlement agents are not required to disclose the charges outlined above, the Department encourages settlement agents to provide their clients with an outline of the likely statutory charges, duties and any other expenses involved in executing settlement.

The Department understands that settlement agents subscribed to [Property Exchange Australia Ltd](#) (PEXA) are charged a transaction service fee per successful transaction that they are involved in. This fee should be incorporated into the maximum service amount that settlement agents disclose to the client.

Further information on the current fee practices is available within the attached Frequently Asked Questions document. Additional information is also available on the Department's [settlement fees](#) webpage. An update of the webpage will occur following the deregulation of fees in February 2016.

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