

## **AGENT - NSW**

**The Property, Stock and Business Agents Act 2002 (the Act) can be found at:**

[www/legislation.nsw.gov.au/fullhtml/inforce/act+66+2002+FIRST+0+N](http://www.legislation.nsw.gov.au/fullhtml/inforce/act+66+2002+FIRST+0+N)

**The Property, Stock and Business Agents Regulations 2003 (the Regulations) can be found at:**

[www/legislation.nsw.gov.au/fullhtml/inforce/subordleg+490+2003+FIRST+0+N](http://www.legislation.nsw.gov.au/fullhtml/inforce/subordleg+490+2003+FIRST+0+N)

**You can refer to the sections and regulations mentioned in this unit by opening the above web addresses.**

**An agent requires a stock and station agent's licence to sell rural property. This is a requirement of the Property, Stock & Business Agent Act 2002. See the definition of an agent in s1 as follows:**

***agent means:***

- (a) a real estate agent, or***
- (b) a stock and station agent, or***
- (c) a business agent, or***
- (d) a strata managing agent, or***
- (e) a community managing agent, or***
- (f) an on-site residential property manager.***

**In the same section a real estate transaction is defined as follows:**

***real estate transaction means the purchase, sale, exchange, lease, assignment or other disposal of land, whether or not an auction is involved.***

***8 Agents required to be licensed***

***(1) A natural person must not act as or carry on the business of (or advertise, notify or state that the person acts as or***

***carries on the business of or is willing to act as or carry on the business of):***

- (a) a real estate agent, unless the person is the holder of a***

**real estate agent's licence, or**  
**(b) a stock and station agent, unless the person is the holder of a stock and station agent's licence, or**  
**(c) a business agent, unless the person is the holder of a business agent's licence, or**  
**(d) a strata managing agent or community managing agent, unless the person is the holder of a strata managing agent's licence, or**  
**(e) an on-site residential property manager, unless the person is the holder of an on-site residential property manager's licence.**

**Maximum penalty: 100 penalty units.**

**Note that the subsection requires and agent carry on a business to be licensed. If the agent is not carrying on a business there is no need for a licence. For example, the one off sale of your uncle's farm.**

**Subsection 2 requires an agent to be licensed to claim commission:**

**(2) A natural person is not entitled to bring any proceeding in any court or tribunal to recover any commission, fee, gain or reward for any service performed by the person:**  
**(a) as a real estate agent, unless the person was the holder of a real estate agent's licence, or employed the holder of such a licence, at the time of performing the service, or**  
**(b) as a stock and station agent, unless the person was the holder of a stock and station agent's licence, or employed the holder of such a licence, at the time of performing the service, or**  
**(c) as a business agent, unless the person was the holder of a business agent's licence, or employed the holder of such a licence, at the time of performing the service, or**  
**(d) as a strata managing agent or as a community managing agent, unless the person was the holder of a strata managing agent's licence, or employed the holder of such a licence, at the time of performing the service, or**  
**(e) as an on-site residential property manager, unless the person was the holder of an on-site residential property manager's licence or a real estate agent's licence, or employed the holder of such a licence, at the time of performing the service.**

**A “silent partner” need not be licensed under subsection 5:**

***(3) This section applies to a natural person whether or not the person is a member of a partnership.***

***(4) The fact that a particular activity is an activity for which more than one class of licence may be appropriate does not require the holding of more than one class of licence so long as at least one of the licences that is appropriate to the activity is held.***

***(5) For the purposes of this section, a person is not considered to carry on a business merely because the person is a member of a partnership that carries on that business.***

***Note. Subsection (5) makes it clear that “silent” partners are not required to be licensed.***