

# Commercial Agent-Corporation NEW APPLICATION

*Fair Trading Act 1987*

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Use this form to apply for a Commercial Agent licence for a corporation.

**The corporation only needs a Commercial Agent licence to employ Commercial Agents that have face-to-face contact with customers (field agents).** Officers of a corporation must hold their own individual Commercial Agent licence to carry out field work.

### Is the corporation eligible?

- The corporation and all officers of the corporation must be fit and proper persons to hold a licence.
- The corporation and all officers of the corporation must not be disqualified persons.

### Further information

For further information about the Commercial Agent licence and the requirements to hold a licence, please visit the [NSW Fair Trading website](#) and search for Commercial Agents.

To avoid delays in assessing the application, the corporation officer that has been nominated to complete the application on behalf of the corporation must ensure that every question is answered, signed, and date the application form, and provide the following supporting documents:

- **Valid National Police Certificates for all officers of the corporation (no older than 4 months)**
- **Two original forms of identification for the nominated officer completing the form**, one must contain your photo such as a current NSW Driver Licence or a Photo Card (a digital NSW version of both is acceptable) and a current valid Australian or overseas passport
- If you do not have a current NSW Driver Licence or Photo Card, you must bring two forms of other original identification. A current valid Australian or overseas passport and a current Medicare card would be sufficient.

For the full list of acceptable forms of identification please speak with a Service NSW Centre staff member or call NSW Fair Trading on 13 32 20.

### How does the corporation apply?

The nominated officer must ensure that this form is completed and return it together with the supporting documents to a Service NSW Centre.

The application will then be assessed by NSW Fair Trading, which can take up to 30 business days. If the application is approved, the corporation's Commercial Agent licence will be sent to the corporation's nominated email address.

If the application is refused, the corporation will be notified of the reasons in writing including what action the corporation can take if it disagrees with the decision.

### How much does a Commercial Agent licence cost?

Information about the current Commercial Agent licence fees is available on the [NSW Fair Trading website](#) or ask a Service NSW Centre staff member. Fees are GST exempt and include a non-refundable processing component. The applicable fee must be paid at the Service NSW Centre when the nominated officer hands in the completed application form and supporting documents.

**Note** - if you are having difficulty in completing this application form or have any questions, please ask the Service NSW Centre staff member for assistance, or contact NSW Fair Trading on 13 32 20.

## SECTION 1 – Corporation officer consent information

### Note for applicants

An individual or corporation who wishes to carry out Commercial Agent work is required, from 1 July 2022, to hold a Commercial Agent licence. Commercial Agent licences are required under part 5 of the *Fair Trading Act 1987* and are issued by the Department of Customer Service (on behalf of the Commissioner for Fair Trading) (the Department).

This section provides an opportunity for all officers of the corporation to consent for an application to be made on their behalf. An officer of a corporation has the same meaning as in the *Corporations Act 2001*.

The Department collects, uses, and discloses your personal information in accordance with the Privacy Collection Notice (PCN). Please read the PCN on the last page of this application form.

### Note for the nominated officer

The nominated officer will apply for the Commercial Agent licence on behalf of the corporation and other officer(s) of the corporation. The nominated officer is responsible for ensuring that each officer of the corporation completes and signs this consent section. **The nominated officer must complete sections 1.1 and 1.3 of this form and provide a National Police Certificate.**

### Note for officer(s) of the corporation

As an officer of the corporation, you are responsible for the information provided on the application for a Commercial Agent licence. You need to complete this section if you are an officer of a corporation, and that corporation is applying for a Commercial Agent licence.

Please complete **sections 1.2 and 1.3** of this form and give it to the nominated officer completing the application on behalf of the corporation. **You must also provide the nominated officer with your National Police Certificate.**

**By signing the declaration in section 1.3, you are giving consent for the nominated officer to act on your behalf when completing the Commercial Agent licence application.**

### SECTION 1.1 – Nominated officer details

This is the person who will complete the application for a Commercial Agent licence on behalf of the corporation.

Name

Surname

Date of birth

ACN of corporation

Corporation name

Nominated officer role (Director, Secretary etc)

Business address (including postcode)

Residential address (including postcode)

Email address

Mobile number

Alternate number

Previous Commercial Agent licence number for the corporation (under the *Commercial Agents and Private Inquiry Agents Act 2004* (CAPI Act)), if applicable

## SECTION 1.2 – Officer(s) details

Details of all **other** officers of the corporation

### Officer 1

Name

Surname

Date of birth

ACN of corporation

Corporation name

Officer Role (Director, Secretary etc)

Business address (including postcode)

Residential address (including postcode)

Email address

Mobile number

Alternate number

### Officer 2

Name

Surname

Date of birth

ACN of corporation

Corporation name

Officer Role (Director, Secretary etc)

Business address (including postcode)

Residential address (including postcode)

Email address

Mobile number

Alternate number

**Officer 3**

Name

Surname

Date of birth

ACN of corporation

Corporation name

Officer Role (Director, Secretary etc)

Business address (including postcode)

Residential address (including postcode)

Email address

Mobile number

Alternate number

*Important if insufficient space, please attach additional pages and include details*

**SECTION 1.3 – Declaration by all officers of the corporation**

Making a false or misleading statement, giving false or misleading information, or producing false or misleading documents is a serious offence which may render you liable to prosecution for offences including under the *Crimes Act 1900* (Crimes Act) which may result in penalties including a fine or imprisonment.

**Nominated officer**

I declare that:

I am an officer of \_\_\_\_\_ ACN: \_\_\_\_\_ 'the corporation'.

*I am authorised to apply to the Department for a Commercial Agent licence on behalf of the corporation.*

Full name

Nominated officer role (Director, Secretary etc)

Signature

Date

**Other Corporation Officers**

In signing this consent section, I:

- authorise the nominated officer of the corporation to make an application for a Commercial Agent licence on behalf of the corporation
- agree to provide accurate and complete information to the nominated officer in respect of the corporation to which the Commercial Agent licence application relates
- authorise the Department to conduct additional checks, to make any other inquiries, and to receive and disclose any information which is relevant to this Commercial Agent licence application
- agree to disclose my personal information contained in this form, my national police certificate, and any other information required to complete the application for a Commercial Agent licence to the nominated officer, any other officer of the corporation, Service NSW, and the Department for the purposes of this application
- authorise the Department and other officers of the corporation to collect my personal information from the nominated officer, for the purposes of the Commercial Agent licence application
- have read and understand that the Department will handle my personal information in accordance with the Department’s Privacy Collection Notice.

**Officer 1**

Full name

Officer role (Director, Secretary etc)

Signature

Date

**Officer 2**

Full name

Officer role (Director, Secretary etc)

Signature

Date

**Officer 3**

Full name

Officer role (Director, Secretary etc)

Signature

Date

**Important** If insufficient space, please attach additional pages and include details

## SECTION 2 – Disclosures

1. Are you or any other officer of the corporation an undischarged bankrupt or currently taking the benefit of any law relating to bankruptcy?  Yes  No

**Note** *If you answered 'Yes' to this question, you cannot proceed with the application and there is no need to continue with the other questions.*

A corporation that has an authorised officer who is an undischarged bankrupt or taking the benefit of any law relating to bankruptcy is disqualified from holding a Commercial Agent licence.

A person is usually discharged from bankruptcy after 3 years and 1 day unless the bankruptcy is earlier annulled.

*For more information on bankruptcy and what it means to take benefit of the law relating to bankruptcy visit the Australian Financial Securities Authority website.*

2. Are you or any other officer of the corporation, or the corporation, currently subject to an exclusion order that prohibits the carrying out Commercial Agent activities?  Yes  No

**Note** *If you answered 'Yes' to this question, you cannot proceed with the application and there is no need to continue with the other questions.*

A corporation or an officer of the corporation who is the subject of an exclusion order is disqualified from holding a Commercial Agent licence.

*Further information is available on the NSW Fair Trading website.*

3. Are you or any other officer of the corporation, or the corporation, a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012 (NSW)?  Yes  No

**Note** *If you answered 'Yes' to this question, you cannot proceed with the application and there is no need to continue with the other questions.*

A corporation or an officer of the corporation who is a controlled member of a declared organisation is disqualified from holding a Commercial Agent licence.

*Further information is available on the NSW Fair Trading website.*

4. Were you or any other officer of the corporation, or the corporation, convicted in the last 10 years of a “relevant offence”?  Yes  No

*This question asks you about convictions for relevant offences. If a corporation or an officer of the corporation has been convicted in the last 5 years of a “relevant offence” the corporation may be disqualified from carrying out Commercial Agent activities.*

*However, if the conviction occurred more than 5 years ago, but no greater than 10 years ago, you will be asked to provide further information.*

**Note** “Relevant offence” means any of the following offences, whether occurring in New South Wales or elsewhere (including overseas):

- Offences involving violence, firearms, weapons, fraud, drugs, or dishonesty.
- Harassment and coercion offences under section 12DJ of the *Australian Securities and Investments Commission Act 2001* (Cth) or sections 50 or 168 of the *Australian Consumer Law*;
- Offences under any of the following provisions of the *Crimes Act 1900* (NSW):
  - Part 3, Division 10 ; Part 3, Division 10A ; Part 3, Division 14 ; Part 3, Division 14A ; Part 3, Division 15 ; Section 93T; Part 4 ; Section 351A , or under corresponding provisions of any other Australian law;
- The offence of stalking or intimidation with intent under section 13 of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) or under corresponding provisions of any other Australian law;
- The offence of serious and repeated interference with privacy under section 13G of the *Privacy Act 1988* (Cth);
- An offence under any provision of the *Security Industry Act 1997* (NSW) or under corresponding provisions of any other Australian law; or

- An offence under part 2 or part 5 of the *Surveillance Devices Act 2007* (NSW) or under corresponding provisions of any other Australian law that provides for the authorisation of the use of surveillance devices.

If you need further clarification on the relevant offences, refer to part 5 of the *Fair Trading Act 1987* and part 2B of the *Fair Trading Regulation 2019*. You can also contact NSW Fair Trading on 13 32 20.

**Note** If you answered 'No' to question 4, proceed to **question 4(d)**.

If you answered 'Yes' to question 4, proceed to **question 4(a)**.

- 4(a). Does the corporation or any officer of the corporation have any convictions occurring in the last 5 years only?  Yes  No

**Note** If you answered 'No' to question 4(a), proceed to **question 4(c)**

If you answered 'Yes' to question 4(a), proceed to **question 4(b)**

- 4(b). Was a sentence of imprisonment or a fine of \$500 (or equivalent) or more imposed following conviction for any of the offences?  Yes  No

**Note** If you answered 'Yes' to this question, you cannot proceed with the application and there is no need to continue with the other questions.

If the corporation or any officer of the corporation has been convicted of a relevant offence within the last 5 years, that resulted in a sentence of imprisonment or a fine of \$500 or more, the corporation is disqualified from holding a Commercial Agent licence. Further information is available on the NSW Fair Trading website.

**Note** If you answered 'No' to question 4(b), please **provide further details** relating to the relevant offence then proceed to **question 4(c)**.

(Attach additional pages if needed)

- 4(c). Does the corporation or any officer of the corporation have any convictions occurring more than 5 years ago, but no greater than 10 years ago?  Yes  No

**Note** If you answered 'No' to question 4(c), proceed to **question 4(d)**

If you answered 'Yes' to question 4(c), please **list the conviction(s), dates of the conviction(s) and an explanation** then proceed to **question 4(d)**

(Attach additional pages if needed)

- 4(d). Does the corporation or any officer of the corporation have any pending charges for a relevant offence?  Yes  No

**Note** If you answered 'No' to question 4(d), proceed to **question 5**.

If you answered 'Yes' to question 4(d), please **list the pending charge(s) and court dates (if known)** then proceed to **question 5**.

(Attach additional pages if needed)

5. Is the corporation subject to a winding up order or has it had an administrator or controller appointed? Yes No

**Note** If you answered 'No' to question 5, proceed to **question 6**.

If you answered 'Yes' to question 5 please provide details in relation to the circumstances around the winding up order or the appointment of an administrator or controller, then proceed to **question 6**

(Attach additional pages if needed)

The Department can only grant a Commercial Agent licence to a corporation if the corporation is a fit and proper person. A corporation is a fit and proper person to hold the licence if every officer of the corporation is a fit and proper person. The following questions help the Department determine whether the officer(s) of the corporation are fit and proper person(s).

6. Are you or any other officer of the corporation a mentally incapacitated person? Yes No

**Note** A "mentally incapacitated person" is a person who is an involuntary, forensic or correctional patient as defined in section 4 of the *Mental Health Act 2007 (NSW)*, or a "protected person" as defined in section 38 of the *NSW Trustee and Guardian Act 2009 (NSW)*.

If you answered 'Yes' to this question, someone from our Licensing team will contact you to obtain further information. **Please continue with the application.**

7. Does the corporation or any officer of the corporation currently hold a Commercial Agent licence anywhere in Australia, including NSW? Yes No

**Note** By 'Commercial Agent licence' we mean any of the following licences:

- Commercial Agent licence under the *Fair Trading Act 1987*
- master or operator licence for process serving under the *Commercial Agents and Private Inquiry Agents Act 2004 (CAPI Act)*,
- master or operator licence for debt collection under the CAPI Act,
- master or operator licence for repossession of goods under the CAPI Act,
- any equivalent licence in any other Australian state or territory

If you answered 'No' to question 7, proceed to **question 8**.

If you answered 'Yes' to question 7, proceed to **question 7(a)**.

- 7(a). Has that licence ever been suspended? Yes No

**Note** If you answered 'No' to question 7(a), proceed to **question 7(b)**.

If you answered 'Yes' to question 7(a), please provide **further details**, including the licence number(s), dates of suspension and reason(s) for suspension then proceed to **question 7(b)**

(Attach additional pages if needed)

- 7(b). Has that licence been cancelled within the last 5 years? Yes No

**Note** If you answered 'No' to question 7(b), proceed to **question 8**

If you answered 'Yes' to question 7(b), please provide **further details**, including the licence number(s), dates of cancellation and reason(s) for cancellation then proceed to **question 7(c)**



(Attach additional pages if needed)

- 7(c). Has the corporation or any officer of the corporation held a Commercial Agent licence since the cancellation?  Yes  No

**Note** If you answered 'No' to question 7(c), proceed to **question 8**.

If you answered 'Yes' to question 7(c), please provide **further details**, including the licence number(s), start dates and expiry dates of the licence(s) then proceed to **question 8**

(Attach additional pages if needed)

8. Has the corporation or any officer of the corporation been disqualified, suspended, or had your occupational licence or authorisation cancelled within the last 5 years under any other legislation administered by the Minister for Fair Trading?  Yes  No

**Note** An occupational licence is any licence, permit or other written authority required to be obtained to carry out a certain job.

For full details of Ministerial responsibilities, see part 5 of the Fair Trading Act 1987.

If you answered 'No' to question 8, proceed to **question 9**

If you answered 'Yes' to question 8, please **provide details** including licence or authorisation type, licence number(s), dates of disqualification, suspension or cancellation and reason(s) for such then proceed to **question 9**

(Attach additional pages if needed)

9. Has the corporation or any officer of the corporation ever failed to pay a monetary penalty imposed under Part 5 of the Fair Trading Act 1987?  Yes  No

**Note** Part 5 of the Fair Trading Act 1987 and part 2B of the Fair Trading Regulation 2019 includes offences relating to Commercial Agent activities. For example, you can be penalised for carrying out some Commercial Agent activities without holding a licence.

If you answered 'No' to question 9 proceed to **question 10**.

If you answered 'Yes' to question 9, please **provide details** then proceed to **question 9(a)**

(Attach additional pages if needed)

- 9(a). Has the penalty now been paid?  Yes  No

**Note** If you answered 'No' to question 9(a), please **provide details** then proceed to **question 10**

(Attach additional pages if needed)

10. Has the corporation or any officer of the corporation ever failed to comply with a direction or is the subject of a restriction order given by the Secretary under Part 5 of the *Fair Trading Act 1987* or Part 2B of the Fair Trading Regulation 2019?  Yes  No

**Note** Part 5 of the *Fair Trading Act 1987* relates to Commercial Agent activities. For example, you may be ordered to stop carrying out Commercial Agent activities or have conditions placed on your licence.

If you answered 'No' to question 10 proceed to **Section 3 Nominated Officer Final Declaration**.

If you answered 'Yes' to question 10, **please provide details** then proceed to **question 10(a)**

(Attach additional pages if needed)

- 10(a). Has the corporation or the relevant officer of the corporation subsequently complied with the direction or restriction order given to you by the Secretary under Part 5 of the *Fair Trading Act 1987* or Part 2B of the Fair Trading Regulation 2019?  Yes  No

**Note** If you answered 'No' to question 10(a), **please provide details**

(Attach additional pages if needed)

### SECTION 3 – Nominated Officer Final Declaration

Making a false or misleading statement, giving false or misleading information, or producing false or misleading documents, is a serious offence which may render you liable to prosecution for offences including under the *Crimes Act 1900* (Crimes Act), which may result in penalties including a fine or imprisonment.

I declare that:

I am an authorised officer of (insert name of corporation): \_\_\_\_\_

ACN: \_\_\_\_\_ 'the corporation'.

I am providing information in this application so that the corporation, and its officers, can be accurately assessed for a Commercial Agent licence.

The information I provide in this application, and any documents, information, or materials attached to this application are true and correct. I understand that under the Crimes Act it is an offence to provide false, misleading, or deficient information in this application.

- I have obtained from each officer of the corporation:
  - answers to each of the application questions

- their consent, to provide their personal information to the Department of Customer Service.
- their national police certificates, which I will submit with this application.
- I acknowledge that Service NSW are assisting with lodging this application and further information about how Service NSW handles personal information can be found on the Service NSW privacy statement.
- I consent to the collection, use and disclosure of my personal information for the purposes set out in the Privacy Collection Notice. In particular, I understand that the Department of Customer Service (on behalf of the Commissioner for Fair Trading) may make enquiries in relation to this application, including disclosing and receiving information with the Australian Criminal Intelligence Commission, Australian Financial Security Authority, and Australian Securities and Investment Commission for example, and any other necessary Commonwealth, State or Territory government agencies.
- I understand that if I fail to provide all required information as part of this application, the application may not be assessed, or the assessment will be delayed.
- I am aware that I can request the information in this application is updated or corrected by contacting the Department of Customer Service at [brdprivacy@customerservice.nsw.gov.au](mailto:brdprivacy@customerservice.nsw.gov.au).

Full name

Signature

Date

#### SECTION 4 - Applicant Checklist

- The nominated officer has **not answered 'Yes'** to any questions from 1 to 3, and/or 4(b).
- The nominated officer has **fully completed, signed, and dated** the application form; and has ensured that all officers of the corporation have **completed the consent section** of the form.
- The nominated officer has provided **two original forms of ID**, including one with their photo.
- The nominated officer has provided valid **National Police Certificates** for all officers of the corporation, including themselves, that are no older than 4 months.

## Commercial Agents Licence - Privacy Collection Notice

The Department of Customer Service (the Department) on behalf of the Commissioner for Fair Trading, gives priority to protecting the privacy of your personal information and health information. We do this by handling the information in a responsible manner, in accordance with the *Privacy and Personal Information Protection Act 1998* (PIIP Act) and *Health Records and Information Privacy Act* (HRIP Act). Service NSW acts as a shopfront for us and performs transactions for you, on our behalf. Service NSW will assist with lodging this application.

The personal and health information contained in your application is collected and held by the Better Regulation Division of the Department and Service NSW will collect and hold the information on our behalf as part of the application process.

### Why we collect your personal information

The personal information and health information contained in your application may be used for the following purposes:

- issuing you with a Commercial Agent licence in accordance with Part 5 of the *Fair Trading Act 1987 (NSW)*.
- internal administrative purposes, including liaising with you in relation to your application, and in relation to compliance, investigations, and enforcement of the *Fair Trading Act 1987 (NSW)*.
- we may use the information to support more informed policy making, program management, evaluation, research and service planning as it can facilitate more efficient service delivery for residents and business in NSW.
- verifying your proof of identity documents with the Document Verification Service and/or Visa Entitlement Verification Online.
- establishing or maintaining records in your MyServiceNSW Account and/or MyServiceNSW Business Profile.
- other directly related purposes.

The consequence of not providing your personal information and health information is that your application may not be able to be determined.

### Personal information we collect

We collect the following personal information:

- your full name, contact details (address, email, phone number and mailing address)
- your Commercial Agents and Private Inquiry Agents license number (if applicable)
- proof of identity information, which may include your passport, driver licence, Medicare card details or other proof of identity
- additional personal information if it is required to satisfy the eligibility requirements for the licence

We note as part of the application process, if you have selected yes to being a “mentally incapacitated person”, you may be asked to provide medical evidence from a medical practitioner. This will assist the Department in determining whether you are able to be issued with a Commercial Agent licence.

### How we may use this information

We may use the personal information and health information contained in your application for the purposes for which it was collected, including to confirm your details if you make any subsequent applications in relation to any licence or authority issued by the Department on behalf of the Commissioner for Fair Trading. We may also use it to administer and update your licence, including to send you information that we consider important such as reminders to renew licences.

We will store and manage your personal information and health information in accordance with the provisions under the PPIP Act and HRIP Act. This being the information is to be kept for no longer than necessary for the purposes of which the information may lawfully be used. The information is disposed of securely, protected by taking reasonably necessary safeguards against any loss, unauthorised access, use, misuse, modification or disclosure and against all other misuse of information.

### How we may disclose this information

If required, we may make enquiries and exchange information with other NSW government agencies (including the NSW Police Force), or other States, Territories and/or the Commonwealth for the purposes of assessing your application and for compliance purposes. We may disclose the information for these purposes. If you are making an application as an officer of a corporation, the Department will receive your personal information and health information from the person making the application on behalf of the corporation.

We will not use or disclose your personal information and health information to anybody else unless you have given consent, or we are authorised or permitted to do so by law. Our Privacy Statement describes when this may occur. You can find this information and our Privacy Management Plan on the [Department of Customer Service website](#).

## Further information

### Better Regulation Division, Department of Customer Service

Please visit the NSW Fair Trading website and search for the [Fair Trading Privacy Management Plan](#) for more information about how we handle your personal and health information, how you can request access to or correct the information we hold about you (if the information is inaccurate, incomplete, not relevant or out of date) and who to contact if you have a privacy enquiry or complaint, or email [brdprivacy@customerservice.nsw.gov.au](mailto:brdprivacy@customerservice.nsw.gov.au).

### Service NSW

For further details about how Service NSW collects and manages personal information and health information, how you can access and correct it, to raise concerns about an alleged breach of privacy law or other relevant legislation, or to make a privacy complaint, please visit the Service NSW website and search for the [Service NSW privacy statement](#). Service NSW is located at 2-24 Rawson Place Sydney NSW 2000 and can be contacted on [info@service.nsw.gov.au](mailto:info@service.nsw.gov.au).

The Act and regulations may be viewed at or downloaded from [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) ©State of New South Wales through NSW Fair Trading, 2014.