



# When does a person require a Licence or a Certificate of Registration?

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# When does a person require a Licence or a Certificate of Registration?

Almost daily, ACOP receives questions from agents in relation to the roles that can be undertaken within an agency that do not require the person to hold a Certificate of Registration or a full Licence - Class 1 or Class 2.

Let's first look at the broad definition of an agent, under the Act.

*“a person who induces another to buy, sell or lease property on behalf of another for reward”*

This definition varies slightly for Stock & Station agents and for Strata Managers, but the core feature is inducing people to participate in the property process. Anyone who is involved in such inducement of others, must hold a Property Licence or a Certificate of Registration.

Section 8 of the Property and Stock Agents Act 2002 details the requirement for agents to hold a Licence. It specifically states:

1. An individual must not act as or carry on the business of

(or advertise, notify or state that the individual 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 individual is the holder of a real estate agent's licence, or
- b. A stock and station agent, unless the individual is the holder of a stock and station agent's licence, or
- c. A strata managing agent, unless the person is the holder of a strata managing agent's licence

The maximum penalty for a breach of this section of the Act is 100 penalty units (\$11,000). There are a range of different roles within an agency business that may not require a Licence or Certificate of Registration under the Property and Stock Agents Act 2002 (NSW). For example, a person who does purely administrative work that supports the work of a licensed agent or certificate holder is unlikely to require a licence or certificate under the Act.



The law however does not specifically mention all these functions as it is primarily concerned with the functions that are regulated under the Act. For this reason, an exhaustive list of functions that do not require a Licence or Certificate of Registration are not provided by NSW Fair Trading. However, Fair Trading have provided three (3) case study examples on their website designed to assist property professionals understand the scope of their functions, and some activities that may be undertaken without a Licence or Certificate of Registration.

One of these case studies refers to an Agency that has several employees who do not hold a Licence or Certificate of Registration but assist with administrative support in the agency on an ad hoc basis. The administrative support consists of sending work orders to contractors and providing details of tenants/owners to engaged contractors to assist the agency manage its portfolio. It is noted that these employees do

not need to hold a Certificate of Registration or Licence to carry out these tasks. However, it is noted that authorisation to carry out a work order must be facilitated by a Licence or Certificate of Registration holder.

The additional case studies available on the NSW Fair Trading website are valuable resources, as they offer further insights into the administrative roles within Real Estate, Stock and Station, and Strata Management agencies, while also emphasising the necessity of holding a Licence or a Certificate of Registration.

The link to the NSW Fair Trading website that provides further information on this issue is <https://www.nsw.gov.au/business-and-economy/licences-and-credentials/becoming-a-property-agent/when-a-licence-not-required>

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