



New South Wales

Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2026



New South Wales

Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026

Act No , 2026

An Act to amend the *Property and Stock Agents Act 2002* in relation to the underquoting of selling prices of residential property by real estate agents; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Act 2026*.

2 Commencement

This Act commences as follows—

- (a) for Schedule 1[1], [13]–[19], [21] and [27]–[29]—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

Schedule 1 Amendment of Property and Stock Agents Act 2002 No 66

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

advertised selling price, for Part 5, Division 3—see section 72D(1).

commission, for Part 5, Division 3—see section 72.

ESP guidelines, for Part 5, Division 3—see section 72.

for sale sign, for Part 5, Division 3—see section 72.

online advertisement, for Part 5, Division 3—see section 72.

[2] Sections 8(1), penalty and 63, penalty

Omit “100 penalty units” wherever occurring.

Insert instead “500 penalty units”.

[3] Sections 9(1), penalty, 52(1), penalty and 207, penalty

Omit “200 penalty units” wherever occurring.

Insert instead “1,000 penalty units”.

[4] Sections 11A, 13(1), 29, 31, 32, 39(1), 43(1), 47(1), 48, 55(4), 66(1), 78(1) and (2), 86 and 202

Omit the penalties. Insert instead—

Maximum penalty—

(a) for an individual—500 penalty units, or

(b) otherwise—1,000 penalty units.

[5] Section 20 Conditions—general

Insert “, unless the Secretary has, by written notice, exempted the holder from the requirements” after “time to time” in section 20(2).

[6] Section 20(2)

Insert at the end of the subsection—

Maximum penalty—100 penalty units.

[7] Section 29 Display of name at registered office

Insert at the end of section 29(1) and (2)—

Maximum penalty—50 penalty units.

[8] Section 49 Restrictions on licensee obtaining beneficial interest in property

Omit section 49(1), penalty. Insert instead—

Maximum penalty—

(a) for an individual—500 penalty units or imprisonment for 2 years, or both, or

(b) otherwise—1,000 penalty units.

[9] Section 49(2), penalty

Omit “200 penalty units”.

Insert instead “500 penalty units”.

[10] Section 55 No entitlement to commission or expenses without agency agreement

Omit section 55(1) and (2). Insert instead—

- (1) A licensee is not entitled to commission or expenses from a person for or in relation to services performed by the licensee for the person unless—
 - (a) the services were performed under an agreement (an **agency agreement**) that complies with the requirements of this section, and
 - (b) the licensee served a copy of the signed agency agreement on the person within 48 hours after the agency agreement was signed by or for the person.

Note—Section 55A allows a court or tribunal to order that commission and expenses are recoverable in certain circumstances despite subsection (1).

- (1A) An agency agreement must—
 - (a) be written, and
 - (b) be signed by or for the person and the licensee, and
 - (c) be in the relevant standard form approved by the Secretary, if any, and
 - (d) be kept in the way and for the period prescribed by the regulations, and
 - (e) comply with the requirements prescribed by the regulations.
- (1B) The Secretary may approve one or more standard forms of agency agreement.
- (2) The regulations may make further provision about requirements for agency agreements, including the terms, conditions and other provisions that must be included in agency agreements.

[11] Section 66 Prevention of dummy bidding

Omit “20 penalty units” from section 66(4), penalty.

Insert instead “100 penalty units”.

[12] Section 66A Offences by auctioneers

Omit “250 penalty units” wherever occurring in section 66A(1), penalty and (2), penalty.

Insert instead “500 penalty units”.

[13] Section 72 Definitions

Insert in alphabetical order in section 72(1)—

advertised selling price—see section 72D(1).

commission means remuneration by way of commission, fee, gain or reward for services performed by a real estate agent.

ESP guidelines means guidelines issued by the Secretary under section 72B(2).

for sale sign, for a residential property, means an advertisement comprising only a sign, placed on or adjacent to the property, that indicates the property is for sale.

online advertisement means an advertisement—

- (a) published on a website, social media platform or application, or
- (b) sent by email or other electronic communication.

[14] Section 72(1), definition of “publish”, paragraph (e)

Insert “social media platform, application,” after “website,”.

[15] Sections 72A–72D

Omit section 72A. Insert instead—

72A Estimated selling price in agency agreement for sale of residential property

- (1) A real estate agent must not enter into an agency agreement for the sale of residential property with a person (the *seller*) unless the agency agreement includes the reasonable estimate of the likely selling price of the property determined by the agent.
- (2) Before entering into the agency agreement with the seller, the real estate agent must give the seller—
 - (a) written notice of the reasonable estimate of the likely selling price of the property determined by the agent, expressed as—
 - (i) a price, or
 - (ii) a price range, and
 - (b) evidence of the reasonableness of the estimate.
- (3) If the estimated selling price is expressed as a price range, the highest price in the range must not be more than the lowest price in the range by more than 10% of the lowest price.
- (4) The real estate agent must ensure the estimated selling price is and remains a reasonable estimate of the likely selling price of the property while the agency agreement remains in force.
- (5) If, at any time while the agency agreement is in force, the estimated selling price is no longer a reasonable estimate of the likely selling price of the property, the real estate agent must—
 - (a) revise the estimated selling price, and
 - (b) give the seller—
 - (i) written notice of the revision that includes—
 - (A) the estimated selling price before the revision, and
 - (B) the revised estimated selling price, and
 - (ii) evidence of the reasonableness of the revised estimated selling price, and
 - (c) amend the agency agreement to update the estimated selling price to reflect the revised estimated selling price.
- (6) When determining or revising the estimated selling price, the real estate agent must take into account the prices for which comparable properties have been sold in accordance with the regulations and the ESP guidelines.
- (7) Subsection (6) does not apply in relation to an agency agreement for the sale of residential property of a class prescribed by the regulations as being exempt from the requirements of the subsection.
- (8) The Secretary may approve a form or forms for giving the following to a seller—
 - (a) evidence of the reasonableness of an estimate under subsection (2)(b),
 - (b) evidence of the reasonableness of a revised estimated selling price under subsection (5)(b)(ii).

- (9) If the Secretary approves, under subsection (8), a form for giving particular evidence to a seller, the agent must give the evidence to the seller in the approved form.
- (10) A real estate agent must not contravene subsections (1)–(6) or (9).
Maximum penalty—
 - (a) if, at the time of sentencing, the property has not been sold under the agency agreement—1,000 penalty units, or
 - (b) if, at the time of sentencing, the property has been sold under the agency agreement—the greater of—
 - (i) 1,000 penalty units, or
 - (ii) the amount that is 3 times the amount of the commission paid under the agency agreement to the real estate agent in relation to the sale of the property.

72B Regulations and guidelines about estimated selling prices of residential property

- (1) The regulations may provide for the following—
 - (a) how a real estate agent must determine or revise the reasonable estimate of the likely selling price of residential property, including by reference to comparable properties and the prices for which the properties have been sold,
 - (b) the records that must be kept in relation to determining or revising the estimated selling price of residential property, including the following—
 - (i) the agent’s reasons for determining or revising the price or price range as a reasonable estimate,
 - (ii) the evidence or other material the agent considered in determining or revising the estimated selling price.
- (2) The Secretary may, from time to time, issue guidelines, not inconsistent with this Act or the regulations, providing for matters about which regulations may be made under subsection (1).

72C Statements of information for sale of residential property

- (1) A real estate agent who enters into an agency agreement for the sale of a residential property must prepare a statement of information for the property in accordance with this section.
Maximum penalty—250 penalty units.
- (2) The statement of information must—
 - (a) be in the form approved by the Secretary, and
 - (b) include any other information prescribed by the regulations.
- (3) The real estate agent must ensure a copy of the statement of information is—
 - (a) displayed in a prominent place at the residential property at all times when the property is inspected by members of the public, and
 - (b) given to a prospective purchaser within 2 business days after receiving a request from the prospective purchaser for—
 - (i) a copy of the statement of information, or
 - (ii) a copy of the proposed contract for the sale of the property.
Maximum penalty—250 penalty units.

- (4) If the real estate agent publishes, or arranges the publishing of, an online advertisement relating to the sale of the residential property, the real estate agent must ensure a copy of the statement of information is included—
 - (a) as part of the online advertisement, or
 - (b) on a website that is directly linked to in the online advertisement.

Example— a social media post advertising the sale of a residential property includes a link to a website where a PDF copy of the statement of information can be viewed

Maximum penalty—250 penalty units.
- (5) The real estate agent must ensure the information included in the statement of information is revised in the circumstances, and within any time periods, prescribed by the regulations.
Maximum penalty—250 penalty units.
- (6) The real estate agent must keep a copy of the original statement of information and each revised version of the statement for at least 3 years after the statement is made or revised.
Maximum penalty—250 penalty units.
- (7) This section does not apply in relation to the sale of residential property of a class prescribed by the regulations as being exempt from the requirements of this section.

72D Requirement to include selling price in advertisements for sale of residential property

- (1) A real estate agent must not publish, or arrange the publishing of, an advertisement relating to the sale of a residential property unless the advertisement includes a selling price (the *advertised selling price*) for the property.
Maximum penalty—
 - (a) if, at the time of sentencing, the property has not been sold under the agency agreement—1,000 penalty units, or
 - (b) if, at the time of sentencing, the property has been sold under the agency agreement—the greater of—
 - (i) 1,000 penalty units, or
 - (ii) the amount that is 3 times the amount of the commission paid under the agency agreement to the real estate agent in relation to the sale of the property.
- (2) For subsection (1), the selling price may be expressed as either—
 - (a) a price, or
 - (b) a price range.
- (3) Subsection (1) does not apply in relation to the following—
 - (a) a for sale sign for the residential property,
 - (b) an advertisement of a class prescribed by the regulations as being exempt from the requirements of this section.

[16] Section 73 Underquoting in advertisements for residential property

Omit section 73(1). Insert instead—

- (1) A real estate agent must not publish, or arrange the publishing of, a priced residential property advertisement unless the advertised selling price for the

property included in the advertisement complies with the following requirements (the *advertised selling price requirements*)—

- (a) if the advertised selling price is expressed as a price—the advertised selling price is not less than any of the following—
 - (i) the estimated selling price,
 - (ii) if the property is passed in at auction—the amount of the highest bid that the real estate agent knows, or ought reasonably to know, was made by a registered bidder at the auction,
 - (iii) the amount of a written offer to purchase the property that the real estate agent knows, or ought reasonably to know—
 - (A) was made to the seller, and
 - (B) was rejected by the seller only for the reason that the amount offered was too low,
- (b) if the advertised selling price is expressed as a price range—the lowest price in the range is not less than any of the following—
 - (i) the estimated selling price,
 - (ii) if the property is passed in at auction—the amount of the highest bid that the real estate agent knows, or ought reasonably to know, was made by a registered bidder at the auction,
 - (iii) the amount of a written offer to purchase the property that the real estate agent knows, or ought reasonably to know—
 - (A) was made to the seller, and
 - (B) was rejected by the seller only for the reason that the amount offered was too low.

Maximum penalty—

- (a) if, at the time of sentencing, the property has not been sold under the agency agreement—1,000 penalty units, or
- (b) if, at the time of sentencing, the property has been sold under the agency agreement—the greater of—
 - (i) 1,000 penalty units, or
 - (ii) the amount that is 3 times the amount of the commission paid under the agency agreement to the real estate agent in relation to the sale of the property.

[17] Sections 73(2), 73A, 73B and 74(2)

Omit the penalties. Insert instead—

Maximum penalty—

- (a) if, at the time of sentencing, the property has not been sold under the agency agreement—1,000 penalty units, or
- (b) if, at the time of sentencing, the property has been sold under the agency agreement—the greater of—
 - (i) 1,000 penalty units, or
 - (ii) the amount that is 3 times the amount of the commission paid under the agency agreement to the real estate agent in relation to the sale of the property.

[18] Section 73(3) and (4)

Omit section 73(3). Insert instead—

- (3) If a relevant event occurs in relation to the sale of the residential property, the real estate agent must, within the following periods, take all reasonable steps to amend a non-compliant priced residential property advertisement relating to the property to ensure the advertisement complies with the advertised selling price requirements or remove the advertisement—
- (a) for an online advertisement—within 1 business day after the agent becomes, or ought reasonably to have become, aware of the relevant event's occurrence,
 - (b) otherwise—as soon as practicable after the agent becomes, or ought reasonably to have become, aware of the relevant event's occurrence.

Maximum penalty—

- (a) if, at the time of sentencing, the property has not been sold under the agency agreement—1,000 penalty units, or
 - (b) if, at the time of sentencing, the property has been sold under the agency agreement—the greater of—
 - (i) 1,000 penalty units, or
 - (ii) the amount that is 3 times the amount of the commission paid under the agency agreement to the real estate agent in relation to the sale of the property.
- (4) In this section—

non-compliant priced residential property advertisement means a published priced residential property advertisement that does not comply with the advertised selling price requirements.

priced residential property advertisement means an advertisement relating to the sale of residential property that includes the advertised selling price for the property, including an advertisement to which section 72D(1) does not apply.

relevant event, in relation to the sale of a residential property, means—

- (a) the revision of the estimated selling price for the property under section 72A, or
- (b) the passing in of the property at auction, or
- (c) the rejection by the seller of a written offer to purchase the property only for the reason that the amount offered is too low.

[19] Section 73A Underquoting in representations by real estate agents

Omit section 73A(1) and (1A). Insert instead—

- (1) A real estate agent or a person engaged by a real estate agent must not, when marketing a residential property, make a statement to another person that indicates or suggests the property may be sold for a price that is less than—
- (a) the estimated selling price for the property, or
 - (b) the amount of the highest bid that the real estate agent knows, or ought reasonably to know, was made by a registered bidder at an auction at which the property was passed in, or
 - (c) the amount of a written offer to purchase the property that the real estate agent knows, or ought reasonably to know—
 - (i) was made to the seller, and
 - (ii) was rejected by the seller only for the reason that the amount offered was too low.

- (1A) A real estate agent must ensure a person engaged by the real estate agent does not, when marketing a residential property, make a statement to another person that indicates or suggests the property may be sold for a price that is less than—
- (a) the estimated selling price for the property, or
 - (b) the amount of the highest bid, that the real estate agent knows, or ought reasonably to know, was made by a registered bidder at an auction at which the property was passed in, or
 - (c) the amount of a written offer to purchase the property that the real estate agent knows, or ought reasonably to know—
 - (i) was made to the seller, and
 - (ii) was rejected by the seller only for the reason that the amount offered was too low.

[20] Sections 110(1), penalty and 137, penalty

Omit “100 penalty units” wherever occurring.

Insert instead “1,000 penalty units”.

[21] Section 192 Disciplinary action

Omit section 192(1)(d). Insert instead—

- (d) impose a monetary penalty on the person to be paid, as decided by the Secretary, into the Statutory Interest Account or the Compensation Fund of an amount of not more than—
 - (i) for an individual—250 penalty units, or
 - (ii) otherwise—500 penalty units,

[22] Section 192(1)(j)–(n)

Omit “period.” from section 192(1)(i). Insert instead—

- period,
- (j) without limiting paragraph (c), require the person to publicise a breach of this Act or the regulations in a way approved by the Secretary,
Example— placing a sign in the agency window or sending a letter to other agents in the area about the breach
- (k) without limiting paragraph (c), require the person, in a way approved by the Secretary, to engage an independent valuer for a stated period to verify the estimated selling price or the revised estimated selling price in an agency agreement entered into by the person, without the costs of verification being passed on to the seller,
- (l) without limiting paragraph (c), require a licensee in charge, for a stated period, to approve the estimated selling price or the revised estimated selling price in all agency agreements entered into by the licensee’s agency, without extra costs being passed on to sellers,
- (m) suspend the person from exercising certain functions authorised under the person’s licence or certificate of registration,
Example— the person is not permitted to offer residential properties for sale but may be permitted to manage residential tenancies
- (n) without limiting paragraph (c), require the person to provide an indemnity, to the extent and in the form specified by the Secretary, in relation to claims against the Compensation Fund arising from the person’s conduct.

[23] Section 192(4)

Insert after section 192(3)—

(4) In this section—

independent valuer means a person who is independent of the agent and who—

- (a) has membership of the Australian Valuers Institute, other than associate or student membership, or
- (b) has membership of the Australian Property Institute, other than student or provisional membership, acquired in connection with the person's occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer.

[24] Section 192A

Insert after section 192—

192A Factors to consider in taking disciplinary action

In determining appropriate disciplinary action under section 192, the Secretary must consider the following—

- (a) the number of offences under this Act and the regulations previously committed by a person who is or was a licensee or registered person,
- (b) other contraventions of this Act and the regulations by a person who is or was a licensee or registered person.

[25] Section 210B

Insert after section 210A—

210B Education notices

- (1) This section applies if the Secretary reasonably believes a licensee or registered person has contravened—
 - (a) a provision of this Act or the regulations, or
 - (b) a condition of a licence or certificate of registration.
- (2) The Secretary may issue a notice (an *education notice*) directing the licensee or registered person to undertake specified further education or training.
- (3) An education notice must state—
 - (a) the grounds on which the notice is given, including the particular contravention or contraventions on which the notice is based, and
 - (b) the date by which the licensee or registered person must—
 - (i) complete the further education or training, and
 - (ii) provide evidence to the Secretary of the completion of the further education or training.
- (4) A person to whom an education notice is given must comply with the notice within the period specified in the notice.
Maximum penalty—50 penalty units.

[26] Section 216A

Insert after section 216—

216A Recovery of certain amounts

The amount that is payable by or on behalf of a person under an indemnity provided under section 192(1)(n) is a referable debt within the meaning of the *State Debt Recovery Act 2018*.

[27] Section 216A(2)

Insert at the end of section 216A, as inserted by Schedule 1[26]—

- (2) The amount of a penalty imposed on and payable by a person under section 192(1)(d) is a referable debt within the meaning of the *State Debt Recovery Act 2018*.

[28] Section 223A

Insert after section 223—

223A Approved providers of continuing and other professional development

- (1) The Secretary may approve a person as an approved provider of education or training for the purposes of continuing and other professional development of licensees or registered persons under this Act.
- (2) The regulations may impose standard conditions on approvals.
- (3) The Secretary may, at any time, by written notice to the approved provider—
 - (a) impose a condition on the approval, or
 - (b) vary or revoke a condition imposed under paragraph (a).
- (4) To the extent of an inconsistency, a standard condition prevails over a condition imposed by the Secretary.
- (5) The regulations may make further provision about approved providers, including for the following—
 - (a) applications for approval, including application fees,
 - (b) eligibility requirements for approval,
 - (c) the exercise of the Secretary's functions under this section,
 - (d) the variation, suspension and revocation of approvals.
- (6) An approved provider must comply with the conditions of the provider's approval.
Maximum penalty—100 penalty units.
- (7) The Secretary may approve education and training courses for this Act.
- (8) The Secretary may, from time to time, issue guidelines, not inconsistent with this Act or the regulations, about matters for which the regulations under subsections (2) and (5) may provide.

[29] Schedule 1 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part numbering—

Part Provisions consequent on enactment of Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Act 2026

1 Definition

In this part—

amending Act means the *Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Act 2026*.

2 Estimated selling price in agency agreement for sale of residential property

Section 72A, as amended by the amending Act, applies to an agency agreement entered into before the commencement of the amendment to section 72A for revising the estimated selling price.

3 Statements of information for sale of residential property

The requirements under section 72C to prepare and revise a statement of information for a residential property apply to a real estate agent who enters into an agency agreement for the sale of the residential property after the commencement of section 72C.

4 Underquoting in advertisements for residential property

Section 73(3) and (4), as inserted by the amending Act, apply to an advertisement published before the commencement of the amending Act that is required to be amended or removed under that section after the commencement.

5 Approved providers of continuing and other professional development

- (1) Section 223A, as inserted by the amending Act, applies to an application for approval as an approved provider made after the commencement of the section.
- (2) An existing authorised provider is taken to be authorised to continue to provide training under the authorisation until the expiry or revocation, however described, of the authorisation.
- (3) In this clause—

existing authorised provider means a person who, immediately before the commencement of section 223A, is authorised by NSW Fair Trading to provide continuing professional development training under this Act.

Schedule 2 Amendment of Fair Trading Act 1987 No 68

Section 23AA

Insert after section 23—

23AA Impersonation of authorised officers

- (1) A person must not impersonate an authorised officer.
Maximum penalty—1,000 penalty units.
- (2) In this section—
authorised officer means an authorised officer within the meaning of the following provisions—
 - (a) section 67,
 - (b) the *Community Land Management Act 2021*, section 210(6),
 - (c) the *Property and Stock Agents Act 2002*, section 204(1),
 - (d) the *Strata Schemes Management Act 2015*, section 211B(1).