

OFFICE OF FAIR TRADING OUTCOMES REPORT

2014–15



Queensland
Government



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INTRODUCTION





About us

The Office of Fair Trading (OFT) is Queensland's marketplace regulator.

We administer various marketplace laws that set out the rights and responsibilities of consumers, businesses and certain licensed occupations.

The laws we administer are set out in Appendix 1, and include:

- the *Fair Trading Act 1989* and Australian Consumer Law (ACL), including product safety regulation
- specific legislation relating to a number of regulated industries including property agents, motor dealers, security providers, second hand dealers and pawnbrokers and the tattoo industry
- not-for-profit legislation relating to incorporated associations and charities.

We work closely with fair trading regulators in other states and territories, as well as federal agencies including the Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC). We also work directly with local law enforcement authorities and other Queensland Government regulators.

About this report

This report provides an overview of the OFT's strategies, functions and activities for 2014–15. It highlights where we focused our resources, and the results we achieved.

Acronyms used in this report

ACCC	Australian Competition and Consumer Commission	FTE	Full-time equivalent
AFAA	<i>Agents Financial Administration Act 2014</i>	FTOG	Fair Trading Operations Group
ASIC	Australian Securities and Investment Commission	MTAQ	Motor Traders Association of Queensland
ACL	Australian Consumer Law	NICS	National Indigenous Consumer Strategy
ACFT	Australasian Consumer Fraud Taskforce	OFT	Office of Fair Trading (Queensland)
CAANZ	Consumer Affairs Australia and New Zealand	ORP	Office of Regulatory Policy
CAF	Legislative and Governance Forum on Consumer Affairs	PAMDA	<i>Property Agents and Motor Dealers Act 2000</i>
CDRAC	Compliance and Dispute Resolution Advisory Committee	PICME	Proactive Industry Compliance Management and Education
CEPS	Compliance and Enforcement Policy and Standards	PRAC	Policy and Research Advisory Committee
CPN	Civil penalty notice	PSCC	Product Safety Consultative Committee
DJAG	Department of Justice and Attorney-General	QCAT	Queensland Civil and Administrative Tribunal
EIAC	Education and Information Advisory Committee	QPS	Queensland Public Service
		WHSQ	Workplace Health and Safety Queensland

REDRESS AND COMPLAINTS

\$6.1 M
redress



15,182
complaints received



15,286
complaints finalised



STAFFING AND BUDGET

241.3
staff



\$32 M
Budget



Summary

COMPLAINTS AND REDRESS	Redress obtained	\$6.1 million
	Complaints received	15,182
	Complaints finalised	15,286
INFORMATION AND EDUCATION	Website visitor sessions	597,307
	Call centre contacts	201,784
	Hours of phone contact	18,496
	Enquiries received	75,750
	Businesses engaged with on trader walks	1,701
	Seminars, information sessions, stalls	394
	Seminars, information session, stalls audiences	16,905
COMPLIANCE	Entities monitored for compliance	8,340
	Investigations completed	3,805
ENFORCEMENT ACTIONS	Warnings issued	749
	Infringements issued	466
	Administrative disciplinary actions	1,742
	Civil penalty notices	28
	Disciplinary proceedings (QCAT)	4
	Public naming	3
	Enforceable undertakings	42
	Court actions	74
	LICENSING AND REGISTRATIONS	Occupational licence and registration certificate applications processed
Occupational licence and registration certificate renewals processed		58,315
Number of occupational licence and certificate holders as at 30 June 2017		91,808
Not-for-profit applications processed		1,187
Not-for-profit annual returns processed		21,412
Number of not-for-profits registered as at 30 June 2015		26,198
STAFFING AND BUDGET	Staff full-time equivalent (FTE)	241.3
	Budget	\$32 million

INFORMATION AND EDUCATION

597,307
website visits



201,784
call centre



18,496
phone hours



75,750
enquiries



1,701
traderwalks



394
sessions held



16,905
attendants



COMPLIANCE AND ENFORCEMENT ACTIONS

8,340



entities
monitored

3,805



investigations

749



warnings
issued

466



infringements

1,742



disciplinary
actions

28



civil
penalties

4



QCAT
action

3



public
naming

42



undertakings

74



court
actions

LICENSING AND REGISTRATIONS

33,493
applications



58,315
renewals



91,808
licensed @ 30/6/15



1,187
NFP applications



21,412
NFP returns



26,198
NFP @ 30/6/15



Overview

Our role

The OFT aims to foster a fair and safe Queensland marketplace.

Our work includes:

- providing information and advice to consumers, businesses and not-for-profit organisations
- conciliating consumer complaints
- investigating and taking enforcement action against businesses engaged in unfair or illegal marketplace behaviour
- undertaking a schedule of proactive compliance operations, targeting areas where consumers are most at risk
- ensuring consumer goods are safe
- licensing and monitoring the conduct of persons working in a number of occupations
- registering not-for-profit organisations and charities
- administering land sales, funeral benefit businesses and limited liability partnerships
- delivering consumer and business education, engagement and awareness activities.

The OFT's Compliance and Enforcement Policy and Standards (CEPS) sets out how we enforce the law. The CEPS covers risk management, case assessment, investigation and enforcement.

Marketplace integrity is achieved through an effective compliance strategy which follows an escalation model including:

- the provision of information and advice
- targeted information campaigns
- a proactive, intelligence-driven compliance program
- conciliating and investigating complaints
- enforcement where appropriate.

Our strategy

The OFT prioritises its services and activities based on the Government's statement of objectives for the community and the Department of Justice and Attorney-General (DJAG) Strategic Plan.

Specifically, under the five key areas of the DJAG Strategic Plan 2014–18, the OFT seeks to:

Queensland is safe

- Protect consumers and business against unsafe products and unethical behaviour

Queensland is fair and just

- Advise business and traders on fair and ethical practice
- Protect the rights and interests of vulnerable Queenslanders

Queensland can get on with the job

- Reduce unnecessary red tape
- Make it easier for Queenslanders to do business







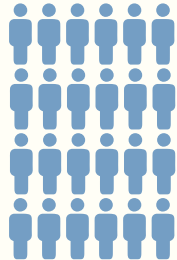
Queensland gets great service

- Manage demands for services and deliver results faster
- Make it easier for people to use our services

DJAG is sustainable and high performing

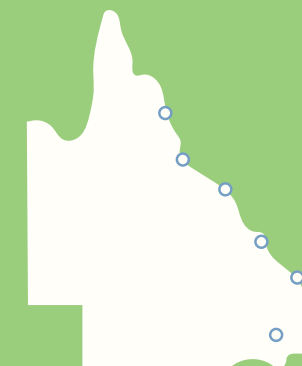
- Ensure a highly skilled, sustainable and diverse workforce that meets current and future service delivery needs
- Ensure robust governance practices
- Streamline and remove unnecessary bureaucracy in internal processes

Staffing and budget

	FTEs 2014-15		BUDGET 2014-15
Office of Fair Trading	227.55		\$30,048,800
Office of the Executive Director	5.25		
Compliance and Tactical Compliance	80.50		
Business Services	65.60		
State-wide Operations	76.20		
<hr/>			
Policy support from the Office of Regulatory Policy	12.00		\$1,547,800
<hr/>			
Executive support from the Office of the Deputy Director-General	1.75		\$409,000
<hr/>			
Total	241.30		\$32,005,600

Notes

1. FTEs do not include any department corporate services allocation.
2. Does not include One Stop Shop project funding.



The OFT operates from offices in

Brisbane

Cairns

Townsville

Mackay

Rockhampton

Hervey Bay

Maroochydore

Toowoomba and

Southport.

Our organisational structure is provided at Appendix 2.

RESULTS





Investigation and enforcement

A key function of the OFT is to investigate alleged breaches of fair trading laws. Investigations may commence based on complaints from consumers or businesses, information from intelligence sources, proactive compliance monitoring or public information like media reports.

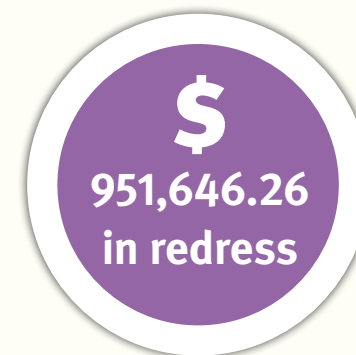
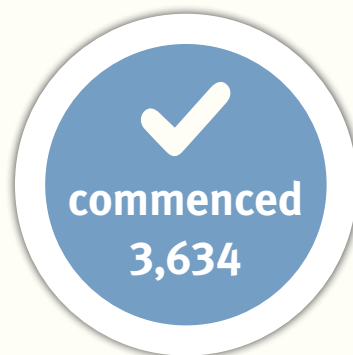
In 2014–15 the OFT:

- commenced 3,634 investigations
- finalised 3,805 investigations, and
- secured \$951,646.26 in redress via investigations.

Where investigations substantiate a breach of legislation, the OFT has various enforcement options available. These options vary according to the legislation under which the breach occurred.

Generally, the OFT takes escalating enforcement action depending on the seriousness of the breach. Enforcement options include:

- warnings
- administrative actions
- civil penalty notices and infringement notices
- disciplinary proceedings
- enforceable undertakings
- pecuniary penalty applications
- prosecution.



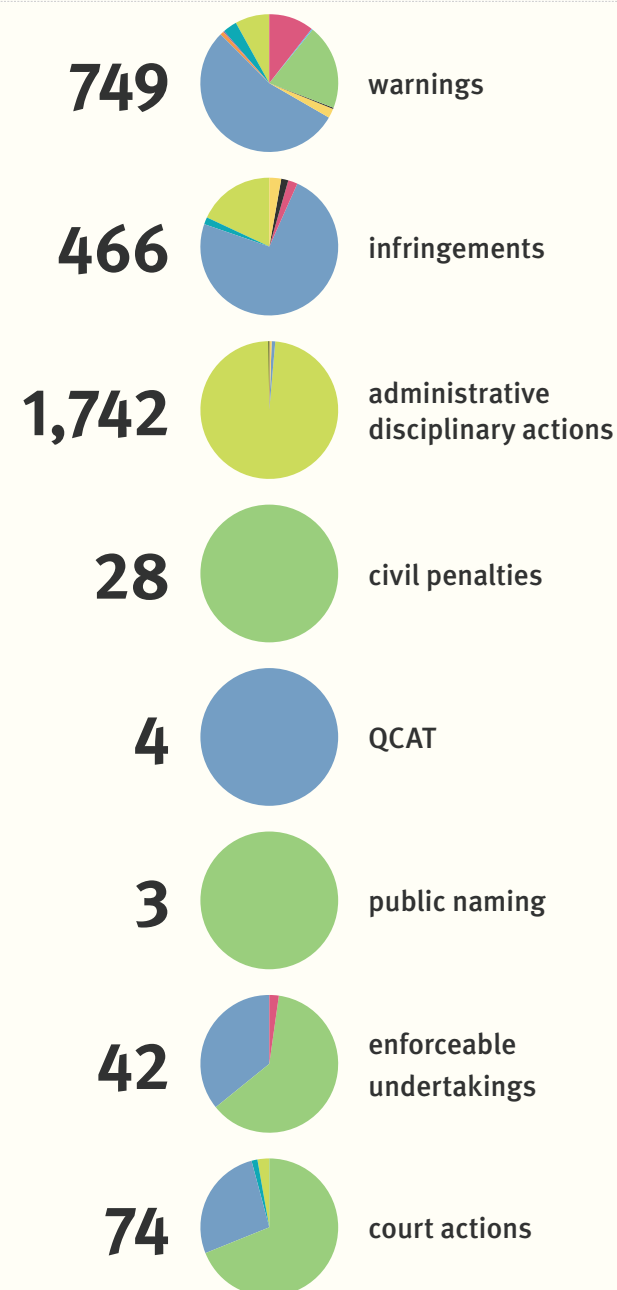
Enforcement actions

In 2014–15, the OFT took a total of 3,108 enforcement and disciplinary actions against traders and licensees. A breakdown by Act and action type is below.

	WARNING	INFRINGEMENT NOTICE	ADMINISTRATIVE DISCIPLINARY ACTIONS	CIVIL PENALTY NOTICE (CPN)	DISCIPLINARY PROCEEDINGS (QCAT)	PUBLIC NAMING	ENFORCEABLE UNDERTAKING	COURT ACTIONS
<i>Agents Financial Administration Act 2014</i>	80	13					1	
<i>Collections Act 1966</i>	3							
<i>Fair Trading Act 1989</i> (incorporating the Australian Consumer Law)	149			28		3	26	51
<i>Motor Dealers and Chattel Auctioneers Act 2014</i>	2	8	2					
<i>Property Occupations Act 2014</i>	16	11	10					
<i>Property Agents and Motor Dealers Act 2000</i> ¹	406	343	13		4		15	20
<i>Residential Services (Accreditation) Act 2002</i> ²	6							
<i>Retirement Villages Act 1999</i> ²	2							
<i>Second-hand Dealers and Pawnbrokers Act 2003</i>	26	7						1
<i>Security Providers Act 1993</i>	59	84	1,717					2
Total	749	466	1,742	28	4	3	42	74

Notes

- On 1 December 2014, the *Property Agents and Motor Dealers Act 2000* (PAMDA) was repealed and replaced with industry specific Acts. Conduct occurring on 30 November 2014 or earlier was dealt with under the former PAMDA.
- Administrative responsibility for *Residential Service (Accreditation) Act 2002* and *Retirement Villages Act 1999* transitioned to the Department of Housing and Public Works in May 2012 however activity under these acts continues to be recorded via Office of Fair Trading systems.



Court actions

In 2014–15, the OFT prosecuted 74 traders through the courts.

Of these:

- 29 were for wrongly accepting payment, (Australian Consumer Law, section 158)
- 18 were for making false or misleading representations (Australian Consumer law, section 151)
- 14 were for unlicensed trading (real estate, motor, security and second-hand dealing industries)
- 5 were for breaches of trust account provisions
- 4 were for other licensing offences
- 4 were for other consumer law offences.

A trader may be subject to more than one type of enforcement or disciplinary action and under multiple Acts.

The vast majority of the OFT's prosecutions are heard in the Magistrates Court.

Accepting payment and failing to supply



Ronald Woodleigh trading as Fisherman's Mousetrap Pty Ltd

On 29 May 2015, Ronald Woodleigh was convicted and fined in the Southport Magistrates Court after an OFT investigation found he had failed to supply imported cars and boats to four consumers and had not provided them refunds.

The OFT had previously prosecuted Mr Woodleigh and his company for the same type of offence. He was fined \$10,000 and ordered to pay \$20,685 in restitution to a consumer in June 2013, and again fined \$25,000 and ordered to pay \$17,671 in restitution to another consumer in May 2014.

Mr Woodleigh was fined \$17,000 and the court ordered Mr Woodleigh to pay compensation of \$95,318 to the four affected consumers.

Wrongful conversion of trust monies



Jason Hoppner

On 2 July 2014, Jason Hoppner, a real estate agent in Redcliffe, was found guilty of multiple charges relating to wrongful conversion of rental monies.

Mr Hoppner diverted funds that were due to be paid to five different landlords into his three personal bank accounts. Thirteen payments were made into Mr Hoppner's accounts between December 2010 and April 2011.

A total of 23 affected consumers were compensated \$30,368.21 from the claim fund. An additional five consumers were still owed \$8,668.11 at the time of the court matter.

Mr Hoppner was disqualified from holding a real estate licence for 15 years, fined \$10,000 and ordered to repay a total of \$39,036.32.

Accepting payment and failing to supply



Braden Douglas Tagg trading as XRO Racing

On 20 January 2015, Braden Tagg was found guilty of three counts of accepting payment for goods and failing to supply them under the Australian Consumer Law.

Mr Tagg took payment from three customers for custom made 4WD accessories, but did not supply the goods or give the consumers refunds.

Mr Tagg was fined \$30,000 and ordered to pay \$3,500 in restitution to three consumers.

Court enforceable undertakings

In 2014–15, the OFT entered into 42 enforceable undertakings with traders.

An enforceable undertaking is a legally binding agreement that the OFT enters into with a business or individual.

Generally, undertakings include agreements from the traders to:

- remedy the mischief
- accept responsibility for their actions
- establish or review and improve their trade practices compliance programs and culture
- provide redress to affected consumers.

If a trader fails to comply with any condition of an undertaking, or reoffends, the court can order them to change their activities and pay:

- compensation
- a fine
- a security bond.

Enforceable undertakings are listed on the OFT website.

False or misleading representations and misrepresentations concerning a testimonial



Dymphna Boholt and The Seminar Group

Ms Boholt and The Seminar Group breached the ACL by misrepresenting benefits from property wealth seminars and testimonials.

As well as stopping the misleading conduct and testimonials, Ms Boholt agreed to pay \$15,000 and The Seminar Group \$20,000 in penalties.

The Seminar Group Pty Ltd trading as Knowledge Source was involved in the promotion and supply of educational goods and services relating to wealth creation through property investment to Queenslanders.

Ms Boholt advertised seminars (facilitated by The Seminar Group) where the possible return was massively inflated to entice consumers to attend and purchase educational goods designed to assist them in achieving record passive income. The advertisements grossly overstated the passive income purported to be made by attendees of previous seminars. In addition, the advertisements indicated the seminar ticket cost was \$497 when most were given away.

Wrongly accepting payment for goods or services



Dick Smith Pty Ltd

In August 2013, a consumer placed two orders for a total of nine Notebook computers from the Dick Smith website www.dicksmith.com.au

He paid the full amount of \$3,592.80 by credit card. He only received three computers within a reasonable time.

Despite several attempts to contact Dick Smith over a period of time, the consumer did not receive the remaining six computers. A refund for three computers was paid in June 2014. The remaining three were not refunded until October 2014—after the OFT investigated.

Dick Smith breached the ACL by accepting payment for the goods and failing to supply all the goods within a reasonable time.

As well as implementing a policy to manage processing of orders, the trader agreed to develop terms and conditions for their website, staff training and agreed to pay \$5,000 in penalties.

Infringement notices and civil penalty notices

In 2014–15, the OFT issued 466 infringement notices and 28 civil penalty notices.

Misrepresentation concerning the price of goods or services



Coles Supermarkets

Coles Mango Hill was issued a \$10,200 civil penalty notice for displaying an incorrect price on a line of soft drink for six days. The soft drink was on special, and when the special ended, the special price tag was not removed from the shelf. An OFT inspector, acting as a consumer, brought the discrepancy to the attention of a staff member, but the incorrect price was not corrected for several days.

Supplying consumer goods that do not comply with safety standards



Kids Spot Kiosks Surfers Paradise

In March 2015, Hamdy Ibrahim, was fined \$2,040 for supplying toys for children up to and including 36 months of age which did not comply with Australian Safety Standards.

In February 2015, OFT inspectors conducted a compliance check and identified a number of toys being offered for sale which did not meet mandatory consumer product safety requirements.

Mr Ibrahim was issued a formal warning and when he failed to comply, was subsequently fined.

The ACL requires certain goods comply with mandatory national safety standards. There are specific prescribed safety standards for projectile toys and toys with small parts.



Proactive compliance

The OFT conducts a Proactive Industry Compliance Management and Education program (PICME) annually.

The PICME program targets high-risk industries and areas where consumers are most likely to suffer detriment. Traders who have previously come to the attention of the OFT (via, for example, consumer complaints, media reports, intelligence sources, or previous compliance activity) are often included as spot check targets in the PICME program's proactive compliance operations.

The PICME program includes:

- scheduled operations
- non-scheduled operations and non-scheduled spot checks
- product safety operations.

P I C M E P R O G R A M



Operation outcomes

During an operation, a predetermined number of spot checks are completed by fair trading officers across Queensland. When a spot check is completed, the outcome will be one of the following:

- no breaches detected
- breaches rectified immediately (product safety related issues)
- referred for further investigation

An investigation can result in a number of outcomes. For PICME reporting purposes these are broken down into:

- no breach, meaning no evidence of breach, insufficient evidence of breach
- trader compliant following advice or breach rectified immediately (for product safety matters)
- 'other', meaning a non-enforcement outcome (for example a compliance advice letter or the investigation was referred to another Government agency)
- enforcement actions, which can include:
 - a warning
 - an infringement notice
 - a civil penalty notice
 - a public naming
 - an enforceable undertaking
 - a court prosecution, where the investigation is referred for court or tribunal action.

PICME scheduled operations

OPERATION	SPOT CHECKS		INVESTIGATION OUTCOMES							
	NO BREACH DETECTED	SENT FOR INVESTIGATION	NO BREACH	OTHER	ENFORCEMENT ACTIONS					
					WARNING ISSUED	INFRINGEMENTS ISSUED	CIVIL PENALTY NOTICE (CPN)	PUBLIC NAMING	ENFORCEABLE UNDERTAKINGS	COURT ACTIONS
SPMON14—Ensuring security providers undertaking monitoring are appropriately licensed	41	2	0	0	1	1	0	0	0	0
COLLECTIONS14—Ensuring appropriate authority an assignment to collect on the street	4	4	0	1	3	0	0	0	0	0
1QTRUST14—Trust accounting practices including late or non- lodgement	19	27	2	4	8	12	0	0	1	0
SECONDHAND14—Trader selling online but not licensed as second-hand dealer	43	56	2	36	12	4	0	0	0	0
MD14—Ensuring compliance with current PAMDA legislation	38	10	3	3	4	0	0	0	0	0
MOONSTONE—ACL related topics including refunds, warranties, was/ now pricing, gift vouchers, receipts, lay-by and repair notices	81	11	0	6	5	0	0	0	0	0
RLA14ED—Educational visits on licensees focusing on non-trust monies	61	0	0	0	0	0	0	0	0	0
RLASCHOOLIES14—RLAs managing high rise apartments used by Schoolies	11	0	0	0	0	0	0	0	0	0
SCHOOLIES 14—Check security officers to ensure they are licensed, focusing on Schoolies entertainment	39	18	0	17	0	1	0	0	0	0
UNITSCAN14—Accurate unit and scanned pricing	76	9	1	4	4	0	0	0	0	0
MD15ED—Education visits on licensees and agents advising on post-PAMDA split legislation	88	2	1	1	0	0	0	0	0	0
REA15ED—Education visits on licensees and agents advising on post-PAMDA split legislation	98	0	0	0	0	0	0	0	0	0
RLA14ED—Education visits about proper management of trust accounts	61	0	0	0	0	0	0	0	0	0
RLA15ED—Education visits on licensees advising on post-PAMDA split legislation	76	2	0	1	1	0	0	0	0	0
TESTIMONIALS15—Seeking substantiation that testimonials are genuine	3	38	20	16	2	0	0	0	0	0
4QTRUST15—Trust accounting practices and all real estate compliance	42	20	2	5	8	2	0	0	0	0
UNITSCAN15—Accurate unit and scanned pricing	74	12	3	5	4	0	0	0	0	0
AGENT15—Checking for licenses and also trust accounting practices	51	23	3	12	5	2	0	0	1	0
Total operations (18)	906	234	37	111	57	22	0	0	2	0

Note: Multiple enforcement actions can be taken against one entity.

SPOT CHECKS



906

NO BREACH DETECTED



234

SENT FOR INVESTIGATION

Operation ROUNDUP14



After discussions with the peak motor industry association—Motor Trades Association of Queensland (MTAQ)—regarding a rise in backyard or unlicensed motor dealing, the OFT commenced Operation ROUNDUP14. While focussed on the Gold Coast, the operation was also active in the Cairns and Townsville areas.

Operation ROUNDUP14, which ran for 10 months, used intelligence from auction houses and online sales of vehicles to identify sellers passing themselves off as private buyers when in reality they were operating a motor dealing business while unlicensed.

Over 200 enforcement actions were taken as a result of the operation. These included four court prosecutions, 67 infringement notices, 48 official warnings and 104 compliance advice letters. In addition, the OFT charged an unlicensed Gold Coast motor dealer, who was a repeat offender, with falsely representing the history of motor vehicles.

Operation BREAKDOWN15



On 21 April 2015, officers from the OFT's Gold Coast Regional Office and Brisbane Major Investigations team participated in a joint operation with the Queensland Police Service (QPS) and Workplace Health and Safety Queensland (WHSQ), targeting scrap metal dealers.

The operation was instigated by QPS due to thefts of unattended broken down motor vehicles from beside the M1, where a tow truck driver was allegedly collecting and taking them to either scrap metal yards for crushing or to wrecking yards for dismantling.

The OFT conducted eight spot checks, with three referred for investigation. WHSQ also conducted a simultaneous investigation for alleged breaches of electrical safety provisions.

The QPS officers issued infringement notices under the *Second-hand Dealers and Pawnbrokers Act 2003*.

Overall, the joint exercise was a success and highlighted the benefits of a cooperative approach by Government departments in dealing with issues affecting Queenslanders.

Inbound tourism



Continuing the successful 2012–13 investigation into the inbound tourism industry, spot checks were conducted on 30 outlets on the Gold Coast. This ongoing operation was expanded to include an investigation on the payment of commissions to tour companies and guides for visits to specific shops. In addition, an ongoing investigation into the composition and health benefit claims of therapeutic goods was continued.

Compared to the 2012–13 operation where 10 enforceable undertakings were entered into following discovery of a total of 130 breaches of the ACL, this operation did not result in any enforcement action. All outlets were found to be compliant with the ACL.

Non-scheduled spot checks

Non-scheduled compliance checks are generally conducted where the OFT believes there may be evidence to suggest non-compliance. Spot checks can occur following a complaint received or where the OFT becomes aware of emerging issues or heightened public interest in a particular issue or industry.

Some festivals and major events are also visited unannounced as part of our non-scheduled program to check compliance across all OFT legislation. The provisions checked vary depending on the event. (See Appendix 1 for a list of all OFT administered legislation).

LEGISLATION	SPOT CHECKS		INVESTIGATION OUTCOMES							
	NO BREACH DETECTED	SENT FOR INVESTIGATION	NO BREACH	OTHER	ENFORCEMENT ACTIONS					
					WARNING ISSUED	INFRINGEMENTS ISSUED	CIVIL PENALTY NOTICE (CPN)	PUBLIC NAMING	ENFORCEABLE UNDERTAKINGS	COURT ACTIONS
ACL	22	13	0	3	10	0	0	0	0	0
Resident letting agents	8	4	2	1	1	0	0	0	0	0
Real estate agents	30	21	0	1	18	2	0	0	0	0
Motor dealers	20	3	1	0	0	1	0	0	0	1
Second hand dealers*	2	6	1	1	4	0	0	0	0	0
Security providers**	51	25	3	11	4	7	0	0	0	0
Festivals	28	7	1	1	1	4	0	0	0	0
Total	161	79	8	18	38	14	0	0	0	1

Notes

Multiple enforcement actions can be taken against one entity.

* The Queensland Police Service also undertakes compliance spot checks under the *Second-hand Dealers and Pawnbrokers Act 2003*.

** The Queensland Police Service and Office of Liquor and Gaming Regulation also undertake compliance spot checks under the *Security Providers Act 1993*. The statistics listed in this report relate only to those undertaken by the OFT.

14–15 Second hand



In 2014–15, officers from OFT's regional offices of Rockhampton, Cairns, Townsville, Southport and Toowoomba participated in a coordinated strategy targeting second hand dealers. A total of eight second hand dealers were spot checked, resulting in six being referred for investigation. Consequently, one compliance advice letter and four warnings were issued for unlicensed dealing, incorrect lay-by agreements, and not keeping a licence at a place of business.

The other two secondhand dealers were found to be compliant.

SPOT CHECKS



161

NO BREACH DETECTED



79

SENT FOR INVESTIGATION

Redress

The OFT obtains redress for consumers by:

- conciliating complaints between consumers and traders
- paying claims from the claim fund to reimburse consumers who have suffered financial loss as a result of certain illegal actions by real estate agents, auctioneers, motor dealers and commercial agents
- negotiating refunds, or payments to community organisations where individual consumers can't be identified, as part of enforceable undertakings
- securing court-ordered compensation as part of the prosecution of traders.

Redress is calculated as a dollar value, including the value of refunds, repairs, replacements, repeat services and in-kind compensation.

In 2014–15, the OFT achieved \$6.1M in redress for consumers.

\$6.1 million redress



Conciliation of complaints

In 2014–15, the OFT received 15,182 complaints. Of these, 13,358 were referred for conciliation.

The OFT finalised 15,286 complaints in 2014–15, including 13,162 by conciliation. Of the complaints conciliated, 93% were resolved satisfactorily.

In total, \$3,422,184.36 in redress was achieved by the OFT through conciliation.

finalised 15,286 complaints

13,162 by conciliation

Delayed carport installation

A consumer bought a carport from a shed manufacturer. The consumer contacted the trader to see when the carport would be delivered and installed, but was not given a set timeframe. As time passed and no delivery date was provided, the consumer requested a refund. When this was not provided the consumer sought OFT assistance.

The OFT conciliated a full refund of \$2,680.



Ongoing direct debit

A consumer rented a storage unit after moving house and organised to pay by direct debit. Some months later, the consumer removed their goods from the storage unit, but the trader continued to take payment via direct debit. The consumer made a complaint to the OFT, having paid \$4,200 since ceasing use of the storage unit. The trader said the situation arose because the consumer did not cancel the direct debit payments in the way the contract stipulated. **After the OFT's intervention, the trader gave a full refund of the overpaid monies.**



Faulty refrigerator

A consumer purchased a refrigerator which subsequently broke down on several occasions. The consumer complained to the trader, who repaired the refrigerator on multiple occasions. However, it continued to break down. **Through conciliation, the OFT obtained a full refund of \$1,760 for the consumer.**



93% were resolved satisfactorily

Court-ordered compensation

In certain circumstances, as part of a prosecution of a trader, the OFT can request a court order a trader to pay compensation to consumers who have been left out-of-pocket by the trader offending.

In 2014–15, the OFT secured court-ordered compensation orders totalling \$274,585.76.

Claims

Established under the *Agents Financial Administration Act 2014* (AFAA), and previously under the *Property Agents and Motor Dealers Act 2000* (PAMDA), the claim fund is used to reimburse consumers who suffer financial loss as a result of certain breaches of industry laws by agents, motor dealers, auctioneers and debt collectors.

Under AFAA, and previously PAMDA, real estate agents, motor dealers, auctioneers and debt collectors must put deposits, rent and purchase money for transactions into a trust account. Approximately 7,700 trust accounts are held across 15 financial institutions in Queensland.

Major breaches leading to claims are:

- misappropriating trust monies
- false and misleading representations about real estate and motor vehicles
- failure to guarantee clear title of motor vehicles
- real estate agents obtaining a beneficial interest in real property, and
- motor dealers improperly dealing with deposits during a cooling off period.

In 2014–15, \$1,519,705.23 was paid from the claim fund to 106 consumers who had been the victim of dishonest acts by agents and motor dealers. A further \$362,462 was used to fund receiverships over trust properties and a special investigator.

Under AFAA, and previously PAMDA, all amounts paid from the claim fund may be recovered from the offending agent or dealer. While every effort is made to recover these monies, recovery of these debts is relatively low as the agents and dealers often lack the financial capacity to repay. In 2014–15, \$291,306 was recovered.

Prosecution of Mr Joshua Francis Abell



On 12 March 2015, Mr Abell, a cleaner trading as All That Property Services, was ordered to pay \$59,788 in fines and restitution by the Mackay Magistrates Court.

Mr Abell was found guilty of seven counts of misleading consumers and three of failing to supply a service under the Australian Consumer Law. The court heard Mr Abell accepted payments from consumers to provide cleaning services, including ‘end of tenancy bond cleans’. He gave verbal and written guarantees to consumers that his cleaning service had a ‘100% bond back guarantee’ however the services provided to the consumers were either done to an unsatisfactory standard or not done at all.

Of those actually completed, the poor standard of cleaning meant consumers either had to pay another company to redo the job or forfeit their bond.

In sentencing, the court considered the traders failure to assist consumers despite their numerous attempts to have the guarantees honoured. **Mr Abell was fined \$40,000, ordered to repay \$19,788 to affected consumers, and a conviction was recorded.**

\$274,585.76 secured from court-ordered compensation orders

\$1,519,705.23 paid from claim fund to consumers

\$291,306 recovered from offenders

Product safety

Legislative provisions to ensure the safety of consumer goods and products are contained within the ACL, administered jointly by the ACCC and state and territory fair trading agencies. The OFT is responsible for product safety matters in Queensland. In Queensland, around 40,000 hospital admissions and 200,000 emergency department presentations relate to injury each year. Many of these involve the use of everyday consumer products.

Between 2004 and 2011, there were over 475,000 injury-related emergency department presentations by people under 18 years of age. In 2007, Access Economics reported the economic cost of serious product-related injury and death in Australia was approximately \$2.6B annually.

In 2014–15, the OFT conducted 762 product safety spot checks statewide, including:

- 486 as part of compliance operations and
- 276 as targeted non-scheduled inspections.

These resulted in:

- three civil penalty notices worth a total of \$14,280 being issued, for breaches of safety and information standards
- 11 debt recovery orders worth a total of \$37,744 being issued, to recoup testing costs
- 57 warnings being issued, for minor breaches of safety standards
- one court prosecution.

Scheduled product safety operations

The following product safety-focused proactive compliance operations were undertaken in 2014–15.

OPERATION	SPOT CHECKS		INVESTIGATION OUTCOMES							
	NO BREACH DETECTED	SENT FOR INVESTIGATION	NO BREACH	OTHER	ENFORCEMENT ACTIONS					
					WARNING ISSUED	INFRINGEMENTS ISSUED	CIVIL PENALTY NOTICE (CPN)	PUBLIC NAMING	ENFORCEABLE UNDERTAKINGS	COURT ACTIONS
IMPORTER14/15—increase compliance in the importer industry and to reduce the supply of non-compliant unsafe products to the marketplace.	8	2	0	0	1	0	1	0	0	0
BUNKBEDS14/15—increase compliance in the short-term accommodation provider industry and to reduce the supply of non-compliant unsafe bunk beds to the marketplace.	19	26	0	0	26	0	0	0	0	0
EKKA14—show bag safety checks and compliance audits of stall holders at the Brisbane Ekka.	14	1	0	0	0	0	0	0	0	1
SAFECHRISTMAS14—256 compliance checks conducted State-wide before Christmas 2014, targeting the retail and import industries to reduce the supply of non-compliant unsafe products to the marketplace.	375	10	1	0	8	0	1	0	0	0
STANDARDS15—focus on compliance in the retail sector to reduce the supply of unsafe products to the marketplace.	70	0	0	0	0	0	0	0	0	0
Total (5)	486	39	1	0	35	0	2	0	0	1

Note: Multiple enforcement actions can be taken against one entity.

SPOT CHECKS
from OPS



762
NO BREACH DETECTED



84
SENT FOR INVESTIGATION

Occupational licensing

The OFT protects the community and marketplace integrity by making sure only suitable persons are licensed to work in certain occupations.

In 2014–15, the OFT processed 21,086 new licence and certificate applications and 36,969 renewals.

ACT	NEW LICENCE AND CERTIFICATE APPLICATIONS	LICENCE AND CERTIFICATE RENEWALS
<i>Property Occupations Act 2014</i>	10,562	22,725
<i>Motor Dealers and Chattel Auctioneers Act 2014</i>	1,756	5,420
<i>Debt Collectors (Field Agents and Collection Agents) Act 2014</i>	136	401
<i>Security Providers Act 1993</i>	19,827	28,958
<i>Second-hand Dealers and Pawnbrokers Act 2003</i>	200	763
<i>Tattoo Parlours 2013</i>	984	
<i>Introduction Agents Act 2001</i>	5	7
<i>Tourism Services Act 2003</i>	23	41
Total	33,493	58,315

Note: Prior to 1 December 2014, real estate, motor dealer, commercial agent and auctioneering occupations were licensed under the PAMDA. PAMDA was repealed and replaced with industry specific Acts. Applications and renewals under the former PAMDA have been split by occupation and included in the figures for the industry-specific Acts.



33,493
Applications



58,315
Renewals



85,725
Entities licensed

As at 30 June 2015, the following number of entities were licensed to perform the OFT-licensed occupations.

OCCUPATIONAL FUNCTION	NUMBER LICENSED OR REGISTERED	OCCUPATIONAL FUNCTION	NUMBER LICENSED OR REGISTERED
Security industry	29,961	Trainee auctioneer	78
Security provider—Class 1 (unrestricted)	24,775	Trainee chattel auctioneer	78
Security provider—Class 1 (restricted)	14	Auctioneer (corporation)	504
Security provider—Class 2	3,821	Chattel auctioneer (corporation)	473
Security firm	1,351	Commercial agency	642
Real estate industry	40,841	Field agent (individual)	313
Real estate (individual)	12,593	Field sub-agent	192
Resident letting agent (individual)	1,930	Field agent (corporation)	137
Real estate salesperson	19,625	Tattoo industry	935
Real estate (corporation)	5,702	Tattooist	692
Resident letting agent (corporation)	991	Tattoo parlour operator	243
Motor industry	8,002	Second-hand dealing and pawnbroking	1,382
Motor dealer (individual)	3,541	Second-hand dealer	1,192
Motor salesperson	3,125	Pawnbroker	4
Motor dealer (corporation)	1,336	Second-hand dealer and pawnbroker	186
Auctioneering	3,824	Introduction agent	21
Auctioneer (individual)	1,387	Inbound tour operator	117
Chattel auctioneer (individual)	1,304	Total	85,725

Administrative and disciplinary action against occupational licensees

Property Occupations Act 2014 licences suspended

LICENCE SUSPENSION REASON	NUMBER
Fail to supply audit report	3
Total	3

Security Providers Act 1993 licences suspended

LICENCE SUSPENSION REASON	NUMBER
Administration of justice/public authority	1
Affray	2
Assault	22
Drugs related offences	26
Endangering life or health	7
Homicide	3
Morality/sexual offences	15
Offences against liberty	4
Other	4
Public interest	1
Stealing and like offences	18
Weapons offences	5
Total	108

Property Occupations Act 2014 licences cancelled

LICENCE CANCELLATION REASON	NUMBER
Assault	1
Bankruptcy	2
Other	2
Total	5

Motor Dealers and Chattel Auctioneers Act 2014 licences cancelled

LICENCE CANCELLATION REASON	NUMBER
Assault	1
Other	1
Total	2

Property Agents and Motor Dealers Act 2000 licences cancelled

LICENCE CANCELLATION REASON	NUMBER
Administration of justice/public authority	1
Assault	4
Bankruptcy	5
Corporation deregistered	1
Drugs related offences	1
Stealing and like offences	1
Total	13

Security Providers Act 1993 licences cancelled

LICENCE CANCELLATION REASON	NUMBER
Assault	7
Breaches of the peace	1
Drugs related offence	7
Endangering life or health	6
Mandatory association membership	17
Morality/sexual offences	4
Offences against liberty	1
Other	8
Police service legislation	1
Public interest	14
Stealing and like offences	10
Triennial training not undertaken	295
Weapons offences	1
Total	372

Notes

1. An individual or company may have their licence suspended or cancelled for more than one activity.
2. An individual or company licence may remain suspended across reporting periods. For example, until a matter is determined by a court.
3. Under some circumstances an individual or company licence may be cancelled without having been suspended. For example, due to an automatic disqualifying offence.

Decision making and disciplinary action

The OFT receives applications for licences and registration status under the legislation it administers. Following an investigation of available evidence, consideration is then given as to whether an entity is suitable to hold a licence or registration status. Applications may be granted or refused.

When the OFT receives adverse information on any of its existing licensed or registered entities that may render the entity ineligible to retain a licence or continue being registered, the OFT will investigate the matter. Where there is sufficient evidence we will commence action to cancel the licence or registration of the entity concerned. Information can be received from a variety of sources, including the Queensland Police Service (QPS), other regulatory agencies or members of the public.

The majority of decisions by the OFT are subject to review by QCAT. The OFT appears in QCAT to defend any decision made.

In 2014–15, a total of 1,742 administrative disciplinary actions were taken by the OFT against licensees, with four being reviewed by QCAT.



Appeal against decision



In 2012, an individual applied for a security provider licence under the *Security Providers Act 1993*, to work as a crowd controller. A criminal history check revealed the applicant had convictions for assault and trespass involving young females who were not known to him. No conviction was recorded by the court. Had a conviction been recorded, such offending would have automatically disqualified the applicant.

The OFT instead determined to refuse the application primarily on the basis that granting a crowd controller licence to the applicant was contrary to the public interest. The individual had demonstrated a course of conduct or pattern of behaviour of unwanted physical contact, carrying a sexual connotation, towards young women. The OFT considered that many crowd controllers work at licensed premises, where young females may be present, and it was consistent with public expectations that any person employed to care and protect such a client group should exhibit the highest standards of personal integrity.

On appeal to the QCAT, in 2014–15 the OFT's decision to refuse the licence application was upheld.

Registrations and not-for-profits

The OFT helps community groups and not-for-profit organisations by registering incorporated associations, charities, cooperatives and land sale exemptions.

ACT	NEW REGISTRATION APPLICATIONS	ANNUAL RETURNS
<i>Associations Incorporation Act 1981</i>	875	17,549
<i>Collections Act 1966</i>	306	3,732
<i>Cooperatives Act 1997</i>	6	131
Total	1,187	21,412

In 2014–15, a legislative change resulted in the OFT no longer being required to issue land sales exemptions.

As at 30 June 2015, the following number of associations were registered.

ORGANISATION TYPE	NUMBER REGISTERED
Incorporated associations	21,416
Charities and community purpose	4,301
Cooperatives	180
Limited liability partnerships	301
Total	26,198



Education and advice to consumers and industry

A key part of the OFT's role is to inform and educate consumers, businesses and licensees about their rights and responsibilities under fair trading laws. A well-informed marketplace contributes to fair competition, and better outcomes for both consumers and traders.

The OFT uses a wide variety of channels and mechanisms to inform the marketplace. These include our:

- website at www.qld.gov.au/fairtrading
- call centre on 13 QGOV (13 74 68)
- visits to traders at their premises
- community information sessions and school visits
- educational visits by our inspectors, as part of our PICME program
- outreach program, taking fair trading information and advice to regional and remote Queensland
- social media channels including Facebook, Twitter and YouTube
- statements to the media and industry organisations
- electronic newsletters.

In 2014–15, the OFT:

- had over 597,307 visitors to the fair trading website who viewed over 1.98 million individual pages

- visited 1,701 traders to provide education and advice at their business premises
- gave 394 presentations and information sessions attended by 16,905 people including
 - 133 presentations attended by over 4,425 people including youth, seniors, Aboriginal and Torres Strait Islander consumers and non-English speaking background consumers
 - 181 trader presentations attended by approximately 9,341 business or industry attendees, including presentations related to the repeal of the PAMDA and its replacement with industry-specific Acts
 - a State-wide back to school program with visits to 43 schools, speaking with more than 3,000 students on their refund rights and online shopping
- had over 201,000 phone interactions via the Queensland Government call centre, involving nearly 18,496 hours of direct telephone talk time
- responded to 75,750 enquires received seeking information or advice
- produced 12 electronic newsletters (six editions of Smart Business Bulletin, four editions of SafetyZone and two editions of Security Buzz) for around 28,000 subscribers
- continued to engage with consumers and traders through our Facebook, Twitter and YouTube accounts.



Product safety

The OFT undertakes a variety of product safety educational activities. In 2014–15, these included:

- distributing of over 6,500 of our ‘7 easy steps’ brochures to educate consumers about the safe use of consumer products including prams, cots, bunk beds, trampolines, pool toys, treadmills and furniture stability
- compliance audits to educate traders about the ACL requirements to meet product safety standards and how to develop compliance plans
- distributing of approximately 300 ‘Product safety guide for business’ booklets as part of a national campaign to educate businesses about the safe supply of consumer products
- an online education campaign called ‘Straight off, straight in, straight away’ to address an increase in serious burns associated with electric hair straighteners
- attendance at the Blind Manufacturers’ Association of Australia annual trade show to provide safety information with a focus on the potential dangers of curtain and blind cords
- roll-out of a communication strategy for bunk bed regulation including the distribution of ‘*Rest easy: A compliance guide to bunk bed safety for short-term rental accommodation*’.

Outreach program

The OFT aims to deliver a high standard of service to all Queenslanders. Our outreach program takes our message into rural and regional parts of the State where we:

- hold information sessions for consumers, associations and businesses
- visit schools and provide presentations to classes about being smart consumers
- visit retailers to provide information and advice about the ACL
- undertake compliance checks on industry sectors we regulate and licence
- take complaints from consumers.

In 2014–15, the OFT conducted five outreaches to:

- Flinders Highway—Mt Isa, Cloncurry, Julia Creek, Richmond, Hughenden and Charters Towers
- Whitsundays—Proserpine, Bowen, Airlie Beach and Cannonvale
- South Burnett—Kingaroy, Nanango, Wondai and Murgon
- Southern Downs—Stanthorpe, Texas, Inglewood and Goondiwindi
- Kennedy Highway—Georgetown, Mt Surprise, Mt Garnet and Ravenshoe.

Buy Smart Competition

The Buy Smart Competition has been run annually since 2002. The competition is designed to enhance financial literacy and understanding of consumer issues by getting students to research a consumer issue, then develop a way to share their new-found knowledge with their peers.

Students have been highly inventive with their entries including board games, picture books, websites and phone applications, scale models and even songs. In 2014, 1,073 students from across Queensland, entered the competition.

The winning entries came from:

- Hercules Road State School in Kippa-Ring
- Kurwongbah State School in Petrie
- St William’s Grovely Primary in Keperra
- Mount Alvernia College in Kedron
- Loreto College in Coorparoo
- Benowa State High School
- Citipointe Christian College in Carindale
- St Monica’s College in Cairns
- Downlands College in Toowoomba
- Gympie State High School
- Mount St Bernard College in Herberton
- Chancellor State College in Sippy Downs
- Aspley State High School
- Brisbane Girls’ Grammar, and
- Palm Beach Currumbin State High School.

Fair Trading Policy achievements

The Office of Regulatory Policy (ORP) supports the OFT by developing and maintaining consumer protection policy and regulatory frameworks.

In 2014–15, the ORP unit completed policy and legislative work resulting in the:

- repeal and replacement of the *Property Agents and Motor Dealers Act 2000* and regulations, with modern industry-focused legislative framework consisting of the:
 - *Property Occupations Act 2014* and Property Occupations Regulation 2014
 - *Motor Dealers and Chattel Auctioneers Act 2014* and Motor Dealer and Chattel Auctioneers Regulation 2014
 - *Debt Collectors (Field Agents and Collection Agents) Act 2014* and Debt Collectors (Field Agents and Collection Agents) Regulation 2014
 - *Agents Financial Administration Act 2014* and Agents Financial Administration Regulation 2014
- commencement of the *Fair Trading Inspectors Act 2014*, which consolidates and harmonises inspectorate and compliance provisions across a range of Acts in the fair trading portfolio
- repeal of the *Travel Agents Act 1988* and development of transitional arrangements necessary for implementation of the National Travel Industry Transition Plan
- modernisation and streamlining of Queensland’s laws regulating ‘off the plan’ sales of land and apartments through the *Land Sales and Other Legislation Amendment Act 2014*, reducing unnecessary restrictions and red tape for the property industry and improving pre-contractual disclosure requirements to help prospective buyers make informed decisions.

In 2014–15, Fair Trading Policy also:

- continued to support the review of Queensland’s property laws being undertaken by the Queensland University of Technology, with the release of an options paper on body corporate governance issues for community and industry consultation
- progressed work on national projects falling within the remit of the Legislative and Governance Forum on Consumer Affairs, including preparatory work for the review of the ACL to commence in 2016, extending unfair contract terms protections to small business, and streamlining the administration of the ACL and reducing the compliance burden.



NATIONAL ACTIVITIES





Australian Consumer Affairs ministers participate in the Legislative and Governance Forum on Consumer Affairs (CAF). CAF's role is to consider national fair trading issues and develop a consistent approach to those issues. Communiqués from CAF meetings can be found at www.consumerlaw.gov.au

CAF is supported by a committee including senior officials from each fair trading agency, known as Consumer Affairs Australia and New Zealand (CAANZ). In turn, three advisory committees, one consultative committee and one reference group support CAANZ.

The OFT is an active participant in CAANZ and its supporting committees. The supporting committees often conduct discrete national projects on topics of interest or areas of concern.

The Policy and Research Advisory Committee (PRAC) focuses on the development of common policy approaches to national consumer issues, particularly as they relate to the ACL, and coordinates the development of any amendments to the ACL. The PRAC also conducts national consumer policy research.

The Education and Information Advisory Committee (EIAC) focuses on national cooperation and coordination for education and information activities relating to the ACL and consumer issues more generally.

The Compliance and Dispute Resolution Advisory Committee (CDRAC) focuses on national cooperation and coordination for compliance, dispute resolution and enforcement activities relating to the ACL and consumer issues more generally. CDRAC is supported by a Fair Trading Operations Group (FTOG), which deals with day-to-day liaison on enforcement issues.

The Product Safety Consultative Committee (PSCC) provides a forum for regular engagement with the state and territory consumer agencies on product safety policy, enforcement and awareness issues, and engages with the other committees as required. The PSCC was disbanded in 2014–15, with the national product safety agenda incorporated into the EIAC and CDRAC structures to provide a streamlined approach.

The National Indigenous Consumer Strategy (NICS) Reference Group leads development and implementation of the NICS Action Plan, which is designed to improve marketplace outcomes and reduce disadvantages for Indigenous consumers across Australia.

A representation of CAF and its committees is at Appendix 3.

EIAC national projects

Training providers

Fair trading agencies received reports of training providers, and their marketing agents, using unscrupulous door-to-door sales techniques and offering incentives to entice consumers to sign up for training courses.

In some instances, traders misrepresented the costs of the courses or offered laptops or tablets without telling consumers they were only a loan for the duration of the course. Some consumers were left with debts for training they did not or could not complete, and others discovered debts in their name they were previously unaware of.

The education campaign aimed to help prospective students avoid these kinds of unfair business practices, and focused on making consumers aware of the strings attached to the 'free' gifts offered as sign-on incentives. The campaign included materials produced for Indigenous and non-English speaking audiences.

Travel and accommodation

The Travel Industry Transition Plan, the overarching plan involving the deregulation of travel agent licensing and the winding up of the Travel Compensation Fund, included an education component to advise consumers of the changes.

The *Pack some peace of mind* campaign made use of a range of communication channels including website content, an online video, digital, print and radio advertising, media engagement, blogger and social media activities, stakeholder support, and participation in travel expos around the country.

Queensland led campaigns

During 14–15 Queensland led several national education campaigns. In July, a campaign targeting new parents and the safe use of baby slings was undertaken. It involved a short video, social media, website content, newsletter articles and brochures distributed to hospitals, mothers groups and community groups.

In May information messaging was undertaken for Mother's Day around was/norw pricing and gift cards. In December, Queensland led a campaign around Christmas, focusing on online shopping, consumer guarantees, sales and toy safety.



CDRAC national projects

Was/now pricing (Qld led)

A project was commenced to review price representations made by traders, specifically around statements that goods were previously for sale at a higher price and were now on sale at a lower price (was \$X, now \$Y).

Queensland led this national project, which involved checking around 300 products nationally, offered by 78 traders. In Queensland, 12 traders were issued with substantiation notices, and all 12 were able to prove their was/now pricing was legitimate.

Through the national project, it was found that a common misconception among traders was that it was acceptable to advertise a 'recommended retail price' as a 'was' price even when the product had never been offered for sale at that price. However, a genuine 'was' price means that products were actually offered and sold at that price for a period of time.

Training providers

An increase in complaints about unscrupulous training providers prompted a national compliance project.

In Queensland we specifically scrutinised Registered Training Organisations (RTOs) using high pressure and unethical sales tactics to offer the Queensland Government's 'Certificate 3 Guarantee' training courses to vulnerable consumers.

In conjunction with the Queensland Department of Education and Training, we identified four RTOs that became subject to further investigation. As a result of the investigations, breaches and contraventions of the ACL were identified and we secured more than \$710,000 in enforcement penalties and redress. We also identified and referred possible fraud related offences to the QPS.

Cash back offers (Qld led)

We led a national project in 2013 and 2014, focused on retailers offering cash back incentives on purchases.

The project scrutinised 40 cash back offers from 10 retailers and 16 manufacturers. All but one business was able to substantiate the claims they made in their cash back offers, showing a high level of compliance with the ACL.

However, only about 30% of cash back offers are redeemed by consumers, pointing to a need for easier claim processes and greater transparency in terms and conditions. Some of the traders identified as part of the project took steps to improve their cash back procedures and customer information.

CDRAC national projects cont.

Travel and accommodation (Qld led)

Following the deregulation of travel agent licensing in July 2014 and the closure of the Travel Compensation Fund, we led a research project to check whether consumer experiences in the travel industry changed as a result.

Given the size of the industry and considering the amount of business transacted annually sits at more than \$30B, complaints and consumer detriment figures are encouragingly very low. Results showed no notable change in the number, or nature, of consumer complaints since the regulatory changes.

Property spruikers

Concurrent to Queensland's investigations which resulted in property spruiker Dymphna Boholt and The Seminar Group entering in to an enforceable undertaking with the OFT, several other fair trading regulators investigated and took action against property spruikers in their own jurisdictions.

The compliance work also recommended a 2015–16 education campaign to help consumers avoid being conned by property spruikers promising undeliverable high returns.



PSCC national projects

Ethanol burners (Qld led)

Ethanol burners are small, portable, liquid-ethanol burners. The devices are primarily used for decoration, such as portable fireplaces, although larger models also may provide heating. They can cause serious injuries and property damage if used incorrectly. The devices are refuelled via the same opening that emits the flame. When the fuel is low, the flame can appear blue or even clear, making it very hard to see. If the device is refuelled while still alight, or even when smouldering or hot, the consequences can be very serious.

In 2014, Queensland's Chief Health Officer issued a warning about the use of ethanol fireplaces after at least 33 incidents where people suffered burns due to refuelling while the burners were still hot and in some cases, still alight. In addition, the Queensland Attorney-General issued a product safety notice under the ACL.

We developed a number of educational materials for both consumers and suppliers, including a safety film and a supplier guide. Concurrent to these consumer education initiatives, we prepared a submission to Standards Australia.

NICS national projects

Funeral products

Consumer protection regulators identified that Indigenous consumers were signing up to funeral products that were expensive and did not meet their needs.

A national education campaign called 'Avoid a funeral R.I.P. off' was developed to help Indigenous consumers make informed choices and avoid common pitfalls when buying funeral cover. The campaign involved face-to-face community outreach, a YouTube video, 'Paying for funerals' publication, website content, a media release and social media messaging.

A concurrent compliance operation checked 23 suppliers of funeral products for compliance with the ACL. A total of six were identified as requiring follow-up engagement to modify business practices and/or contract terms and conditions.



Other national projects and activities

Infinity cable recall

We participated in a national taskforce coordinating a nationwide recall of Infinity cables in Australia. Infinity cables failed mandatory electrical safety standards due to poor quality plastic insulation coating. Testing found the insulation on cables failed to comply with the prescribed aging requirements of the standards and could become brittle and break. Between 2010 and 2013, over 4,000km of the unsafe imported Chinese electrical cable was sold, and its deterioration would see it become hazardous by around 2016, presenting serious risk of fire or electrocution.

The ACCC established the national taskforce with membership including electrical, building and consumer protection regulators. The taskforce was responsible for activating and monitoring the recall, and providing advice to consumers, retailers, wholesalers and installers about the risks and remedial work that needed to be undertaken to remove or reduce those risks.

The ACCC negotiated a voluntary recall of Infinity cable with 19 national suppliers. Local regulators, including Queensland OFT, took responsibility for smaller local suppliers.

Scams

In 2014, the *Targeting scams* report by the ACCC reported nearly \$82m lost by Australians to scams. The most common scams were dating and romance scams, investment scams and sports investment scams.

The OFT is a member of the Australasian Consumer Fraud Taskforce (ACFT) which includes 21 Australian and New Zealand government consumer protection and law enforcement agencies.

The ACFT organises the annual National Consumer Fraud Week, which ran from 18–24 May 2015. The theme was *Get smarter with your data* and focused on protecting personal information online.

The ACFT members participate in fraud and scam prevention activities during National Consumer Fraud Week to:

- raise awareness of fraud and scams
- provide advice to consumers on how to avoid being victimised.



In 2014–15, the OFT's campaign focused on:

- educating Queenslanders about protecting themselves online
- learning how to identify, avoid and disengage from scammers
- raising awareness of fraud activity in Queensland
- knowing who to report a scam to and encouraging Queenslanders to report scams, whether they've been a victim or not.

Educating consumers on various types of scams, how scammers operate and what to do if they've been a victim is important. A knowledgeable consumer is an empowered consumer.

While the likelihood of apprehending scammers and recovering money is low, the OFT will take enforcement action where perpetrators can be located. OFT often works in partnership with the QPS regarding scams.

Itinerant traders

Stop Travelling Con Men is a national approach and coordinated strategy to protect the Australian community from misleading and deceptive conduct by people pretending to be legitimate tradespeople. The campaign began in 2011, and involves fair trading agencies, police and immigration authorities.

These traders are typified by poor workmanship, standover tactics, and wilful breaches of the ACL rules governing unsolicited sales and cooling-off periods. They typically offer basic handyman or tradesman services like bitumen driveway laying, roof painting or repair and tree lopping.

Itinerant traders are also known to target Indigenous communities, although the conduct usually differs in that traders sign up consumers to direct debit payment arrangements for goods including whitegoods, water filters and first aid kits or charitable contributions.

In 2014–15, the OFT issued 15 media alerts on reported sightings of travelling con men. Alerts are sent to local radio stations to help disseminate information directly and quickly to local residents. The national campaign will be scaled back in future years, although the OFT will continue to issue alerts about sightings of itinerant traders.

Prosecution of William Allen



On 10 March 2015 a traveling salesman, William (Bill) Allen of Doncaster England, was fined \$27,000 after being prosecuted by the OFT for breaching the ACL. Mr Allen failed to tell consumers about their right to a cooling-off period, failed to provide required documentation and made false or misleading representations. Mr Allen used business cards and tax invoices carrying the name of a legitimate business to deceive consumers while selling bitumen laying services door-to-door.

In addition to the fine Mr Allen was ordered to refund \$6,234 to the effected consumers.


Prosecution of William Allen and Paul Salmon



Mr William (Bill) Allen of Doncaster England was again prosecuted by the OFT on 2 April 2015. On this occasion the court found that Mr Allen and Mr Paul Salmon of Newark England were each guilty of 13 offences under the ACL. The traders went door-to-door offering to lay and repair bitumen driveways. The driveways laid were of very poor quality and the consumers were charged more than they were quoted. The traders failed to appear, having fled the country, and were each fined \$50,000 in their absence and were jointly ordered to pay \$14,440 to two affected consumers. Convictions were recorded against both men, impacting their ability to return to Australia.



PRIORITIES

A photograph of a business meeting around a wooden table. Several people in business attire are visible, some looking at laptops and documents. Overlaid on the image are several semi-transparent white icons: a location pin, a person silhouette, a checkmark, and a large outline of a person silhouette. The background is slightly blurred, focusing attention on the meeting activity and the overlaid graphics.

In the next year, the OFT will maintain its focus on regulated industries and selectively target specific issues within those industries for compliance or education activities.

The OFT will continue to undertake security provider compliance checks in partnership with the Office of Liquor and Gaming Regulation.



These areas will be a priority for the OFT in 2015–16:

- real estate agents, particularly around trust account compliance
- motor dealers
- security equipment installers
- crowd controllers
- lay-by agreements
- price scanning
- component pricing
- was/now pricing
- unfair contract terms, particularly in stadium terms and conditions
- credence and origin claims in therapeutic goods in the tourism market.

This list of priorities is indicative and is subject to change as other matters emerge.
We publish our Proactive Compliance Calendar on our website www.qld.gov.au/fairtrading

Appendix 1—List of OFT legislation

The OFT administers more than 60 Acts.
Primary among these are the:

Agents Financial Administration Act 2014

Associations Incorporation Act 1981

Collections Act 1966 and Charitable Funds Act 1958

Cooperatives Act 1997

Debt Collectors (Field Agents and Collection Agents) Act 2014

Disposal of Uncollected Goods Act 1967

Fair Trading Act 1989 incorporating the Australian Consumer Law Qld

Fair Trading Act 1989 (Code of Practice—Fitness Industry) Regulation 2003

Fair Trading Inspectors Act 2014

Funeral Benefit Business Act 1982

Introduction Agents Act 2001

Land Sales Act 1984

Motor Dealers and Chattel Auctioneers Act 2014

Partnership Act 1891

Property Occupations Act 2014

Sale of Goods Act 1896

Second-hand Dealers and Pawnbrokers Act 2003

Security Providers Act 1993

Tattoo Parlours Act 2013

Tourism Services Act 2003

former Property Agents and Motor Dealers Act 2000 (repealed 1 December 2014)

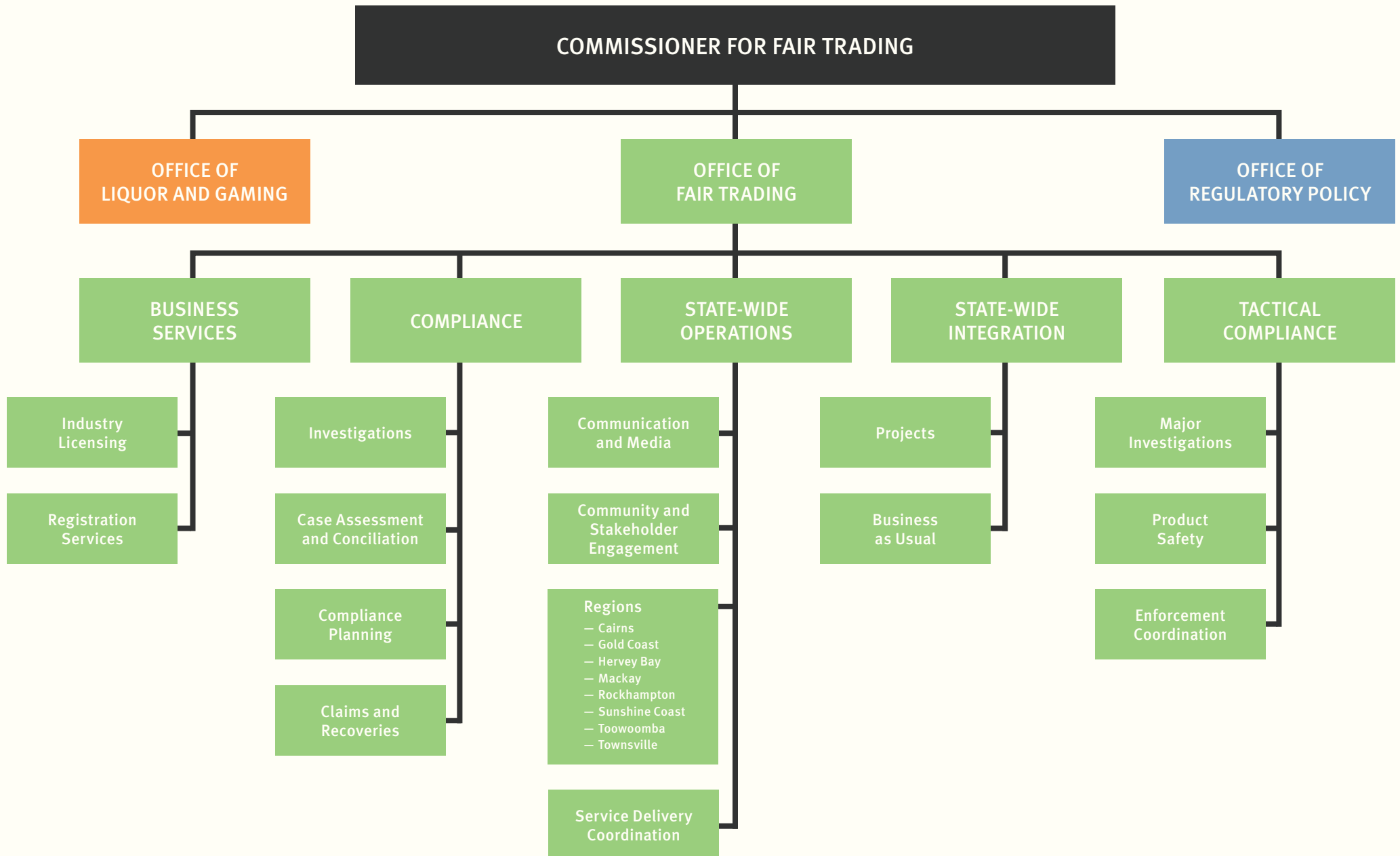
former Travel Agents Act 1988 (repealed 1 July 2014).

A full list of Acts and Regulations administered by the OFT can be found on the OFT website.

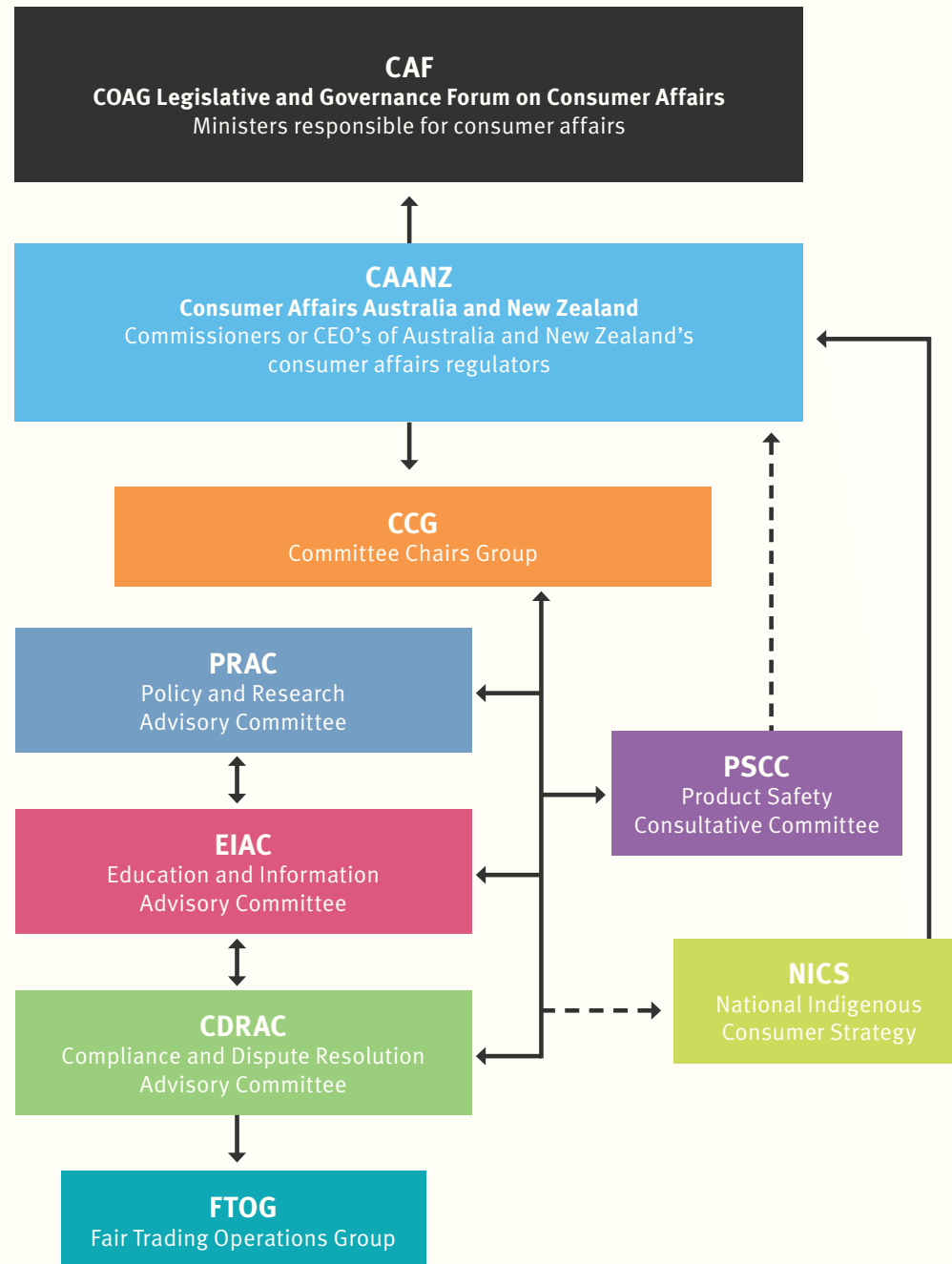
Unlike consumer protection regulators in some jurisdictions, we don't have responsibility for:

- residential tenancy
- caravan and residential parks
- building and construction
- body corporate management
- motor vehicle repairer licensing
- electrical safety
- tradesperson occupational licensing
- liquor industry regulation
- prostitution licensing
- competition law
- price surveillance
- boarding houses (since May 2012)
- retirement villages (since May 2012).

Appendix 2—OFT organisational structure



Appendix 3—CAF structure



Appendix 4—List of impacts

The OFT is a state government agency which operates within the legislation, parameters, policies, procedures and guidelines of the Queensland Government. Occasionally, this may impact on the OFT's responsibilities and functions, including changes to statistics and budget allocations. Significant impacts during 2014–15, included:

- repeal of the *Property Agents and Motor Dealers Act 2000* and commencement of three industry-specific acts and a financial administration act. These changes involved a significant project within OFT to modify systems, create new prescribed forms, and update communication products such as websites, call centre scripting, brochures and guides.
- repeal of the *Travel Agents Act 1988* on 30 June 2014 and the closure of the Travel Compensation Fund. The repeal meant travel agents no longer needed to be licenced in Queensland. Additionally, the Travel Compensation Fund ceased accepting new consumer claims from 1 July 2015 and closed at the end of 2015.
- changes to the *Land Sales Act 1984*, resulting in changes to small-scale developments, negotiations and sales, financial considerations, and community titles schemes.
- the *Tattoo Parlours Act 2013* was implemented on 1 July 2014, requiring licences and permits to be held. Reforms also affected security providers, motor dealers and second-hand dealers and pawnbrokers.
- the OFT's website content was relocated to a whole-of-Government website.

