

Estate Agents Bill

Bill No. 19/2010.

Read the first time on 16th August 2010.

ESTATE AGENTS ACT 2010

(No. of 2010)

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A BILL

i n t i t u l e d

An Act to establish an enhanced framework for the regulation of real estate agents and their salespersons, to form a Council for Estate Agencies and to make consequential amendments to the Appraisers and House Agents Act (Chapter 16 of the 2000 Revised Edition) and certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I

PRELIMINARY

Short title and commencement

- 5 **1.** This Act may be cited as the Estate Agents Act 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Scope of application

- 2.** This Act applies to estate agency work in respect of property situated in Singapore and outside Singapore.

10 **Interpretation**

- 3.—(1)** In this Act, unless the context otherwise requires —

 “advertisement” includes every form of advertisement, whether to the public or not, and whether —

- (a) orally or in writing;
- 15 (b) in printed or electronic form;
- (c) in a newspaper or other publication;
- (d) by television or radio;
- (e) by the display of posters, notices, signs, labels, showcards or goods;
- 20 (f) by the distribution of notices, circulars, brochures, pamphlets, catalogues, price lists or any other material;
- (g) by the exhibition of pictures, models or films; or
- (h) in any other form or manner whatsoever,

25 and any reference to the issue or publication of advertisements shall be construed accordingly;

 “Appeals Board” means the Appeals Board constituted under section 57;

 “appointed day” means the date of commencement of Part II;

 “body corporate” includes a limited liability partnership;

“building” has the meaning assigned to it in the Building Control Act (Cap. 29);

“business name”, in relation to an estate agent, means the name under which the estate agent is authorised to carry on estate agency work;

5 “Chairman” means the Chairman of the Disciplinary Committee or Appeals Board, as the case may be, and any person acting as such Chairman;

10 “client” means any person who, whether on his own behalf or on behalf of another person, retains or otherwise uses the services of, or otherwise engages or employs, an estate agent, whether directly or through a salesperson;

“committee”, in relation to the Council, includes the Disciplinary Panel and any Disciplinary Committee;

15 “committee member” means a member of any committee formed by the Council under this Act;

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“Council” means the Council for Estate Agencies established under section 6;

20 “Deputy President” means the Deputy President of the Council and any person acting as the Deputy President;

“development” means a development involving the construction of a new building;

25 “director” has the same meaning as in section 4(1) of the Companies Act;

“Disciplinary Committee” means a committee appointed under section 51(4);

“Disciplinary Panel” means the panel appointed under section 51(1);

30 “disposition” means an act by a person whereby an interest he has in or over a property is affected, and “acquisition”, in relation to a property, shall be construed accordingly;

“estate agency agreement” means one or more written documents embodying the terms agreed for the time being between an estate

agent and a client of such agent being terms on and subject to which estate agency work is to be done by such agent for the client;

“estate agency work”, subject to subsection (3), means any work done in the course of business for a client or any work done for or in expectation of any fee (whether or not in the course of business) for a client —

(a) being work done in relation to the introduction to the client of a third person who wishes to acquire or dispose of a property, or to the negotiation for the acquisition or disposition of a property by the client; or

(b) being work done, after the introduction to the client of a third person who wishes to acquire or dispose of a property or the negotiation for the acquisition or disposition of a property by the client, in relation to the acquisition or disposition, as the case may be, of the property by the client;

“estate agent”, subject to subsection (3), means a person who does estate agency work, whether or not he carries on that or any other business;

“estate agent’s licence” means a licence granted under section 33 and designated as being an estate agent’s licence;

“Executive Director” means the Executive Director of the Council for the time being appointed under section 13 and any person acting as the Executive Director;

“inspector” means any person appointed under section 45;

“key executive officer” means the person who is required to be appointed by an estate agent under section 38;

“lease” includes a sub-lease, tenancy and sub-tenancy and an agreement for a lease where a party to the agreement is entitled to have a lease granted;

“licence” means an estate agent’s licence, and includes a provisional licence, and “licensee” shall be construed accordingly;

“licensed estate agent” means a person who is the holder of an estate agent’s licence;

“moneylender’s licence” means a moneylender’s licence under the Moneylenders Act (Cap. 188);

5 “partner” includes a partner of a limited liability partnership, a general partner of a limited partnership and a limited partner of a limited partnership;

“partnership” includes a limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A) and a limited partnership registered under the Limited Partnerships Act (Cap. 163B);

10 “person who is responsible for the management”, in relation to a person or business, includes every director, manager, partner, officer, individual, secretary, agent or employee at any time charged either solely or to a substantial extent with the management of the person or business;

15 “prescribed” means prescribed by the Council by regulations made under this Act;

“President” means the President of the Council and includes any person acting as the President;

20 “property” means an interest in land, whether situated in Singapore or elsewhere, that is recognised as such by law, and includes any building or part thereof (whether completed, being constructed or to be constructed), and a future interest in land;

“public accountant” has the meaning assigned to it in the Accountants Act (Cap. 2);

25 “purchaser” means any person to whom a property is or is to be disposed of, and includes a prospective tenant;

“register” means the register established and maintained by the Council under section 36;

30 “registered salesperson” means a person who is registered as a salesperson under section 34;

“registration”, except where the context otherwise requires, means registration as a salesperson under section 34;

“salesperson” means an individual who in the course of his employment or engagement (whether under a contract of service or

contract for service) by, or as a director or limited liability partner of, an estate agent does estate agency work;

“solicitor” means an advocate and solicitor of the Supreme Court of Singapore with a practising certificate in force;

5 “tenant” includes a sub-tenant;

“vendor” means any person by whom a property is or is to be disposed of, and includes a prospective landlord;

“Vice-Chairman” means a Vice-Chairman of the Appeals Board and any person acting as a Vice-Chairman.

10 (2) For the purposes of this Act, a person is not a “fit and proper person” if the Council, after considering any relevant facts or matters, is of the view that he is not such a person, and unless the Council otherwise determines —

(a) an individual shall not be a “fit and proper person” if —

15 (i) he has been convicted of an offence involving dishonesty or fraud;

(ii) he has had a judgment entered against him in civil proceedings that involve a finding of fraud, dishonesty or breach of fiduciary duties on his part;

20 (iii) he has been convicted of any offence under this Act; or

(iv) he is an undischarged bankrupt or has made a composition or arrangement with his creditors;

(b) a person (other than an individual) shall not be a “fit and proper person” if —

25 (i) the person has been convicted of an offence involving dishonesty or fraud;

(ii) the person has had a judgment entered against him in civil proceedings that involve a finding of fraud, dishonesty or breach of fiduciary duties on his part;

30 (iii) the person has been convicted of any offence under this Act;

(iv) any director or partner of the person or any other person who is responsible for the management of the person is not a fit and proper person; or

- (v) the person is in liquidation or is the subject of a winding-up order, or there is a receiver appointed in relation to it, or it has entered into a composition or scheme of arrangement with its creditors.

5 (3) For the avoidance of doubt, it is hereby declared that —

- (a) references in this Act to estate agency work are not to be construed as including references to work which relates solely to a survey, to a valuation or to a disposition by way of auction or tender; and
- 10 (b) references in this Act to an estate agent without qualification are not to be construed as including references to an auctioneer whose function is solely to conduct an auction.

Excluded activities and persons

4.—(1) This Act does not apply to anything done —

- 15 (a) by an executor, administrator, trustee, liquidator, receiver, trustee or assignee of a bankrupt for the purposes of or in connection with the performance of his functions as such;
- (b) by a solicitor, in the course of practising his profession, or by any person employed by him and acting in furtherance of that course,
20 in introducing to the client, third persons who wish to acquire or dispose of a property (whether for remuneration or otherwise), if the solicitor and any person employed by him do not perform any other work that falls within the definition of “estate agency work” in section 3;
- 25 (c) by an appraiser within the meaning of the Appraisers Act (Cap. 16) when valuing or appraising property;
- (d) by any person in connection with a mortgage or other charge on property, whether done as regards its creation, transfer, assignment or otherwise;
- 30 (e) in connection with the publication of advertisements or the dissemination of information by any person who does no other work which falls within the definition of “estate agency work” in section 3;

- (f) by any person as the vendor or purchaser, or where there is more than one vendor or purchaser, a vendor or purchaser of a property in connection with —
- (i) where the person is the vendor or a vendor of the property, the disposition of the property;
 - (ii) where the person is the purchaser or a purchaser of the property, the acquisition of the property;
- (g) by any person in connection with a property pursuant to instructions received by him in the course of his employment, in so far as such thing would have been within the scope of paragraph (f) if done by his employer;
- (h) by any person in relation to a present, prospective or former employee of his or of any person by whom he also is employed if the thing is done by reason of the employment (whether past, present or future); and
- (i) by the Government or by any body that is established or constituted by or under a public Act for a public function when acting on behalf of the Government or exercising a public function.
- (2) For the purposes of subsection (1) —
- (a) a reference to a property within the meaning of this section shall include a reference to a property which comprises a specified number of undivided shares in any area of land situated in Singapore together with a right to the exclusive possession of a unit or other interest in a development of that area of land where —
 - (i) the development of that area of land has been or is to be undertaken by the vendor or, where there is more than one vendor, the vendors of the property as owner of that area of land (whether with other companies or not), or by other company or companies for the vendor or the vendors, as the case may be, pursuant to an agreement, however described, entered into by the vendor or the vendors, as the case may be (whether with other companies or not) for the development of that area of land; and

(ii) no assignment or other instrument, other than that in favour of the vendor, or where there is more than one vendor, the vendors of the property, has been executed by way of completion of the sale and purchase of the property as such; and

(b) a reference to a development agreement within the meaning of this subsection, in relation to a property, shall be a reference to an agreement, however described, entered into for the development of the area of land referred to in paragraph (a) in relation to that property.

Exemptions

5.—(1) The Minister may, by order published in the *Gazette*, exempt any person or class or description of persons from any or all of the provisions of this Act, subject to any conditions as may be stated in the order.

(2) The Minister may, by order published in the *Gazette*, exclude any activity or class or description of activities from any or all of the provisions of this Act relating to estate agency work.

(3) The Council may exempt any person from any prescribed requirements for a licence or registration, subject to any conditions as it may consider appropriate.

PART II

COUNCIL FOR ESTATE AGENCIES

Establishment and incorporation of Council for Estate Agencies

6. There is hereby established a body to be known as the Council for Estate Agencies which shall be a body corporate with perpetual succession and shall, by that name, be capable of —

- (a) suing and being sued;
- (b) acquiring, owning, holding and developing or disposing of property, both movable and immovable; and
- (c) doing and suffering such other acts or things as bodies corporate may lawfully do and suffer.

Common seal

7.—(1) The Council shall have a common seal and such seal may, from time to time, be broken, changed, altered or made anew as the Council thinks fit.

5 (2) All deeds and other documents requiring the seal of the Council shall be sealed with the common seal of the Council.

(3) Every instrument to which the common seal is affixed shall be signed by any 2 members generally or specially authorised by the Council for the purpose, or by one member and the Executive Director.

10 (4) The Council may, by resolution or otherwise in writing, appoint any officer of the Council or any other agent either generally or in any particular case to execute or sign on behalf of the Council any agreement or other instrument not under seal in relation to any matter coming within the powers of the Council.

15 (5) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Council affixed to any document and shall presume that it was duly affixed.

Constitution of Council

8.—(1) The Council shall consist of the following members:

- 20 (a) a President; and
(b) such other members, not being less than 5 or more than 15, as the Minister may from time to time determine.

(2) The First Schedule shall have effect with respect to the Council, its members and its proceedings.

Functions and duties of Council

9.—(1) Subject to the provisions of this Act, the functions and duties of the Council shall be —

- (a) to administer the licensing and registration regimes under this Act;
30 (b) to regulate and control the practice of estate agents and salespersons;
(c) to promote integrity and competence amongst estate agents and salespersons and to maintain or enhance their status;

- (d) to administer examinations and a professional development framework for the purposes of licensing and registration under this Act;
 - 5 (e) to develop codes of practice, ethics and conduct for estate agents and salespersons;
 - (f) to conduct investigations and disciplinary proceedings in relation to offences and unsatisfactory conduct or misconduct in relation to estate agency work;
 - 10 (g) to develop measures to equip consumers with the necessary knowledge to conduct their property transactions with prudence and diligence; and
 - (h) to perform such other functions and discharge such other duties as may be conferred on the Council by any written law.
- (2) In addition to the functions and duties imposed under subsection (1),
 15 the Council may undertake such other functions and duties (not incompatible with those specified in that subsection) as the Minister may, by order published in the *Gazette*, assign to the Council and in so doing —
- (a) the Council shall be deemed to be fulfilling the purposes of this Act; and
 - 20 (b) the provisions of this Act shall apply to the Council in respect of such functions and duties.
- (3) Nothing in this section shall be construed as imposing on the Council, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

25 **Powers of Council**

10.—(1) Subject to the provisions of this Act, the Council shall have the power to do anything for the purpose of performing its functions and discharging its duties under this Act or any other written law, or which is incidental or conducive to the performance and discharge of those
 30 functions and duties.

(2) Without affecting the generality of subsection (1), the Council may —

- (a) enter into such contracts as may be necessary or expedient for the purpose of discharging the functions and duties of the Council;
- 5 (b) acquire or dispose of, in accordance with the provisions of this Act, any property, whether movable or immovable, which the Council thinks necessary or expedient for the purpose of carrying out its functions or duties;
- 10 (c) charge fees for licensing and registration and for any services rendered by the Council or for the use of any facilities of the Council;
- (d) receive grants or contributions from any source, or raise funds by all lawful means and apply such funds for any of the functions and duties of the Council;
- 15 (e) provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of officers and employees of the Council and members of their families;
- (f) lease, let or otherwise utilise any property, movable or immovable, vested in or acquired by the Council on such terms and conditions as the Council thinks fit; and
- 20 (g) do anything incidental to any of its functions, duties or powers.

(3) This section shall not be construed as limiting any power of the Council conferred by or under any other written law.

25 (4) The Council shall furnish the Minister information with respect to its property and activities in such manner and at such times as the Minister may require.

Directions by Minister

30 **11.**—(1) The Minister may give to the Council such directions, not inconsistent with the provisions of this Act, as to the performance of its functions, the discharge of its duties and the exercise of its powers under this Act or any other written law as the Minister may consider necessary, and the Council shall give effect to all such directions.

(2) Nothing in this section shall be construed as enabling the Minister to exercise any power or control in relation to any particular application or other matter with which the Council or a committee is concerned.

Appointment of committees and delegation

12.—(1) The Council may appoint from among its own members or from other persons such number of committees as it thinks fit for purposes which, in the opinion of the Council, would be more expediently carried
5 out or managed by means of such committees.

(2) Where a committee is established, the Council shall appoint a person to be the chairman of that committee.

(3) The Council may, from time to time, alter or discharge any committee appointed under subsection (1), and define or vary the terms of
10 reference of the committee.

(4) Subject to the provisions of this Act and to the control of the Council, each committee appointed under subsection (1) may regulate its procedure in such manner as the committee thinks fit.

(5) The Council may, subject to such conditions or restrictions as it
15 thinks fit, delegate —

(a) to any of its members, including the President;

(b) to its Executive Director, or any of its officers or employees; or

(c) to any committee appointed under subsection (1),

any of its functions, duties or powers under this Act or any other written
20 law, except the power to make subsidiary legislation and the power of delegation conferred by this subsection.

(6) Any function, duty or power delegated under subsection (5) to any committee or person may be performed or exercised by the committee or person in the name and on behalf of the Council.

25 (7) No delegation under this section shall restrict or prevent the performance, discharge or exercise of any function, duty or power by the Council.

Appointment of Executive Director and other employees, etc.

13.—(1) The Council shall, with the approval of the Minister, appoint
30 an Executive Director on such terms and conditions as the Council may determine.

(2) The Executive Director shall —

(a) be responsible to the Council for the proper administration and management of the functions, duties and affairs of the Council in accordance with the policy laid down by the Council; and

(b) not be removed from office without the consent of the Minister.

5 (3) If the Executive Director is temporarily absent from Singapore or temporarily incapacitated by reason of illness or for any other reason temporarily unable to discharge his duties, another person may be appointed by the Council, with the approval of the Minister, to act in the place of the Executive Director during any such period of absence from
10 duty.

(4) The Council may, from time to time, appoint or employ on such terms and conditions as the Council may determine such officers, employees, consultants and agents as it thinks fit for the effective performance of its functions and discharge of its duties under this Act or
15 any other written law.

Preservation of secrecy

14.—(1) Except for the purpose of the performance of his functions or the discharge of his duties or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has
20 been —

(a) a member, an officer, an employee, a consultant or an agent of the Council;

(b) a committee member;

(c) a member of the Disciplinary Panel; or

25 (d) a member of the Appeals Board,

shall disclose any information relating to the affairs of the Council or any other person which has been obtained by him in the performance of his functions or the discharge of his duties under this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or
30 to imprisonment for a term not exceeding 6 months or to both.

Protection from personal liability

15.—(1) No suit or other legal proceedings shall lie personally against any member, officer, employee or committee member of the Council or

other person acting under the direction of the Council for anything which is done or omitted to be done in good faith in the execution or purported execution of this Act.

(2) Where the Council provides a service to the public whereby information is supplied to the public pursuant to any written law, neither any of its members, officers, employees nor committee members involved in the supply of such information shall be liable for any loss or damage suffered by any member of the public by reason of any error or omission of whatever nature appearing therein or however caused if made in good faith and in the ordinary course of the discharge of the duties of such member, officer, employee or committee member.

Public servants

16. All members, officers and employees of the Council including inspectors appointed under section 45 shall, in the performance of their functions and duties under this Act, be deemed to be —

- (a) public servants for the purposes of the Penal Code (Cap. 224); and
- (b) public officers for the purposes of the Financial Procedure Act (Cap. 109) and section 20 of that Act shall apply to such persons notwithstanding that they are not or were not in the employment of the Government.

Financial year

17. The financial year of the Council shall begin on 1st April of each year and end on 31st March of the succeeding year, except that the first financial year of the Council shall begin on the appointed day and end on 31st March of the succeeding year.

Annual estimates

18.—(1) The Council shall, in every financial year, prepare or cause to be prepared and shall adopt annual estimates of income and expenditure of the Council for the ensuing financial year.

(2) Supplementary estimates may be adopted by the Council at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Council, be sent immediately to the Minister.

(4) The Minister may approve or disallow any item or portion of any item shown in the estimates, and shall return the estimates as amended by him to the Council, and the Council shall be bound thereby.

5 (5) Notwithstanding any provision of this section, the Council may transfer all or any part of moneys assigned to one item of expenditure to any item under the same head of expenditure in any estimates approved by the Minister.

Moneys recovered or collected by Council

10 **19.**—(1) Subject to subsection (2), all moneys recovered by the Council, and fees and charges collected under this Act shall be paid into and form part of the moneys of the Council.

(2) All composition sums and financial penalties collected under this Act shall be paid into the Consolidated Fund.

Grants

15 **20.** For the purpose of enabling the Council to perform its functions and discharge its duties under this Act or any other written law, the Minister may, from time to time, make grants to the Council of such sums of money as the Minister may determine, out of moneys to be provided by Parliament.

Power to borrow

20 **21.**—(1) For the performance of its functions or discharge of its duties under this Act or any other written law, the Council may, from time to time, raise loans from the Government or, with the approval of the Minister, raise loans within or outside Singapore from such source as the
25 Minister may direct by —

- (a) mortgage, overdraft or other means, with or without security;
- (b) charge, whether legal or equitable, on any property vested in the Council or on any other revenue receivable by the Council under this Act or any other written law; or
- 30 (c) the creation and issue of debentures, bonds or any other instrument as the Minister may approve.

(2) For the purposes of this section, the power to raise loans shall include the power to make any financial agreement whereby credit

facilities are granted to the Council for the purchase of goods, materials or things.

Issue of shares, etc.

5 **22.** As a consequence of the vesting of any property, rights or liabilities of the Government in the Council under this Act, or of any capital injection or other investment by the Government in the Council in accordance with any written law, the Council shall issue such shares or other securities to the Minister for Finance as that Minister may, from time to time, direct.

Bank account

10 **23.**—(1) The Council shall open and maintain one or more accounts with such bank or banks as the Council thinks fit.

(2) Every such account shall be operated by such person as may, from time to time, be authorised in that behalf by the Council.

Application of moneys

15 **24.** The moneys of the Council shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Council and in making any payment that the Council is authorised or required to make.

Investment power

20 **25.** The Council may invest its moneys in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act (Cap. 1).

Financial provisions

25 **26.** The financial provisions set out in the Second Schedule shall have effect with respect to the Council.

Annual report

30 **27.**—(1) The Council shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Council during the preceding financial year and containing such information relating to the proceedings and policy of the Council as the Minister may, from time to time, direct.

(2) The Minister shall, as soon as practicable, cause a copy of every such report to be presented to Parliament.

PART III

LICENSING OF ESTATE AGENTS AND REGISTRATION OF SALESPERSONS

Estate agents to be licensed

28.—(1) Subject to this Act, no person shall —

- (a) exercise or carry on or advertise, notify or state that he exercises or carries on, or is willing to exercise or carry on, the business of doing estate agency work as an estate agent;
- (b) act as an estate agent; or
- (c) in any way hold himself out to the public as being ready to undertake, whether or not for payment or other remuneration (whether monetary or otherwise), estate agency work as an estate agent,

unless he is a licensed estate agent.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000, or to imprisonment for a term not exceeding 3 years or to both, and in the case of a continuing offence, to a further fine not exceeding \$7,500 for every day or part thereof during which the offence continues after conviction.

(3) No fee, commission or reward in relation to anything done by a person in respect of an offence under this section shall be recoverable in any action, suit or matter by any person whomsoever.

Salespersons to be registered

29.—(1) Subject to this Act —

- (a) a person shall not be or act as a salesperson for any licensed estate agent, nor shall he hold himself out to the public as being a salesperson unless he is a registered salesperson; and
- (b) a person shall neither accept employment or an appointment as a salesperson from, nor act as a salesperson for, any other person

who is required by this Act to hold, but is not the holder of, an estate agent's licence.

(2) Subsection (1) shall not be construed as —

5 (a) requiring any registered salesperson, by reason only of the fact that he does estate agency work solely as a salesperson, to hold an estate agent's licence; or

(b) requiring any licensed estate agent to be registered as a salesperson.

10 (3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) No fee, commission or reward in relation to anything done by a person in respect of an offence under this section shall be recoverable in any action, suit or matter by any person whomsoever.

15 **Eligibility of individuals to hold estate agent's licence**

30. Subject to the provisions of this Act, an individual shall not be eligible to be granted or to hold or continue to hold an estate agent's licence unless —

20 (a) he has attained the age of 21 years or such other age which is for the time being prescribed for the purposes of this section;

(b) he satisfies the Council that —

(i) he has such qualifications, passed such courses of instruction or examinations and has such practical experience as may be prescribed; or

25 (ii) he is otherwise qualified by having such training or practical experience as the Council may approve;

(c) he is not a salesperson of any other licensed estate agent;

(d) he does not hold and is not an employee, a director or a partner of a person who holds a moneylender's licence;

30 (e) he complies with such other requirements as are prescribed for the time being which apply to him; and

(f) the Council otherwise considers him a fit and proper person to hold an estate agent's licence.

Eligibility of other persons to hold estate agent's licence

31. Subject to the provisions of this Act, no person (other than an individual) shall be eligible to be granted or to hold or continue to hold an estate agent's licence unless —

- 5 (a) the person has a key executive officer who satisfies the requirements of this Act;
- (b) the key executive officer and each of the person's directors or partners for the time being is a fit and proper person;
- (c) the person does not hold a moneylender's licence;
- 10 (d) none of the person's directors or partners for the time being holds a moneylender's licence;
- (e) none of the person's directors or partners for the time being is an employee, a director or a partner of a person who holds a moneylender's licence;
- 15 (f) the Council is satisfied that the person complies with such other requirements as are prescribed and which apply to the person; and
- (g) the Council otherwise considers the person to be a fit and proper person to hold an estate agent's licence.

Eligibility to be registered salesperson

32.—(1) No person other than a natural person may be registered as a salesperson.

(2) An individual shall not be eligible to be or to remain registered as a salesperson unless —

- 25 (a) he has attained the age of 21 years or such other age which is for the time being prescribed for the purposes of this subsection;
- (b) he satisfies the Council that —
 - (i) he is or will be employed by a licensed estate agent as a salesperson and he does not hold a licence as any other
 - 30 estate agent;
 - (ii) he has the prescribed educational qualifications or experience;

- (iii) he does not hold and is not an employee, a director or a partner of a person who holds a moneylender's licence; and
- (iv) he complies with such other prescribed requirements including continuing education which apply to him; and
- 5 (c) the Council otherwise considers him a fit and proper person to be registered as a salesperson.

Applications for estate agent's licence

10 **33.**—(1) An application for or to renew an estate agent's licence shall be made to the Council in such form and manner and with such information or evidence as the Council may require, and shall be accompanied by the prescribed fee.

15 (2) The Council shall consider every application for or to renew a licence that is made in accordance with subsection (1), and may grant or renew a licence, with or without conditions, or refuse to grant or renew a licence.

(3) Any licence granted under this Act is not transferable.

(4) The Council may require an applicant to furnish it with such additional information or documents as it considers necessary in relation to the application before considering the application.

20 (5) The Council may, before granting or renewing any licence, require the applicant to furnish such security as may be prescribed.

25 (6) Any person who, in any application for the grant or renewal of a licence for himself or any other person, submits false documents or makes a statement which is false or misleading in any material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

Applications for registration of salespersons

30 **34.**—(1) An application for registration or the renewal of registration as a salesperson shall be made to the Council in such form and manner and with such information or evidence as the Council may require, and shall be accompanied by the prescribed fee.

(2) An application under subsection (1) shall be made through and with the support of the licensed estate agent that the salesperson is to act for,

and must be accompanied by a certification by the licensed estate agent that the salesperson meets such requirements for registration under this Act as may be specified in the forms provided under subsection (1).

5 (3) The Council may require the applicant or the licensed estate agent to furnish it with such additional information or documents as it considers necessary in relation to the application before considering the application.

(4) An application shall be deemed to be withdrawn with effect from the date on which the person who supported the application withdraws his support in writing.

10 (5) The Council shall consider every application for registration or renewal of registration that is made in accordance with the requirements of this section, and may register or renew registration with or without conditions, or refuse to register or renew registration.

15 (6) Any registration under this Act is not transferable and is subject to the applicant continuing to be a salesperson for the licensed estate agent that he is registered through.

20 (7) Any person who, in any application for registration or renewal of registration for himself or any other person, submits false documents or makes a statement which is false or misleading in any material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

Duration of licence and registration

35. Subject to the provisions of this Act —

- 25 (a) an estate agent's licence shall be for such period not exceeding 3 years as the Council may decide; and
- (b) the registration of a salesperson shall be for such period not exceeding 3 years as the Council may decide.

Register and search of register

30 **36.**—(1) The Council shall establish and maintain a register for the purposes of this Act in such form as the Council may decide.

(2) The register shall contain —

- (a) the following particulars as regards every licence granted under this Act:

- (i) the name of the person to whom the licence was granted;
 - (ii) the period or periods for which the licence was granted, including the period or periods (if any) for which the licence was renewed;
 - 5 (iii) if the licence is suspended, the period during which it is suspended; and
 - (iv) if the licence is revoked, the date of revocation;
 - (b) the following particulars as regards every salesperson registered under this Act:
 - 10 (i) the name of the salesperson;
 - (ii) the name of the estate agent that the salesperson acts for and is registered through;
 - (iii) the period or periods of registration;
 - (iv) if the registration is suspended, the period during which it is suspended; and
 - 15 (v) if the registration is revoked, the date of revocation; and
 - (c) such other particulars as may be prescribed.
- (3) Subject to the provisions of this Act, the Council may, from time to time and in such form or manner and for such time as it considers
- 20 appropriate, include in the register, information relating to any or all of the following:
- (a) the estate agents that a salesperson had acted for in the past;
 - (b) the lapsing, revocation or suspension of any licence or registration under this Act;
 - 25 (c) the reprimand of any person under this Act;
 - (d) the conviction of any person for any offence under this Act;
 - (e) any action as may have been taken by the Council or a Disciplinary Committee against any person under this Act;
 - 30 (f) any other information in respect of estate agents and salespersons as the Council may consider necessary or expedient to publish in the public interest.

(4) The Council may at any time publish such information from the register maintained under subsection (1) as it considers appropriate.

(5) The Council shall make the register available for public search or inspection, in such manner and at such reasonable time as the Council shall determine, on payment of the prescribed fee, if any.

(6) A document signed by the Executive Director and certified by him as being a true copy of or an extract from any part of the register shall, until the contrary is proved, be evidence of the particulars entered in the part of the register to which the document so signed and certified relates.

(7) It shall not be necessary in legal proceedings either to prove a signature on a document referred to in subsection (6) or to prove that such a signature is that of the person holding the office of Executive Director on the date of the document.

(8) Where a person applies to the Council for a copy of or an extract from any part of the register to be signed and certified as described in subsection (6), the Council shall furnish the person with the copy or extract sought on payment of the prescribed fee, if any.

PART IV

DUTIES AND LIABILITY

20 **Registered address**

37.—(1) Subject to subsection (5), every licensee shall have an address in Singapore to which all communications and all notices under this Act may be sent.

(2) The registered address shall be stated in every application for the grant or renewal of a licence.

(3) Where an address ceases to be the registered address of a licensee, the licensee shall within the period of 14 days beginning on such cesser, notify the Council in writing of another address to which all communications and notices may be sent.

(4) Where the Council receives a notification referred to in subsection (3), it shall cause the address referred to in the notification to be entered appropriately in the register and thereupon that address shall be the

registered address of the licensee by whom or on whose behalf the notification was sent to the Council.

(5) In the case of a company within the meaning of the Companies Act (Cap. 50), the registered office for the time being of the company shall be
5 the registered address of the company for the purposes of subsection (1).

(6) A licensee who fails to comply with subsection (3) shall be guilty of an offence.

Appointment and duties of key executive officer

38.—(1) An estate agent shall appoint a key executive officer and shall
10 ensure that the key executive officer is responsible for the proper administration and overall management of the business of the estate agent, and the supervision of its salespersons.

(2) No person may be appointed under subsection (1) or continue to be appointed as such unless —

15 (a) he is not a salesperson or key executive officer of any other licensed estate agent and he does not hold a licence as any other estate agent; and

(b) he does not hold and is not an employee, a director or a partner of a person who holds a moneylender's licence.

20 (3) A key executive officer must possess such qualifications and satisfy such requirements as may be prescribed.

(4) A key executive officer shall carry out the duties referred to in subsection (1) and shall be contactable by the Council and salespersons of the estate agent at all reasonable times.

25 (5) If a vacancy occurs in the post of key executive officer by reason of the death, resignation or revocation of appointment of the key executive officer, the estate agent shall —

(a) within one week of the key executive officer ceasing to carry out his duties, notify the Council of that fact; and

30 (b) within one month of the key executive officer ceasing to carry out his duties, appoint another key executive officer in accordance with subsection (1).

Appointment of salespersons

39.—(1) An estate agent shall not appoint, associate with, employ or continue to employ as a salesperson any person who for the time being is not a registered salesperson.

- 5 (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after
10 conviction for each salesperson appointed, associated or employed in contravention of subsection (1), as the case may be.

Salesperson to act for one estate agent at any one time

40.—(1) A salesperson may not be registered to act as a salesperson for more than one estate agent at any one time.

- 15 (2) A salesperson shall not at any one time act as a salesperson for more than one estate agent.

- (3) Any salesperson who makes any false representation (whether verbally or in writing or by conduct) to any person to the effect that the salesperson is employed by or authorised to act as a salesperson for any
20 specified estate agent shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Salesperson to operate under written agreement with estate agent

- 41.**—(1) A licensed estate agent shall not cause or permit an individual to carry out estate agency work for that licensed estate agent unless an
25 agreement in writing between that estate agent and the individual authorises the individual to carry out estate agency work for that estate agent.

- (2) An individual shall not perform or hold himself out as entitled to perform estate agency work for a licensed estate agent unless an
30 agreement in writing between that estate agent and the individual authorises the individual to carry out estate agency work for that estate agent.

- (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding
35 \$25,000 or to imprisonment for a term not exceeding 12 months or to both

and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

Codes of practice, ethics and conduct

5 **42.**—(1) The Council may prescribe or issue and publish one or more codes of practice, ethics and conduct under whatever name for estate agents or salespersons or for both estate agents and salespersons.

10 (2) A failure to observe a provision of any code that is prescribed or issued and published under subsection (1) may render the estate agent, the salesperson or both the estate agent and salesperson liable to disciplinary action.

Notice of certain events

15 **43.**—(1) Where a licensee ceases to be engaged in estate agency work, he shall, before the expiration of the period of 31 days beginning on the date of the cesser, notify the Council in writing thereof.

(2) Where a licensed estate agent ceases to appoint, associate with or employ a person as a salesperson, the licensed estate agent shall, before the expiration of the period of 7 days (or such other period prescribed) notify the Council in a manner prescribed of the cesser.

20 (3) Where a company is a licensed estate agent and —

(a) a person is appointed as a director of the company; or

(b) a person ceases to be such a director,

the company shall, before the expiration of the period of 7 days (or such other period prescribed) beginning on the date of the appointment or, where appropriate, the cesser, notify the Council in a manner prescribed of the appointment or cesser.

25 (4) Where —

(a) a licensed estate agent —

(i) becomes a member of a partnership; or

30 (ii) ceases to be a member of a partnership; and

(b) the partnership does, or it is proposed that it will do, estate agency work,

the licensed estate agent shall, before the expiration of the period of 7 days (or such other period prescribed) beginning on the date of his so becoming or ceasing to be such a member, notify the Council in a manner prescribed thereof.

- 5 (5) In addition to notification of the matters contained in subsections (1), (2), (3), and (4), a notice for the purposes of any of those subsections shall contain such additional particulars (if any) as are prescribed for the time being for the purposes of this section which shall be verified in such manner as may be prescribed.
- 10 (6) A licensee who fails to comply with subsection (1), (2), (3), (4) or (5) shall be guilty of an offence.

Estate agency agreement required as regards certain proposals and undertakings

15 **44.**—(1) Subject to subsection (4), where an estate agent proposes or undertakes (whether for a commission or other fee or not) to perform estate agency work for a client, whether as regards a particular property or not, a right or other cause of action whereby agreed sums, damages or any other relief or remedy may be recovered or obtained in legal proceedings as regards the proposal or undertaking shall lie at the suit of the estate agent if, and only if —

- 20 (a) an estate agency agreement embodying the terms of the proposal or undertaking, being an agreement between the estate agent and the client which is in the form prescribed and which contains such particulars (if any) in respect of the proposal or undertaking as are prescribed for the purposes of this section has been entered into and, in the case of a written document, properly executed; and
- 25 (b) the estate agent was a licensed estate agent at the time when the estate agency agreement was so entered into and executed.

30 (2) Subject to subsection (4), where an estate agent makes a proposal or gives an undertaking to perform estate agency work for a client as described in subsection (1), the agent shall be entitled to recover from, or to require the payment by any other person of, any amount in respect of any outgoing paid or payable by the agent as regards any acquisition or disposition of any property to which the proposal or undertaking relates if, and only if —

35

- (a) an estate agency agreement between the estate agent and the client which is in the prescribed form and contains, in respect of the proposal or undertaking, such particulars (if any) as are prescribed for the purposes of this section has been entered into and, in the case of a written document, properly executed;
 - (b) the estate agency agreement expressly provides for such recovery or reimbursement; and
 - (c) the estate agent was a licensed estate agent at the time when the estate agency agreement was so entered into and executed.
- (3) A right or other cause of action described in subsection (1) shall not lie at the suit of any person other than the estate agent within the meaning of this section by reason only of anything contained in this section.
- (4) Regulations made under section 72 may exclude any class or description of estate agency work from the operation of subsections (1) and (2).

PART V

INSPECTION, ENFORCEMENT, DISCIPLINE AND OFFENCES

Appointment of inspectors

- 45.**—(1) The Council may appoint any of its officers or employees to be an inspector for the purposes of this Act.
- (2) The Council shall furnish every inspector with an identification card that identifies him as an inspector.
- (3) Every inspector shall, when exercising any power under this Act, on demand produce his identification card to the person affected by the exercise of that power.

Inspection of estate agents

- 46.**—(1) An inspector may, from time to time, enter and inspect the premises under the possession or control of any estate agent for the purpose of ascertaining whether this Act has been or is being complied with or any investigation under this Act.
- (2) In carrying out an inspection under subsection (1), an inspector may —

- (a) examine any book, document, material or article as he may consider necessary and remove or make copies of it for further examination;
- 5 (b) require any person, whether a manager, an employee or a salesperson of the estate agent to be present before an inspector or any officer of the Council and —
 - 10 (i) to produce for inspection any book, document, material or article which is in the possession or under the custody of that person, which the inspector or an officer of the Council may remove or make copies of for further examination; or
 - (ii) to furnish any information which is within the knowledge or power of the person to furnish relating to the control or management of the estate agent or such other matter as the inspector may specify; and
- 15 (c) do anything that is necessary or expedient for the carrying out of the inspection.

Inspection of salespersons

47. An inspector may, from time to time, for the purpose of ascertaining whether this Act has been or is being complied with or any investigation
20 under this Act, require any salesperson to appear before an inspector or any officer of the Council and —

- 25 (a) to produce for inspection any book, document, material or article which is in the possession or under the custody of that person, which the inspector or an officer of the Council may retain or make copies of for further examination; or
- (b) to furnish any information which is within the knowledge or power of the person to furnish relating to his work as a salesperson that the inspector may specify.

Investigation and enforcement powers of inspectors

30 48.—(1) In addition to the powers conferred on him by this Act, an inspector who has reasonable grounds for believing that an offence under this Act has been committed may —

- (a) at reasonable hours, enter any premises or part thereof (whether or not in the possession or control of a licensed estate agent)

when he has reasonable cause to believe that evidence of the commission of an offence under this Act can be found therein, and search for and seize and remove any book, document, material or article or any machine or equipment containing any book, document, material or article, or make copies thereof as he may consider necessary;

(b) require any person whom he reasonably believes to have committed the offence to furnish evidence of the person's identity;

(c) require, by order in writing, the attendance before him of any person within the limits of Singapore who, from any information given to or otherwise obtained by the inspector, appears to be acquainted with the facts or circumstances of the case;

(d) examine orally any person reasonably believed to be acquainted with the facts or circumstances of the case or with such other matter as the inspector may specify, and reduce into writing the answer given or statement made by that person;

(e) require any person to furnish any information or produce any book, document or copy thereof in the possession of that person, and inspect, copy, make extracts from or seize and remove such book or document; and

(f) take such photographs or video recording, as the inspector thinks necessary, of the premises and persons reasonably believed to be acquainted with the facts or circumstances of the case or with such other matter as the inspector may specify.

(2) The person referred to in subsection (1)(d) shall be bound to state truly the facts or circumstances with which he is acquainted.

(3) A statement made by the person referred to in subsection (1)(d) shall be read over to him and shall, after correction, if necessary, be signed by him.

(4) All statements, answers, information and documents procured in the course of investigation shall be admissible in evidence in any proceedings under this Act against the person making or producing the same.

Complaints

49.—(1) Any complaint of the conduct of a licensed estate agent or registered salesperson may in the first place be made to the Executive Director who shall refer the complaint to the Council.

5 (2) The Executive Director may on his own motion refer any information concerning the conduct of a licensee or salesperson to the Council.

10 (3) The Council may require any complaint or class of complaints to be supported by such statutory declaration as the Council may require, except that no statutory declaration shall be required if the complaint is made by any public officer.

(4) After receiving any complaint or information under subsection (1) or (2), the Council may, if it is of the opinion that there is a sufficient case for investigation, refer the matter for investigation under section 50.

15 (5) The Council shall consider any report or recommendations submitted under section 50(3) and may refer the matter or report back to the inspector for further consideration or investigation as it may consider necessary or desirable.

20 (6) The Council may, after considering the report and recommendations submitted under section 50(3), refer the matter to a Disciplinary Committee.

(7) Where the Council does not refer the matter to a Disciplinary Committee, it may, where appropriate, issue a letter of advice to the licensee or salesperson.

25 (8) No notice or information of any letter issued under subsection (7) may be entered or included in the register.

Investigations

30 **50.**—(1) The Council or a person authorised by the Council, may appoint one or more inspectors to conduct an investigation into any complaint made or information received under section 49.

(2) Where any matter is investigated under subsection (1), the person in relation to whom the complaint has been made shall, for the purposes of this Act, be referred to as “person under investigation”.

(3) On completion of investigation, the inspector shall submit a report and make recommendations to the Council as to whether the exercise of powers under section 52 should be considered.

(4) Subject to subsection (5) and except in the performance of a function under this section, the inspector, the Council, a Disciplinary Committee and any person who assists in the performance of a function under this section shall maintain confidentiality in respect of all matters and information produced or given or otherwise furnished for the purposes of an investigation under this section.

(5) Nothing in subsection (4) shall prevent the disclosure of information —

(a) with a view to the institution or otherwise for the purposes of any criminal proceedings or any investigation in connection therewith, whether under this Act or otherwise, in Singapore;

(b) in connection with any civil proceedings to which the Council is a party; or

(c) in connection with the exercise of any power under this Part.

Disciplinary Panel and Disciplinary Committee

51.—(1) The Council may, from time to time, appoint a Disciplinary Panel of not more than 20 members.

(2) The Council shall, from members of the Disciplinary Panel who are also members of the Council, appoint a Head of the Disciplinary Panel.

(3) The Council may, at any time, revoke the appointment of any member of the Disciplinary Panel, or fill any vacancy in the Disciplinary Panel.

(4) The Head of the Disciplinary Panel may, from time to time, appoint Disciplinary Committees from members of the Disciplinary Panel, to formally inquire into any matter referred to a Disciplinary Committee under section 49.

(5) A Disciplinary Committee shall comprise not less than 3 members.

(6) A Disciplinary Committee may be appointed in connection with one or more matters or for a fixed period of time, as the Head of the Disciplinary Panel thinks fit.

(7) Any inspector or person who participates in the investigation of any matter shall not be a member of a Disciplinary Committee inquiring into the same matter.

5 (8) The Head of the Disciplinary Panel shall appoint a member of a Disciplinary Committee to be the Chairman of the Disciplinary Committee.

(9) The Head of the Disciplinary Panel may, at any time, revoke the appointment of any Disciplinary Committee or any member thereof, or fill any vacancy in a Disciplinary Committee.

10 (10) No act done by or under the authority of the Council or a Disciplinary Committee shall be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the members or any of them.

15 (11) A member of a Disciplinary Committee shall, notwithstanding that he has ceased to be a member of the Council or Disciplinary Panel on the expiry of his term of office, continue to be a member of the Disciplinary Committee until such time the Disciplinary Committee has completed its work.

Disciplinary action, etc.

20 **52.**—(1) The Disciplinary Committee shall consider all reports of an inspector on any matter referred to it under this Part and shall, according to the circumstances of the case, determine that —

- (a) there is no sufficient cause for disciplinary action against the person under investigation;
- 25 (b) there is sufficient cause for disciplinary action against the person under investigation; or
- (c) notwithstanding there being no sufficient cause for disciplinary action against the person under investigation, the person should still be admonished or reprimanded.

30 (2) Sufficient cause for disciplinary action may be shown by proof that a licensee or registered salesperson —

- (a) has been guilty of unsatisfactory conduct or misconduct in relation to estate agency work;

(b) has breached any of the provisions of this Act or of any subsidiary legislation, regulations or code made under this Act (whether or not any other action has been taken in respect of such breach); or

5 (c) has breached any order of a Disciplinary Committee or the Appeals Board,

if such conduct, misconduct or breach warrants disciplinary action.

(3) Where the Disciplinary Committee determines that there is sufficient cause for disciplinary action against a licensee or registered salesperson under investigation, the Disciplinary Committee may, subject to this section, impose a financial penalty of a specified amount not exceeding \$75,000 and exercise either of the following powers as it considers appropriate, whether or not a financial penalty is imposed:

(a) suspend his licence or registration;

15 (b) revoke his licence or registration.

(4) Where the Disciplinary Committee determines that notwithstanding there being no cause for disciplinary action against a licensee or registered salesperson under investigation, but the person should still be reprimanded, the Disciplinary Committee may, subject to this section, admonish or reprimand the licensee or registered salesperson in writing under the hand of the Chairman.

(5) Where the Disciplinary Committee exercises powers under subsection (3) or (4), it may also exercise such of the following powers as it considers appropriate:

25 (a) attach specified conditions to the licence or registration concerned; or

(b) vary any condition already attached to such licence or registration.

(6) The Disciplinary Committee may, in exercising any power under subsection (3), (4) or (5), order the licensee or salesperson to pay the Council fixed costs of \$1,000 or such other amount as may be prescribed from time to time.

(7) Before any power is exercised under subsection (3), (4), (5) or (6), the licensee or salesperson concerned must be given a reasonable opportunity of being heard.

(8) Where, after considering any representations made, the Disciplinary Committee exercises any power under subsection (3), (4), (5) or (6), the Disciplinary Committee shall inform the licensee or salesperson concerned either in person or in writing.

5 (9) Subject to this Act and unless otherwise ordered by the Disciplinary Committee or the Appeals Board, any order of the Disciplinary Committee under this section shall take effect upon pronouncement.

10 (10) Where a licence or registration is suspended or revoked, no fee or other sum paid in respect of the grant or renewal of the licence or registration shall be refunded.

(11) Any financial penalty imposed upon, or costs ordered to be paid by, a licensee or salesperson under this Act may be recovered as a civil debt due to the Council.

Powers and procedures of Disciplinary Committee

15 **53.**—(1) In the discharge of its functions under this Act, a Disciplinary Committee shall have the following powers:

(a) to take evidence on oath;

20 (b) to summon any person to attend any hearing of the Disciplinary Committee to give evidence or produce any document or other article in his possession, except that no person shall be bound to answer any question or produce any document or other article in respect of any matter which would have been protected from disclosure on the ground of privilege if the proceedings had been held in any court; and

25 (c) to do anything which is necessary or expedient to enable it to perform its functions.

(2) A Disciplinary Committee shall not be bound by the rules of evidence applicable to civil proceedings but may inform itself of any matter as it thinks fit.

30 (3) All members of a Disciplinary Committee shall, in the performance of their functions and duties under this Act, be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

(4) Subject to the provisions of this Act, a Disciplinary Committee may regulate its own procedure in such manner as it thinks fit.

(5) The quorum of a Disciplinary Committee shall be 3, one of whom must be the Chairman of the Disciplinary Committee.

(6) The proceedings of a Disciplinary Committee shall be presided by the Chairman of the Disciplinary Committee.

5 (7) A party to proceedings before a Disciplinary Committee may be represented by a solicitor, who may examine witnesses and address the Disciplinary Committee on behalf of the party.

(8) The proceedings of a Disciplinary Committee shall not be open to the public.

10 (9) All matters coming before a Disciplinary Committee shall be decided by a majority of votes of the members present, and in the event of an equality of votes, the Chairman of the Disciplinary Committee shall have a second or casting vote.

15 (10) No act or proceedings of a Disciplinary Committee shall be questioned by reason only of any vacancy on it.

PART VI

SUSPENSION AND REVOCATION OF LICENCE AND REGISTRATION

Suspension or revocation of estate agent's licence

20 **54.**—(1) Subject to the provisions of this Act, the Council may suspend an estate agent's licence for such period of time as it thinks fit, or revoke the licence at any time.

(2) The Council may suspend or revoke an estate agent's licence —

- 25 (a) if the relevant licensee has ceased to be engaged in estate agency work, or is wound up or otherwise dissolved;
- (b) if the relevant licensee is not eligible to hold or continue to hold the licence under the provisions of this Act, or would not be entitled to be granted a licence under the provisions of this Act if an application for a licence were to be made at such time;
- 30 (c) if the relevant licensee had, in connection with the application for a licence, furnished false or misleading information in a material particular;

- (d) if any relevant certificate or qualification used to support the application for a licence is withdrawn or cancelled;
- (e) if the relevant licensee has contravened any requirements or other provisions of this Act;
- 5 (f) if the relevant licensee has failed to pay any fine, fee, charge or financial penalty charged or imposed under this Act;
- (g) if the relevant licensee has failed to comply with any of the conditions attached to the licence; or
- 10 (h) if the Council considers that the relevant licensee is no longer a fit and proper person to hold a licence.

(3) Where the Council proposes to suspend or revoke a licence, it shall give the relevant licensee written notice of the proposal and the reasons for it.

15 (4) A notice under subsection (3) shall state that within the period of 21 days beginning on the date of the notice, or within such longer period as the Council may allow in the particular case, representations regarding the proposed suspension or revocation, as the case may be, may be made in writing to the Council by or on behalf of the licensee concerned.

20 (5) Where representations are made pursuant to subsection (4), the Council shall not suspend or revoke the licence concerned without having considered the representations.

(6) Where a licence is suspended under this section, the Council may in its discretion shorten the period for which the licence is suspended or lift the suspension.

25 (7) Where any licence is suspended or revoked under this section, no fee or other sum paid in respect of the grant or renewal of the licence shall be refunded.

Suspension or revocation of registration

30 **55.**—(1) Subject to the provisions of this Act, the Council may suspend the registration of a salesperson for such period of time as it thinks fit, or revoke the registration.

(2) The Council may suspend or revoke the registration of a salesperson at any time —

- (a) if the relevant salesperson has ceased to do work for or be engaged by the estate agent he was registered through;
 - (b) if the relevant salesperson would not be eligible to be registered under the provisions of this Act if an application for registration were to be made at such time;
 - (c) if the relevant salesperson or estate agent had, in connection with the application for registration, furnished false or misleading information in a material particular;
 - (d) if any relevant certificate or qualification used to support the application for registration is withdrawn or cancelled;
 - (e) if the relevant salesperson has contravened any requirements or other provisions of this Act;
 - (f) if the relevant salesperson has failed to pay any fine, fee, charge or financial penalty charged or imposed under this Act;
 - (g) if the relevant salesperson has failed to comply with any of the conditions attached to the registration; or
 - (h) if the Council considers that the relevant salesperson is no longer a fit and proper person to be registered as a salesperson.
- (3) Where the Council proposes to suspend or revoke the registration of a salesperson, it shall give the relevant salesperson and the estate agent he was registered through written notice of the proposal and the reasons for it.
- (4) A notice under subsection (3) shall state that within the period of 21 days beginning on the date of the notice, or within such longer period as the Council may allow in the particular case, representations regarding the proposed suspension or revocation, as the case may be, may be made in writing to the Council by or on behalf of the persons concerned.
- (5) Where representations are made pursuant to subsection (4), the Council shall not suspend or revoke the registration of the salesperson concerned without having considered the representations.
- (6) Where registration is suspended under this section, the Council may in its discretion shorten the period for which the registration of a salesperson is suspended or lift the suspension.

(7) Where the registration of a salesperson is suspended or revoked under this section, no fee or other sum paid in respect of the registration shall be refunded.

Effect of revocation and suspension

5 **56.**—(1) Where any estate agent's licence is revoked or while any order of suspension remains in force, the estate agent shall cease to carry on the business of an estate agent.

10 (2) An estate agent whose licence is suspended shall, while the suspension remains in force, be deemed to be a person who does not hold an estate agent's licence.

(3) Where the registration of a salesperson is revoked or while any order of suspension remains in force, the salesperson shall cease to act as a salesperson for any person.

15 (4) A salesperson whose registration is suspended shall, while the suspension remains in force, be deemed to be a person who is not registered as a salesperson.

(5) Any security furnished under section 33 may be forfeited to the Council in whole or part at the discretion of the Council on the suspension or revocation of a licence.

20

PART VII

APPEALS

Constitution of Appeals Board

57.—(1) There shall be an Appeals Board consisting of not more than 15 members as the Minister may appoint.

25 (2) The Minister shall appoint —

(a) from members of the Appeals Board —

(i) a Chairman of the Appeals Board; and

(ii) one or more Vice-Chairmen of the Appeals Board as the Minister thinks fit; and

(b) one or more secretaries to the Appeals Board and such other officers as may be required to assist the Appeals Board in the discharge of its duties and functions.

5 (3) Every member of the Appeals Board shall, unless the Minister otherwise directs, hold office for a period of 3 years and be eligible for re-appointment.

(4) The Minister may, at any time, revoke the appointment of any member of the Appeals Board or secretary to the Appeals Board or fill any vacancy in the Appeals Board.

10 (5) A member of the Appeals Board may resign his office by notice in writing to the Minister.

(6) Members of the Appeals Board may receive such remuneration and such travelling and subsistence allowances as the Minister may determine.

Duty, powers and procedures of Appeals Board

15 **58.**—(1) It shall be the duty of the Appeals Board to hear and decide all appeals under section 59.

(2) In the discharge of its functions under this Act, the Appeals Board shall have the following powers:

(a) to take evidence on oath;

20 (b) to summon any person to attend any hearing of the Appeals Board to give evidence or produce any document or other article in his possession, except that no person shall be bound to answer any question or produce any document or other article in respect of any matter which would have been protected from disclosure
25 on the ground of privilege if the proceedings had been held in any court;

(c) to do anything which is necessary or expedient to enable it to perform its functions; and

30 (d) to exercise the powers of a Disciplinary Committee under this Act.

(3) The Appeals Board shall not be bound by the rules of evidence applicable to civil proceedings but may inform itself of any matter as it thinks fit.

(4) The Chairman shall, when present, preside at every meeting of the Appeals Board, and in his absence the following person shall preside:

(a) where there is only one Vice-Chairman present, the Vice-Chairman; and

5 (b) where there is more than one Vice-Chairman present, such Vice-Chairman as may be chosen by the Vice-Chairmen present.

(5) All members of the Appeals Board shall, in the performance of their functions and duties under this Act, be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

10 (6) Subject to the provisions of this Act, the Appeals Board may regulate its own procedure in such manner as it thinks fit.

(7) All powers, functions and duties of the Appeals Board may be exercised, discharged and performed by any committee of the Appeals Board consisting of not less than 3 members of the Appeals Board, at least
15 one of whom shall be the Chairman or a Vice-Chairman.

(8) Any act, finding or decision of any such committee of the Appeals Board shall be deemed to be the act, finding or decision of the Appeals Board.

(9) The secretary to the Appeals Board shall, from time to time,
20 summon such members of the Appeals Board as may be nominated by the Chairman (or a Vice-Chairman authorised by him) to constitute a committee of the Appeals Board to consider and determine an appeal under this Part.

(10) The quorum of the Appeals Board and any committee of the
25 Appeals Board shall be 3, one of whom must be the Chairman or a Vice-Chairman.

(11) The proceedings of a committee of the Appeals Board shall be presided by —

30 (a) where the Chairman is a member of the committee, the Chairman; and

(b) where the Chairman is not a member of the committee and —

(i) there is only one Vice-Chairman on the committee, the Vice-Chairman; or

- (ii) there is more than one Vice-Chairman on the committee, such Vice-Chairman as the Chairman may determine.

(12) Where the person to preside at a meeting of a committee under subsection (11) is absent from any meeting of the committee, the meeting shall be presided by —

- (a) where there is only one Vice-Chairman who is a member of the committee present, the Vice-Chairman; and
- (b) where there is more than one Vice-Chairman who is a member of the committee present, such Vice-Chairman as may be chosen by the Vice-Chairmen present.

(13) The proceedings of the Appeals Board and any committee of the Appeals Board shall not be open to the public.

(14) All matters coming before the Appeals Board or a committee of the Appeals Board shall be decided by a majority of votes of the members present, and in the event of an equality of votes, the member presiding shall have a second or casting vote.

(15) No act or proceedings of the Appeals Board or a committee of the Appeals Board shall be questioned by reason only of any vacancy on it.

(16) A member of a committee of the Appeals Board shall, notwithstanding that he has ceased to be a member of the Appeals Board on the expiry of his term of office, continue to be a member of the committee until such time as the committee has completed its work.

Appeals to Appeals Board

59.—(1) Any person who is aggrieved by a decision of the Council or a Disciplinary Committee under this Act may lodge an appeal against the decision to the Appeals Board.

(2) Every appeal under subsection (1) shall be lodged within such time, and in such form and manner as may be provided by rules made under section 62.

(3) Subject to subsection (4), the lodging of an appeal under subsection (1) shall not suspend the effect of the decision to which the appeal relates.

(4) Where the Council or a Disciplinary Committee has made an order revoking or suspending a licence or registration and the licensee or salesperson concerned gives due notice of appeal to the Appeals Board

under this section, the order that is appealed against shall be stayed pending the determination of the appeal unless the Appeals Board, on the application of the Council, orders otherwise.

(5) The Appeals Board may —

- 5 (a) confirm, set aside or modify the decision to which the appeal relates;
- (b) give such directions in such manner as the Appeals Board thinks fit, including a direction to the Council to review the decision to which the appeal relates; or
- 10 (c) make such orders, if any, as it thinks fit, with regard to the payment of costs,

and the decision of the Appeals Board shall be final.

(6) The decision of the Appeals Board shall be communicated to the licensee or salesperson in person, or in writing by the secretary to the Appeals Board.

(7) Unless otherwise ordered, an order of the Appeals Board shall take effect immediately upon pronouncement.

Representation before Appeals Board

20 **60.**—(1) A party to proceedings before the Appeals Board may be represented by a solicitor, who may examine witnesses and address the Appeals Board on behalf of the party.

(2) In proceedings before the Appeals Board, the Council may be represented by a solicitor or an officer or employee of the Council.

Disclosure of conflict of interests by members of Appeals Board

25 **61.**—(1) A member of the Appeals Board shall declare to the Minister, or any person authorised by the Minister, the nature and extent of any actual or potential conflict of interests with his duties or interests as a member of the Appeals Board arising from —

- (a) his holding of any office;
- 30 (b) his interest in any contract;
- (c) his possession or ownership of any property;

(d) any direct or indirect relationship with any estate agent or salesperson; or

(e) his connection or association with any trade or consumer body.

5 (2) Where the Minister, or any person authorised by the Minister, is satisfied that a member of the Appeals Board is or may be unable to carry out his duties properly and effectively because of any actual or potential conflict of interests, the Minister may replace that member or direct that member to abstain from taking part in any proceedings that is or may be affected by conflict of interests.

10 **Rules relating to appeals**

62. The Minister may make rules for or with respect to —

(a) the time within which an appeal to the Appeals Board may be lodged;

15 (b) the form and manner in which an appeal to the Appeals Board shall be lodged;

(c) the procedure of the appeal process and the hearing of the appeal;

(d) the fees to be paid in respect of any appeal lodged with the Appeals Board;

20 (e) the costs that can be awarded by the Appeals Board;

(f) the records to be kept by the Appeals Board; and

(g) all matters and things which are required or permitted to be prescribed or which are necessary or expedient to give effect to any provision of this Part.

25 **Members of Appeals Board deemed to be public servants and protection from personal liability**

30 **63.**—(1) The Chairman, a Vice-Chairman and any member of the Appeals Board shall, in the performance of his functions and duties under this Act, be deemed to be a public servant within the meaning of the Penal Code (Cap. 224).

(2) No suit or other legal proceedings shall lie personally against any member of the Appeals Board for anything done or omitted to be done in good faith in the exercise or purported exercise of powers under this Act.

PART VIII

MISCELLANEOUS

General offences and penalties

64.—(1) Any person who —

- 5 (a) in relation to any application under this Act —
- (i) makes any false statement which he knows to be false or
 does not believe to be true or which he makes recklessly; or
- (ii) intentionally suppresses any material fact;
- 10 (b) neglects or refuses to produce any book, document, material or
 article or any machine or equipment or to furnish any
 information, neglects or refuses to attend before an inspector or
 officer of the Council as required, furnishes any book, document,
15 material or information which is false in a material particular and
 which he knows to be false or does not believe to be true, or, by
 the intentional suppression of any material fact, furnishes
 information which is misleading, under section 46, 47 or 48;
- (c) obstructs or impedes the Council, any officer of the Council or
 any inspector lawfully carrying out any function or duty in the
 exercise of any power conferred by or under this Act; or
- 20 (d) being summoned to attend at a hearing of the Disciplinary
 Committee or Appeals Board to give evidence or produce any
 document or other article, without reasonable excuse refuses or
 neglects to do so or refuses to answer any questions put to him
 by or with the concurrence of the Disciplinary Committee or
25 Appeals Board, or otherwise hinders, obstructs or deceives the
 Disciplinary Committee or Appeals Board in the exercise of its
 powers under this Act,

30 shall be guilty of an offence and shall be liable on conviction to a fine not
 exceeding \$50,000 or to imprisonment for a term not exceeding 24
 months or to both.

 (2) Any person guilty of an offence under this Act for which no penalty
 is expressly provided shall be liable on conviction to a fine not exceeding
 \$10,000 or to imprisonment for a term not exceeding 12 months or to both
 and, in the case of a continuing offence, to a further fine not exceeding

\$1,000 for every day or part thereof during which the offence continues after conviction.

Power of Council to issue requisition for particulars or information

5 **65.**—(1) The Council may, from time to time, issue a requisition in writing to any person to furnish such particulars or supply such information relating to any matter to which this Act applies as may be specified in the requisition.

(2) A requisition issued by the Council under subsection (1) may —

- 10 (a) specify the form in which and the time within which the particulars or information are to be furnished;
- (b) require the particulars or information to be furnished periodically at or within such time or times and in such form or forms as are specified in the requisition; and
- 15 (c) specify the place or manner at or in which the particulars or information are to be delivered.

(3) Every person who is issued a requisition by the Council under subsection (1) shall furnish the particulars or supply the information specified in the requisition to the best of his knowledge and belief.

20 (4) Any person who, without reasonable excuse, fails to comply with any requisition issued by the Council under subsection (1) shall be guilty of an offence.

(5) Any person who, in compliance or purported compliance with any requisition issued by the Council under subsection (1), furnishes the Council with any information or document which he knows is false or
25 misleading shall be guilty of an offence.

Power of Council in relation to dispute resolution schemes

30 **66.**—(1) Regulations may be made under section 72 to prescribe one or more dispute resolution schemes for the resolution of disputes arising from or relating to the provision of services by estate agents and salespersons.

(2) Without prejudice to the generality of subsection (1), regulations may be made under section 72 —

- (a) to require licensed estate agents or any class thereof to participate in such prescribed dispute resolution schemes and to

comply with such terms and conditions of the schemes as may be prescribed;

(b) to require registered salespersons or any class thereof to participate in such prescribed dispute resolution schemes and to comply with such terms and conditions of the schemes as may be prescribed;

(c) to prescribe approved dispute resolution centres under each prescribed dispute resolution scheme; and

(d) generally to give effect to this section.

(3) Where the Council is satisfied that any licensed estate agent or registered salesperson has contravened any of the regulations referred to in subsection (2), the Council may do all or any of the following:

(a) impose a financial penalty of such amount, not exceeding \$5,000, as the Council thinks fit;

(b) censure the estate agent or salesperson, if it thinks it necessary in the public interest or for the protection of the public or any section of the public;

(c) revoke or suspend the licence or registration, or order that the licence or registration, as the case may be, be subject to such terms or conditions as may be imposed by the Council, whether in addition to or in substitution of the existing terms and conditions.

(4) The Council shall, before making any decision under subsection (3) in relation to an estate agent or a salesperson, give the estate agent or salesperson, as the case may be, notice in writing of its intention to do so.

(5) Upon receipt of the notice of the Council under subsection (4), the person concerned or any manager thereof may, within a period of 14 days after the date of the notice, show cause to the Council as to why the Council should not impose a financial penalty, censure or make an order under subsection (3)(c), as the case may be.

(6) The Council shall, after the estate agent or any manager thereof, or the salesperson, as the case may be, has shown cause under subsection (5) or the time to do so has expired, notify the party concerned of its decision in writing.

(7) Subject to section 59, any decision by the Council under subsection (3) shall not take effect until the expiration of 14 days after the Council has served the notice of the decision on the party concerned.

5 (8) The Council may issue, and in its discretion publish by notification in the *Gazette* or in such other manner as it considers appropriate, such guidelines as it considers appropriate for providing guidance in relation to the operation of a prescribed dispute resolution scheme.

Jurisdiction of court

10 **67.** Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Offences by bodies corporate, etc.

15 **68.**—(1) Where an offence under this Act committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

20 the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

25 (3) Where an offence under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

30 the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

5 (b) to be attributable to any neglect on the part of such officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section, “officer” —

10 (a) in relation to a body corporate, means any director, partner, member of the committee of management, key executive officer, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

15 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person
20 purporting to act in any such capacity.

(6) The Minister may make rules to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside
25 Singapore.

Composition of offences

69.—(1) The Executive Director or any officer authorised by him may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person
30 reasonably suspected of having committed the offence a sum not exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

35 whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

Service of documents

70.—(1) Any notice, order, direction or other document required or authorised by this Act to be served on any person may be served on the person —

(a) in the case of an individual —

(i) by delivering it to the individual personally;

(ii) by leaving it with an adult person apparently resident at, or by sending it by pre-paid registered post to, the usual or last known address of the place of residence of the individual;

(iii) by leaving it with an adult person apparently employed at, or by sending it by pre-paid registered post to, the usual or last known address of the place of business of the individual;

(iv) by affixing a copy of the notice in a conspicuous place at the usual or last known address of residence or business of the individual; or

(v) by sending it by facsimile transmission to the facsimile number operated at the usual or last known address of the place of residence or business of the individual, or the last facsimile number given to the Council by the individual as the facsimile number for the service of documents on the individual;

(b) in the case of a partnership other than a limited liability partnership —

(i) by delivering it to any one of the partners or the secretary or other like officer of the partnership;

(ii) by leaving it at, or by sending it by pre-paid registered post to, the principal or last known place of business of the partnership in Singapore; or

(iii) by sending it by facsimile transmission to the facsimile number operated at the principal or last known place of business of the partnership in Singapore; and

(c) in the case of any limited liability partnership or any other body corporate —

- 5 (i) by delivering it to the secretary or other like officer of the body corporate or, in the case of a limited liability partnership, the manager thereof;
- (ii) by leaving it at, or by sending it by pre-paid registered post to, the registered office or principal office of the limited liability partnership or body corporate in Singapore; or
- 10 (iii) by sending it by facsimile transmission to the facsimile number operated at the registered office or principal office of the limited liability partnership or body corporate in Singapore.

(2) Where any notice, order, direction or other document required or authorised by this Act to be served is sent by a facsimile transmission to the facsimile number operated at the last known place of residence or business or registered office or principal office in accordance with subsection (1), it shall be deemed to have been duly served on the person to whom it is addressed on the day of transmission, subject to receipt on the sending facsimile machine of a notification (by electronic or other means) of a successful transmission to the place of residence or business or registered office or principal office (as the case may be).

(3) Where any notice, order, direction or other document required or authorised by this Act to be served is sent by pre-paid registered post, it shall be deemed to have been duly served on the person to whom it is addressed 2 days after the day the notice or document was posted, whether or not it is returned undelivered.

(4) Any notice, order, direction or other document required or authorised by this Act to be served on the owner or occupier of any premises —

- 30 (a) may be served by delivering it or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom it can with reasonable diligence be delivered, by affixing the notice, order, direction or document to some conspicuous part of the premises; and

(b) shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises without further name or description.

5 (5) This section shall not apply to notices and documents to be served in proceedings in court.

Amendment of First Schedule

71.—(1) Subject to Part II, the Minister may at any time, by order published in the *Gazette*, amend the First Schedule.

10 (2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) All orders made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations

15 **72.**—(1) The Council may, with the approval of the Minister, make regulations to give effect to the provisions and purposes of this Act, except Part VII (Appeals).

(2) Without prejudice to the generality of subsection (1), regulations may be made under that subsection for or in respect of all or any of the
20 following matters:

- (a) applications for a licence and for registration, including the form and manner of application, and the particulars, information, and declarations to be furnished with such applications;
- 25 (b) particulars to be contained in the register, including the form in which it shall be kept and public access to the register;
- (c) requirements for a licence or registration, including minimum ages, educational qualifications, professional examinations, and practical experience;
- 30 (d) professional indemnity insurance for estate agents and salespersons;
- (e) continuing professional education requirements for the renewal of a licence or registration;

- (f) codes of practice, ethics and conduct (by whatever name) for estate agents and salespersons;
- (g) conditions or restrictions in relation to other activities or businesses that estate agents or salespersons may engage in;
- 5 (h) the books, accounts and records to be opened and kept by a licensed estate agent, and the manner of keeping them;
- (i) the information and records to be kept by registered salespersons, and the manner of keeping them;
- 10 (j) the particulars or other matters to be included in estate agency agreements, in order to ensure that clients are aware of —
 - (i) the parties, and the rights and obligations conferred on or imposed by any particular such agreement of the parties to it; and
 - 15 (ii) the amount or rate, as the case may be, of any commission or other fee payable by such client under such agreement, and the time and manner of payment;
- 20 (k) the fees and charges payable under this Act, including the interest or penalty for the late payment of any fee or charge, and the waiver, refund or remission, whether wholly or in part, of such fees and charges;
- (l) demerit points schemes, which may include financial penalties to be imposed on estate agents for the acts of their salespersons and other consequences including suspension or revocation;
- 25 (m) the requirements and restrictions on the business names of estate agents, and the use or display of such names;
- (n) the form and manner of the keeping of registers or records under this Act, the inspection thereof, the taking of extracts therefrom, the supply of copies thereof, and the returns to be made to the Council including financial records;
- 30 (o) the use of advertisements by or on behalf of estate agents, or any solicitation or canvassing for business by or on behalf of estate agents, whether by salespersons or otherwise;
- 35 (p) the forms and procedure for Disciplinary Committee proceedings, including the fees payable, the costs that may be awarded, and the records to be kept;

- (q) requirements in relation to the detection and prevention of money laundering or the financing of terrorism, or for the reporting of transactions suspected of involving money laundering or terrorism financing;
 - 5 (r) requirements, conditions and restrictions in relation to the receipt, holding, handling and transmission of money by estate agents and salespersons, which may include requirements for separate trust accounts;
 - 10 (s) to prescribe all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.
- (3) Regulations made under subsection (1) —
- (a) may relate to all or any class or description of estate agents or salespersons;
 - 15 (b) may make different provisions for different classes or descriptions of estate agents or salespersons;
 - (c) may provide that a contravention of any specified provision thereof shall be an offence; and
 - 20 (d) may provide for penalties not exceeding a fine of \$25,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of \$1,000 for that offence for every day or part thereof during which the offence continues after conviction.

25 **Consequential amendments to other written laws**

73. The provisions of the Acts specified in the first column of the Third Schedule are amended in the manner set out in the second column thereof.

Amendment of references in written law or other documents to estate agents

- 30 **74.** Any reference to a “house agent” within the meaning of the Appraisers and House Agents Act (Cap. 16) in any written law (not mentioned in the Third Schedule) or any document shall be construed as a reference to an “estate agent” within the meaning of this Act.

Saving and transitional provisions

75.—(1) Notwithstanding the provisions of this Act, any person who, immediately before the commencement of section 28 is the holder of a valid house agent's licence under the Appraisers and House Agents Act shall be deemed to have applied for and be licensed as an estate agent under this Act, for the remainder of the duration of the licence issued under the Appraisers and House Agents Act.

(2) Subsection (1) does not apply to any person who is exempted from having to take out a licence as a house agent by section 9 of the Appraisers and House Agents Act.

(3) Any application for a house agent's licence under the Appraisers and House Agents Act before the appointed day which application was not dealt with before that date shall lapse.

(4) For a period of 2 years after the commencement of this section, the Minister may, by rules, prescribe such provisions of a savings or transitional nature consequent on the enactment of any provision of this Act as he may consider necessary or expedient.

FIRST SCHEDULE

Sections 8 and 71

CONSTITUTION AND PROCEEDINGS OF COUNCIL

Appointment of President and members

1.—(1) The President and other members of the Council shall be appointed by the Minister.

(2) The Minister may appoint the Executive Director as a member of the Council.

Appointment of Deputy President

2.—(1) The Minister may, in his discretion, appoint any member of the Council to be the Deputy President of the Council.

(2) The Deputy President so appointed may, subject to such directions as may be given by the President, exercise all or any of the powers exercisable by the President under this Act.

(3) If for any reason the President is unable to act or the office of the President is vacant, the Deputy President may exercise all or any of the powers conferred, or discharge all or any of the duties imposed, on the President under this Act.

Tenure of office of members

3. A member shall hold office on such conditions and for such term, not exceeding 3 years, as the Minister may determine, and shall be eligible for re-appointment.

Temporary President, Deputy President or member

- 5 4. The Minister may appoint any person to be a temporary President, Deputy President or other member during the temporary incapacity from illness or otherwise, or during the temporary absence from Singapore, of the President, Deputy President or member (as the case may be).

Revocation of appointment

- 10 5. The Minister may, at any time, revoke the appointment of the President, Deputy President or other member; and in exercising his power under this paragraph, the Minister shall not be required to assign any reason for the revocation.

Resignation

- 15 6. A member may resign from his office at any time by giving not less than one month's notice to the Minister.

President may delegate function

7. The President may, in writing and subject to such conditions or restrictions as he thinks fit, authorise any member to exercise any power or perform any function conferred on the President by or under this Act.

Vacation of office

- 20 8. The office of a member shall become vacant —
- (a) on his death;
 - (b) if he fails to attend, without leave of the Minister or the Council, 3 consecutive meetings of the Council;
 - 25 (c) if he becomes in any manner disqualified from membership of the Council;
 - (d) if he resigns from his office; or
 - (e) if his appointment is revoked.

Filling of vacancies

- 30 9. If a vacancy occurs in the membership of the Council, the Minister may, subject to paragraph 11, appoint any person to fill the vacancy, and the person so appointed shall hold office for the remainder of the term for which the vacating member was appointed.

Leave of absence

10. The Minister may grant to the President or any member such leave of absence as the Minister may think fit.

Disqualification from membership

11. No person shall be appointed or shall continue to hold office as a member if he —

- (a) is an undischarged bankrupt or has made any arrangement or composition with his creditors;
- 5 (b) has been sentenced to imprisonment for a term exceeding 6 months and has not received a free pardon;
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of a member.

Disclosure of interest by members

10 12.—(1) A member who is in any way, directly or indirectly, interested in a contract, transaction or project of, or any matter before the Council, shall disclose the nature of his interest at the first meeting of the Council at which he is present after the relevant facts have come to his knowledge.

15 (2) A disclosure under sub-paragraph (1) shall be recorded in the minutes of the meeting of the Council and, after the disclosure, that member shall not take part in any deliberation or decision of the Council with respect to that contract, transaction, project or matter.

20 (3) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that, under sub-paragraph (2), he cannot vote or has withdrawn from the meeting.

(4) For the purposes of this paragraph, a member whose spouse, parent, step-parent, son, adopted son, step-son, daughter, adopted daughter or step-daughter has an interest in the transaction or project referred to in sub-paragraph (1) shall be deemed to be interested in such transaction or project.

Salaries, fees and allowances payable to members

13. There shall be paid to the members out of the moneys of the Council such salaries, fees and allowances as the Minister may from time to time determine.

Quorum

30 14.—(1) At every meeting of the Council, one-third of the membership or 4 members, whichever is the higher, shall constitute a quorum.

(2) The President, or in his absence the Deputy President, shall preside at meetings of the Council, and if both the President and Deputy President are absent from any meeting or part thereof, such member as the members present may elect shall preside at that meeting or part thereof.

35 (3) A decision at a meeting of the Council shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the President or any other member presiding shall have a casting vote in addition to his original vote.

Procedure at meetings

15.—(1) The President or any officer authorised by him shall, subject to such standing orders as may be made by the Council under sub-paragraph (2), summon all meetings of the Council for the despatch of business.

- 5 (2) Subject to the provisions of this Act, the Council may make standing orders to regulate its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and auditing of accounts.

Transaction of business by Council outside meetings

16.—(1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among members of the Council.

- 15 (2) A member who is in any way, directly or indirectly, interested in the business being transacted by circulation of papers shall disclose the nature of his interest in writing to the President at the first opportunity after the relevant facts have come to his knowledge, which disclosure shall be recorded and treated as having been made in accordance with paragraph 12, and that member shall not take part in the decision with respect to that transaction.

- 20 (3) A decision in writing made by a simple majority of the members for the time being entitled to take part in the decision in respect thereof shall be taken to be a decision of the Council, and shall be as valid and effectual as if it had been made at a meeting of the Council duly convened and held.

(4) Separate copies of a decision in writing may be distributed for signing by the members if the wording of the decision and approval is identical in each copy.

- 25 (5) For the purpose of a decision under this paragraph, the President and each member shall have the same voting rights as they have at any meeting of the Council.

(6) The decision of the Council shall be made when the last member thereof required for the majority signs and his decision is duly delivered to the secretary appointed under paragraph 18.

- 30 (7) The President may stipulate a period of time within which a decision may be made under this paragraph.

(8) The Council may, if it thinks fit, deliberate on matters by the circulation of papers among all of the members of the Council.

- 35 (9) For the purposes of this paragraph, papers (including disclosures and decisions) may be circulated among members or delivered to the secretary appointed under paragraph 18 by hand or facsimile or electronic transmission of the information in the papers concerned.

Validity of act or proceeding

17. No act or proceeding of the Council shall be questioned on the ground —

- (a) of any vacancy in, or defect in the constitution of, the Council;
- (b) of any defect in the appointment of any person acting as the President or as any other member;
- 5 (c) of any omission, defect or irregularity in the procedure of the Council not affecting the merits of the case; or
- (d) that any member has contravened paragraph 12 or 16(2).

Secretary of Council

10 18. The Council may appoint an employee thereof to be the secretary of the Council, who shall be responsible, in accordance with such instructions as may be given to him by the President of the Council, for arranging the business for, and keeping the minutes of, the meetings of the Council and for conveying the decisions of the Council to the appropriate person and shall have such other functions as the President may, from time to time, direct.

SECOND SCHEDULE

15

Section 26

FINANCIAL PROVISIONS

Accounts of Council

1. The Council shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that —
- 20 (a) all payments out of its moneys are properly authorised and correctly made; and
 - (b) adequate control is maintained over the assets of, or in the custody of, the Council and over the expenditure incurred by the Council.

Auditor

- 25 2. The accounts of the Council shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General.

Appointment of auditor

- 30 3. A person shall not be qualified for appointment as an auditor under paragraph 2 unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

Remuneration of auditor

4. The remuneration of the auditor shall be paid out of the moneys of the Council.

Annual financial statements

5. The Council shall, as soon as practicable after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

5 Duties of auditor

6. The auditor shall in his report state —

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Council;
- 10 (b) whether proper accounting and other records have been kept, including records of all assets of the Council whether purchased, donated or otherwise;
- (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Council during the financial year were in accordance with the provisions of this Act; and
- (d) such other matters arising from the audit as he considers necessary.

15 Auditor's report

7.—(1) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Council.

(2) The auditor shall submit such periodical and special reports to the Minister and to the Council as may appear to him to be necessary or as the Minister or the Council may require.

Powers of auditor

8.—(1) The auditor or any person authorised by him is entitled at any reasonable time to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Council.

25 (2) The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting and other records.

(3) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor or any duly authorised person considers necessary for the purposes of his functions under this Act.

Penalty for obstructing auditor

9. Any person who fails, without any reasonable cause, to comply with any requirement of the auditor or authorised person under paragraph 8 or who otherwise hinders, obstructs or delays the auditor or authorised person in the performance of his functions under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

Presentation of audited financial statements and auditor's report

10. The Council shall, as soon as its accounts and financial statements have been audited in accordance with the provisions of this Act, send to the Minister a copy of the audited financial statements, signed by the President, together with a copy of the auditor's report.

Copy of auditor's report for Auditor-General

11. Where the Auditor-General is not appointed as the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Council.

Presentation to Parliament

12. The Minister shall, as soon as practicable, cause a copy of the audited financial statements and of the auditor's report to be presented to Parliament.

THIRD SCHEDULE

Section 73

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
1. Accounting Standards Act (Chapter 2B, 2008 Ed.)	
The Schedule	Insert, immediately after item 9A, the following item:
	“9B. Council for Estate Agencies Estate Agents Act 2010”.
2. Appraisers and House Agents Act (Chapter 16, 2000 Ed.)	
(a) Long title	Delete the words “and house agents”.
(b) Section 1	Delete the words “and House Agents”.
(c) Section 3	Repeal.
(d) Section 5	Repeal.
(e) Section 9	Delete subsection (1) and substitute the following subsection:

<i>First column</i>	<i>Second column</i>
	“(1) This Act shall not extend to require any appraiser of any property listed in the Second Schedule to take out a licence under this Act for that purpose.”.
(f) Section 11	<ul style="list-style-type: none"> (i) Insert the word “or” at the end of paragraph (a). (ii) Delete paragraph (b). (iii) Renumber paragraph (c) as paragraph (b).
(g) Section 13	Delete the words “, including but not limited to the length of notice to be given and the manner of advertising sales on the instructions of mortgagees acting under powers of sale or of any person in a position of trust with respect to or liable to account for the proceeds of sale”.
(h) First Schedule	<ul style="list-style-type: none"> (i) Delete the words “AND HOUSE AGENTS” and “and House Agents” in FORM A. (ii) Delete FORM B.
3. Central Provident Fund Act (Chapter 36, 2001 Ed.)	
(a) First Schedule, paragraph 6	<p>Insert, immediately after item (11), the following item:</p> <p>“(11A) Council for Estate Agencies.”.</p>
(b) Third Schedule	<ul style="list-style-type: none"> (i) Delete the words “and House Agents” in item 3. (ii) Insert, immediately after item 13, the following item: <p>“13A. Estate Agents Act 2010.”.</p>
4. Income Tax Act (Chapter 134, 2008 Ed.)	
Section 37(3)	Delete the words “and House Agents” in paragraph (f).

<i>First column</i>	<i>Second column</i>
5. Inland Revenue Authority of Singapore Act (Chapter 138A, 1993 Ed.) Third Schedule, item 1	Delete the words “and House Agents”.
6. Statutory Corporations (Contributions to Consolidated Fund) Act (Chapter 319A, 2004 Ed.) The Schedule	Insert, immediately after item 9A, the following item: “9B. Council for Estate Agencies Estate Agents Act 2010”.

EXPLANATORY STATEMENT

This Bill seeks to replace the existing framework for regulating house agents under the Appraisers and House Agents Act (Cap. 16) with an enhanced regulatory scheme to regulate estate agents (commonly referred to by the public as estate agencies) and their representatives or sales staff who are called salespersons in the Bill (commonly referred to by the public as estate agents). Under the new regulatory framework —

- (a) a Council for Estate Agencies will be formed to perform the function of a regulator;
- (b) estate agency work can only be undertaken by those with an estate agent’s licence;
- (c) estate agents can only employ or engage salespersons who are registered by the Council;
- (d) salespersons must be registered by the Council and they can only act for one estate agent at any one time; and
- (e) only fit and proper persons are allowed to undertake estate agency work.

PART I

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 sets out the scope of application of the Bill.

Clause 3 defines certain terms used in the Bill.

Clause 4 excludes certain activities and persons from the operation of the Bill.

Clause 5 empowers the Minister to exempt persons or activities from the operation of the Bill. The Council is empowered to exempt persons from any prescribed requirements for a licence or registration.

PART II

COUNCIL FOR ESTATE AGENCIES

Clause 6 establishes a Council for Estate Agencies (“Council”) to perform the function of a regulator under the Bill.

Clause 7 provides for a common seal for the Council.

Clause 8 (read with the First Schedule) sets out the composition of the Council and procedures for its proceedings.

Clause 9 defines the functions of the Council.

Clause 10 defines the powers of the Council.

Clause 11 allows the Minister to give general directions to the Council and makes it clear that this does not extend to any particular matter or case before the Council.

Clause 12 allows the Council to form committees that may include persons who are not members of the Council. It also allows the Council to delegate some of its functions and powers.

Clause 13 provides for the appointment of the Executive Director of the Council and other officers and staff of the Council.

Clause 14 provides for the preservation of secrecy.

Clause 15 provides protection from personal liability to certain persons for acts done in good faith.

Clause 16 deems certain persons exercising functions and duties under the Bill to be public servants for the purposes of the Penal Code (Cap. 224) and public officers for the purposes of the Financial Procedure Act (Cap. 109).

Clauses 17 and 18 define the financial year of the Council and require the Council to prepare annual estimates.

Clause 19 provides that all moneys recovered by the Council, and fees and charges collected under the Bill shall be paid into and form part of the moneys of the Council. Financial penalties and composition sums will be paid into the Consolidated Fund.

Clause 20 provides for discretionary grants from the Government to the Council.

Clauses 21 to 23 provide the Council with the power to borrow, issue shares and operate bank accounts.

Clause 24 defines the scope for the application of moneys of the Council.

Clause 25 empowers the Council to invest its funds in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act (Cap. 1).

Clause 26 (read with the Second Schedule) sets out the financial provisions for the Council.

Clause 27 requires the Council to submit an annual report to the Minister. The report will then be presented to Parliament.

PART III

LICENSING OF ESTATE AGENTS AND REGISTRATION OF SALESPERSONS

Clause 28 requires estate agents to be licensed.

Clause 29 requires salespersons to be registered and prohibits acceptance of employment or appointment as a salesperson for any person who does not hold an estate agent's licence.

Clauses 30 and 31 define eligibility to hold an estate agent's licence. The requirements include qualifications and experience. In general, only fit and proper persons may hold such a licence.

Clause 32 defines eligibility to be registered as a salesperson. Salespersons must be natural persons and must meet other requirements that include educational qualifications. Only fit and proper persons may be registered as salespersons.

Clause 33 relates to applications for an estate agent's licence and the renewal of such a licence. An estate agent's licence is not transferable.

Clause 34 relates to applications for registration and renewal of registration as a salesperson. Applications must be made through the estate agent that the salesperson is to act for. Registration as a salesperson is subject to the salesperson continuing to act for the estate agent that he is registered through, and is not transferable.

Clause 35 sets out the duration of licences and registration. The Council has the discretion to set the duration, subject to a 3 year cap.

Clause 36 provides for a register with information on estate agents and salespersons that the public may search. The register will allow the public to ascertain the status of persons who purport to act as estate agents and salespersons.

PART IV

DUTIES AND LIABILITY

Clause 37 requires licensees to provide a Singapore address for communications and notices under the Bill.

Clause 38 requires estate agents to appoint a key executive officer, who will be responsible for the overall management of the business of the estate agent and the

supervision of its salespersons. The key executive officer must satisfy certain requirements, and must also be a fit and proper person.

Clause 39 requires estate agents to only appoint, associate with or employ registered salespersons.

Clause 40 sets out requirements that salesperson may only act for and be registered to act for one estate agent at any one time. A salesperson who falsely represents that he acts for any specified estate agent commits an offence.

Clause 41 requires estate agents and salespersons to enter into agreements in writing with each other. The estate agent must specifically authorise a salesperson to carry out estate agency work for him.

Clause 42 allows the Council to prescribe or issue and publish codes of practice, ethics and conduct for estate agents and salespersons. Such codes may be published under different names. A failure to observe a provision of a code may render the estate agent or salesperson or both the estate agent and salesperson liable to disciplinary action.

Clause 43 requires notice of certain events to be given to the Council.

Clause 44 provides for estate agency agreements between estate agents and their clients. An estate agent who performs estate agency work without the required agreement will not be able to recover any fees or seek any remedy in legal proceedings. Regulations may exclude any class or description of estate agency work from the operation of this clause.

PART V

INSPECTION, ENFORCEMENT, DISCIPLINE AND OFFENCES

Clause 45 provides for the appointment of inspectors, whose tasks include the inspection of estate agents and salespersons for compliance with the Bill; investigation of offences under the Bill; and investigation of complaints about the conduct of estate agents and salespersons.

Clause 46 empowers inspectors to inspect estate agents from time to time for compliance with the Bill. The powers may also be exercised for any investigation under the Bill.

Clause 47 empowers inspectors to inspect salespersons from time to time for compliance with the Bill. The powers may also be exercised for any investigation under the Bill.

Clause 48 relates to additional investigation and enforcement powers of inspectors. Inspectors have wide powers that include the power to seize documents as well as machines and equipment (which includes personal computers and mobile telephones).

Clause 49 provides for complaints of the conduct of licensed estate agents and registered salespersons. Depending on the facts of each case, the Council may take no

action, appoint one or more inspectors to investigate the matter, refer the matter to a Disciplinary Committee, or issue a letter of advice.

Clause 50 relates to investigations of complaints and information received under clause 49.

Clause 51 provides for the formation of a Disciplinary Panel of up to 20 members. Disciplinary Committees of not less than 3 members are formed from among members of the panel to inquire into cases that are referred to it.

Clause 52 sets out the procedure for disciplinary action. A Disciplinary Committee has various powers that include the imposition of financial penalties and the revocation and suspension of licences and registration. It may also add conditions to a licence or registration.

Clause 53 sets out other powers and procedures of Disciplinary Committees.

PART VI

SUSPENSION AND REVOCATION OF LICENCE AND REGISTRATION

Clause 54 empowers the Council to suspend or revoke licences in specific situations, and sets out the procedure for such actions.

Clause 55 empowers the Council to suspend or revoke registration, and sets out the procedure for such actions.

Clause 56 sets out the effects of revocation and suspension.

PART VII

APPEALS

Clause 57 provides for the formation of an Appeals Board consisting of up to 15 members who are appointed by the Minister.

Clause 58 sets out the duty, powers and procedures of the Appeals Board.

Clause 59 provides for appeals against decisions of the Council or a Disciplinary Committee to be made to the Appeals Board.

Clause 60 allows for legal representation before the Appeals Board.

Clause 61 relates to the disclosure of conflict of interests by members of the Appeals Board.

Clause 62 empowers the Minister to make rules relating to appeals.

Clause 63 deems members of the Appeals Board to be public servants within the meaning of the Penal Code and provides protection from personal liability for acts done in good faith.

PART VIII

MISCELLANEOUS

Clause 64 provides for general offences and penalties.

Clause 65 empowers the Council to obtain information relating to any matter to which the Bill applies.

Clause 66 empowers the Council to prescribe dispute resolution schemes for the resolution of disputes arising from the provision of services by estate agents and salespersons. It also allows for regulations to be made, which may require estate agents and salespersons to participate in such schemes.

Clause 67 allows a District Court to try any offences under the Bill and to impose the full penalty or punishment in respect of it.

Clause 68 relates to offences by bodies corporate, etc. For example, an officer of a body corporate may be guilty of an offence if the body corporate commits an offence with his consent or connivance.

Clause 69 provides for the composition of offences under the Bill.

Clause 70 relates to the service of documents.

Clause 71 allows the Minister to amend the First Schedule.

Clause 72 empowers the Council, with the approval of the Minister, to make regulations for carrying out the provisions of the Bill (except for Part VII, which deals with Appeals).

Clauses 73 and 74 provide for consequential amendments to other written laws.

Clause 75 contains saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
