

BERMUDA STATUTORY INSTRUMENT

BR 46/1977

REAL ESTATE AGENTS' LICENSING REGULATIONS 1977

*[made under section 33 of the Real Estate Agents' Licensing Act 1976
[title 30 item 20] and brought into operation on 1 December 1977]*

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SCHEDULE

Interpretation

1 In these Regulations unless the context otherwise requires—

"the Act" means the Real Estate Agents' Licensing Act 1976 [*title 30 item 20*];

"Form" means the appropriate Form prescribed in the Schedule to these Regulations.

Application for licence

2 (1) An application for the grant of a licence as an agent shall be made to the Superintendent in Form 1.

(2) An application for the grant of a licence as a salesman shall be made to the Superintendent in Form 2.

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(3) Applications under this regulation shall be accompanied by—

- (a) the fee prescribed under the Government Fees Regulations 1976 [*title 15 item 18(a)*] for issuing an annual agent's licence or an annual salesman's licence, as the case may be; and
- (b) such proof as the Superintendent may require that the applicant, or, if the applicant is a partnership or company, that its representative—
 - (i) is over the age of 18; and
 - (ii) is Bermudian, or has permission from the Minister responsible for Immigration to work in Bermuda as a real estate agent, or salesman, as the case may be; and
 - (iii) is of good character.

[Regulation 2 para (3)(b)(i) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]

Form of licence

3 An agent's licence shall be in Form 3, and a salesman's licence shall be in Form 4.

Renewal of licence

4 (1) A licence issued under regulation 2 shall lapse on the 30th day of September next after that licence is issued, unless on or before the 20th day of September next after that licence is issued the holder thereof applies for its renewal.

(2) An application for renewal of an agent's licence shall be in Form 6 accompanied by the fee prescribed in the Government Fees Regulations 1976 for issuing an annual agent's licence.

(3) An application for renewal of a salesman's licence shall be in Form 7 accompanied by the fee prescribed in the Government Fees Regulations 1976 [*title 15 item 18(a)*] for issuing an annual salesman's licence.

Written examination

5 (1) Where an applicant for a licence as an agent has not been ordinarily engaged in full time practice as a real estate agent or salesman in Bermuda for a period of three years or more immediately preceding 1 December 1977, the Minister may require him to sit for and pass a written examination.

(2) An examination under paragraph (1) shall be set, conducted and judged by an advisory board appointed by the Minister under section 8 of the Act.

(3) The advisory Board shall set the examination so as to—

(a) test the applicant's knowledge of the Act; and

(b) discover if the applicant has the requisite knowledge and skill to practise as an agent in Bermuda.

Display of licence

6 (1) A licensed agent shall exhibit his licence and keep it exhibited in a prominent place at the address shown thereon.

(2) A licensed salesman shall keep his licence at the office of the agent by whom he is employed, and shall, on being so requested by any person, produce his licence for inspection.

Surrender of licence

7 (1) Where an agent's licence is revoked or suspended that agent shall immediately return his licence and the licence of each of his salesmen to the Superintendent.

(2) Where a salesman's licence is revoked or suspended the agent employing that salesman shall immediately return that salesman's licence to the Superintendent.

(3) Upon the termination of the employment of a salesman for any reason the agent employing him shall immediately return that salesman's licence to the Superintendent, together with a written statement of the circumstances of the termination.

Change of employer

8 (1) When a salesman has transferred his employment from one agent to another agent it shall be the duty of both the salesman and the new agent employing him to advise the Superintendent in writing of that change not later than fourteen days thereafter.

(2) Where under paragraph (1) the Superintendent is duly notified of the transfer of a salesman from one agent to another agent, he shall issue that salesman with a new licence, unless that salesman has failed to carry out any of his duties under the Act or these Regulations.

Personal representative

9 (1) Where an individual who carries on business as an agent dies, the Minister may grant to his executor or administrator temporary registration as an agent for a period of not more than six months in respect of the business of the deceased agent.

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(2) Where temporary registration is granted under paragraph (1) all salesmen licensed as salesmen of that deceased agent at the time of his death shall be deemed to be licensed as salesmen of such executor or administrator.

Form of auditor's report

10 A report by an agent's auditors under section 16(3) of the Act shall be in Form 5.

Commencement

11 [omitted]

SCHEDULE

FORM 1

THE REAL ESTATE AGENTS' LICENSING ACT 1976

APPLICATION FOR AGENT'S LICENCE

- 1 Name of applicant (in full)
- 2 Name under which business will be carried on
- 3 In the case of a partnership or company, name of the individual designated to act as its representative
- 4 Address of office in Bermuda from which business will be conducted
- 5 Has the applicant (or any partner) ever been refused an estate agent's licence or has such license been revoked or suspended?
Yes/No. If Yes, give full particulars:
- 6 Short business record of applicant (or partnership) during the past three year

7 Will the applicant (or any partner) be engaged or employed in any business, occupation or profession other than real estate business?

Yes/No. If Yes, give full particulars:

8 Is the applicant (or any partner)—

(a) a discharged or undischarged bankrupt? * Yes/No.

(b) presently a party to bankruptcy proceedings? * Yes/No.

9 Is there any unpaid judgment outstanding against the applicant (or any partner)?

Yes/No. If Yes, give full particulars:

10 Has the applicant (or any partner) been convicted under any law of a criminal offence, other than summary traffic offences, or are there any proceedings now pending?

Yes/No. If Yes, give full particulars:

11 The applicant's address for service in Bermuda is

* Delete where non-applicable.

I declare the above statements to be true and correct.

Date: *[blank]*

(Signature of applicant
or if applicant is a company
or partnership its
representative for and on behalf
of the applicant)

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FORM 2

THE REAL ESTATE AGENTS' LICENSING ACT 1977

APPLICATION FOR SALESMAN'S LICENCE

- 1 Name of applicant (in full)
- 2 Name of licensed agent who will be the salesman's principal
- 3 Address of applicant:
- (a) business
 - (b) residence
- 4 Are you over 18 years of age? * Yes/No.
- 5 Will you be engaged or employed in any business, occupation or profession other than as a real estate salesman?
- Yes/No. If Yes, give full particulars:
- 6 Following are particulars of my occupation during the last three years
- 7 Have you ever been charged, indicted or convicted under any law of a criminal offence other than summary traffic offences or are there any proceedings now pending?
- Yes/No. If Yes, give full particulars:
- 8 Are you—
- (a) a discharged or undischarged bankrupt? * Yes/No.
 - (b) presently a party to bankruptcy proceedings? * Yes/No.
- 9 Is there any unpaid judgment outstanding against you? *

Yes/No. If Yes, give full particulars:

I declare the above statements to be true and correct.

Date: [blank]

(Signature of applicant)

[Form 2 para 4 amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]

Recommendation

In accordance with section 4(2)(a) of the Real Estate Agents' Licensing Act 1976 I hereby recommend Mr./Mrs./Miss [blank] (name of applicant) as a proper and responsible person licensed as a salesman under the Act.

Date: [blank]

(Signature) [blank]

and on behalf of [blank] (name of licensed agent)

Business address .

Declaration

In accordance with section 4(2)(b) of the Real Estate Agents' Licensing Act 1976 I hereby declare that Mr./Mrs./Miss [blank] (Name of applicant), if granted a licence, is to act as a salesman employed by and representing [blank]

Date: [blank]

(Signature)

for and on behalf of [blank]

(name of licensed agent who will employ the applicant)

Business address of licensed agent.

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FORM 3

THE REAL ESTATE AGENTS' LICENSING ACT 1976

AGENT'S LICENCE

[blank]

(Name of individual, partnership or company)

is/are hereby licensed to trade in real estate from

[blank]

(address of business premises)

Mr./Mrs./Miss [blank] is authorized to act as agent on behalf of the partnership/company.

This licence expires on 30th September, 19 [blank]

Date [blank]

Superintendent for and on behalf of the Minister of Finance

FORM 4

THE REAL ESTATE AGENTS' LICENSING ACT 1976

SALESMAN'S LICENCE

[blank]

(Name of Salesman)

is hereby licensed to act as a salesman for and on behalf of [blank] (name of licensed agent)

This licence expires on 30th September, 19 [blank]

Date [blank]

Superintendent for and on behalf of the Minister of Finance

FORM 5

THE REAL ESTATE AGENTS' LICENSING ACT 1976

FORM OF REPORT OF THE AUDITORS

To: THE SUPERINTENDENT OF REAL ESTATE AGENTS.

We, the undersigned, auditors of the [blank] hereinafter called "the agent", report that:—

- (a) The agent has kept proper books and accounts of his trades in real estate;
- (b) we have examined the balances due to clients in trust as at the relevant date hereof, and found them in agreement with the accounting records of the agent;
- (c) the moneys on deposit held in trust for clients has been verified by personal inspection or by certificates obtained from the bank with which the account is maintained;
- (d) the amount due to clients in trust as reflected by the records of the agent, as at the relevant date hereof is;
- (e) we have done a sufficient review of the trust account transactions of the agent for the 12-month period immediately preceding the relevant date hereof, to satisfy ourselves that the trust moneys held for clients are kept separate and apart from moneys belonging to the agent; and
- (f) after due consideration we have formed an independent opinion as to the position of the trust moneys held for clients, and to the best of our information the trust moneys held for clients are maintained in a separate trust account and are not less than the amount of trust moneys received in respect of which there is an undischarged trust obligation.

We have the following additional matters to report or to comment on

The relevant date of this report is: [blank]

Auditors Qualification

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FORM 6

THE REAL ESTATE AGENTS' LICENSING ACT 1976

APPLICATION FOR RENEWAL OF AN AGENT'S LICENCE

- 1 Name of applicant**
- 2 If applicant is a company or partnership name of its representative**
- 3 Name under which business will be carried on**
- 4 The applicant's address for service in Bermuda is:**

I declare the above statement to be true.

Date: [blank]

Signature of applicant, or if applicant is a company or partnership, signature of its representative

FORM 7

THE REAL ESTATE AGENTS' LICENSING ACT 1976

APPLICATION FOR RENEWAL OF A SALESMAN'S LICENCE

- 1 Name of applicant (in full)**
- 2 Name of licensed agent who is to be the salesman's principal**
- 3 Address of applicant—**
 - (a) business**
 - (b) residence**
- 4 Will you be engaged in or employed in any full-time business, occupation, or profession other than as a real estate salesman? If yes, give full particulars**

Signature of applicant

Recommendation

In accordance with section 4(2)(a) of the Real Estate Agents' Licensing Act 1976 I hereby recommend Mr./Mrs./Miss [blank] (name of applicant) as a proper and responsible person to be licensed as a salesman under the Act.

Date: [blank]

(Signature)
for and on behalf of [*blank*] (name and licensed agent)
Business address

Declaration

In accordance with section 4(2)(b) of the Real Estate Agents' Licensing Act 1976 I hereby declare that Mr./Mrs./Miss [*blank*] (name of applicant), if granted a licence, is to act as a salesman employed by and representing [*blank*] (name of licensed agent).

Date: [*blank*]
(Signature)
for and on behalf of [*blank*] (Name of licensed agent who will employ the applicant)
Business address of licensed agent

[Amended by:
2001 : 20]