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ESTATE AGENTS ACT (CHAPTER 95A)

ESTATE AGENTS (DISCIPLINARY PROCEEDINGS) (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred by section 72 of the Estate Agents Act, the Council for Estate Agencies, with the approval of the Minister for National Development, makes the following Regulations:

Citation and commencement

1. These Regulations are the Estate Agents (Disciplinary Proceedings) (Amendment) Regulations 2020 and come into operation on 21 February 2020.

Amendment of regulation 2

2. Regulation 2 of the Estate Agents (Disciplinary Proceedings) Regulations 2011 (G.N. No. S 152/2011) (called in these Regulations the principal Regulations) is amended —

(a) by inserting, immediately after the definition of “Council’s website”, the following definition:

““hearing” means a hearing held under regulation 11(1);” and

(b) by inserting, immediately after the definition of “party”, the following definition:

““pre-hearing conference” means a conference held under a direction given under regulation 9(1);”.

Amendment of regulation 9

3. Regulation 9 of the principal Regulations is amended —

(a) by inserting, immediately after paragraph (1), the following paragraph:

“(1A) A pre-hearing conference may be conducted by video-conference or any other similar technology provided that all persons participating in the conference —

(a) have access to the technology needed to participate in the conference; and

(b) can simultaneously communicate with each other during the conference.”; and

(b) by deleting the words “letter served” in paragraph (2) and substituting the words “serving those orders or directions”.

Amendment of regulation 11

4. Regulation 11 of the principal Regulations is amended —

(a) by deleting paragraph (1) and substituting the following paragraph:

“(1) In any disciplinary action, a hearing must be held which may be conducted in any manner that the Disciplinary Committee deems fit, including by video-conference or any other similar technology, provided that —

(a) the Disciplinary Committee considers it appropriate; and

(b) all persons participating in the hearing —

(i) have access to the technology needed to participate in the hearing; and

(ii) can simultaneously communicate with each other during the hearing.”; and

- (b) by inserting, immediately after the words “but fails to appear at the hearing” in paragraph (4), the words “(whether the hearing is conducted in person or by video-conference or any other similar technology)”.

New regulation 11A

5. The principal Regulations are amended by inserting, immediately after regulation 11, the following regulation:

“Disciplinary Committee may alter charge or frame new charge

11A.—(1) The Disciplinary Committee may alter a charge or frame a new charge, whether in substitution for or in addition to an existing charge, at any time before it makes a determination under section 52(1) of the Act.

(2) An altered charge or a new charge must be read and explained to the respondent.

(3) If a charge is altered or a new charge is framed under paragraph (1), the Disciplinary Committee must immediately call on the respondent to state if the respondent admits to the charge and, in the case of a hearing, to state whether the respondent is ready for the hearing to proceed on the altered or new charge.

(4) If the respondent declares that the respondent is not ready, the Disciplinary Committee must consider any reason the respondent gives.

(5) If the Disciplinary Committee thinks that proceeding immediately with the hearing is unlikely to prejudice the respondent’s defence or the Council’s conduct of the case, then it may proceed with the hearing.

(6) If the Disciplinary Committee thinks otherwise, it may direct a new hearing or adjourn the hearing under regulation 12 for as long as it thinks necessary.

(7) If a charge is altered or a new charge is framed by the Disciplinary Committee after the start of a hearing, the Council and the respondent must, on application to the Disciplinary

Committee by either party, be allowed to recall or re-summon and examine any witness who may have been examined, with respect to the altered or new charge only, unless the Disciplinary Committee thinks that the application is frivolous, vexatious, or an abuse of process.”.

Amendment of regulation 12

6. Regulation 12 of the principal Regulations is amended by inserting, immediately after the words “or adjourn any”, the words “pre-hearing conference or”.

Amendment of regulation 15

7. The principal Regulations are amended by renumbering regulation 15 as paragraph (1) of that regulation, and by inserting immediately thereafter the following paragraph:

“(2) A withdrawal of a charge under paragraph (1) does not amount to a determination that there is no sufficient cause for disciplinary action against a respondent.”.

New regulation 15A

8. The principal Regulations are amended by inserting, immediately after regulation 15, the following regulation:

“Fixed costs

15A.—(1) For the purposes of section 52(6) of the Act, the fixed costs that the Disciplinary Committee may order a respondent of a disciplinary action to pay the Council are \$2,000 and in addition —

- (a) for an uncontested hearing — \$2,000 for every day or part of a day a pre-hearing conference is held after the first pre-hearing conference for the disciplinary action; and
- (b) for a contested hearing —
 - (i) \$2,000 for every day or part of a day a pre-hearing conference is held after the

second pre-hearing conference for the disciplinary action; and

- (ii) \$3,000 for every day or part of a day of the hearing for the disciplinary action.

(2) In paragraph (1) —

“contested hearing” means a hearing other than an uncontested hearing;

“uncontested hearing” means a hearing where the respondent admits, without qualification, to both the charge and the facts that the Council relies on to prove the charge and thereafter —

- (a) does not make a submission on the manner in which the Disciplinary Committee should exercise its powers under section 52(3), (4) or (5) of the Act; or
- (b) makes such a submission by relying on material facts that the Council does not contest.”.

New Part IV

9. The principal Regulations are amended by inserting, immediately after regulation 16, the following Part:

“PART IV

MISCELLANEOUS

Confidentiality

17.—(1) A person commits an offence if —

- (a) the person discloses any information, document or evidence filed or produced in connection with a disciplinary proceeding to any other person; and
- (b) the person knows that the disclosed information, document or evidence was filed or produced in connection with the disciplinary proceeding.

(2) Paragraph (1) does not apply to the disclosure of any information, document or evidence filed or produced in connection with a disciplinary proceeding —

- (a) to the secretary, a member of the Disciplinary Committee hearing the disciplinary proceeding or a party (including the party's solicitor) to the disciplinary proceeding;
- (b) by a person performing the person's functions or discharging the person's duties under the Act;
- (c) by the person who filed or produced the information, document or evidence;
- (d) that is lawfully required to be disclosed by any court or under the provisions of any written law;
- (e) for the purpose of making any submission during a disciplinary proceeding;
- (f) to the extent necessary to support a respondent's claim for any insurance taken out and maintained under regulation 13 of the Estate Agents (Estate Agency Work) Regulations 2010 (G.N. No. S 644/2010);
- (g) that is authorised by the Disciplinary Committee hearing the disciplinary proceeding to be disclosed in particular circumstances; or
- (h) that is in the public domain.

(3) A person who is guilty of an offence under paragraph (1) shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.”.

Miscellaneous amendments

10. The principal Regulations are amended —

- (a) by inserting, immediately above regulation 5, the following Part heading:

“PART III

HEARING AND CASE MANAGEMENT”;

- (b) by deleting the Part heading of Part III immediately above regulation 9.

Saving provision

11. Regulation 8 does not apply to or in relation to any disciplinary action commenced before 21 February 2020 in accordance with regulation 3 of the principal Regulations.

Made on 14 February 2020.

QUEK SEE TIAT
President,
Council for Estate Agencies,
Singapore.

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