
First published in the Government *Gazette*, Electronic Edition, on at .

No. S 152

ESTATE AGENTS ACT 2010 (ACT 25 OF 2010)

ESTATE AGENTS (DISCIPLINARY PROCEEDINGS) REGULATIONS 2011

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In exercise of the powers conferred by section 72 of the Estate Agents Act 2010, the Council for Estate Agencies, with the approval of the Minister for National Development, hereby makes the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Estate Agents (Disciplinary Proceedings) Regulations 2011 and shall come into operation on 21st March 2011.

Definitions

2. In these Regulations, unless the context otherwise requires —

“Chairman” means the member of a Disciplinary Committee appointed to be the Chairman of the committee under section 51(8) of the Act;

“Council’s website” means the Council’s Internet website at <http://www.cea.gov.sg>;

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

[S 117/2020 wef 21/02/2020]

“party”, in relation to disciplinary proceedings, means the Council or respondent;

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

[S 117/2020 wef 21/02/2020]

“respondent” means an estate agent or a salesperson against whom a charge is brought by the Council under section 49(6) of the Act;

“secretary” means the person appointed by the Council to provide administrative support to the Disciplinary Panel or any Disciplinary Committee.

PART II

INITIATION OF DISCIPLINARY PROCEEDINGS

Commencement of disciplinary proceedings

3. The Council may commence a disciplinary action under section 49(6) of the Act by lodging a charge and statement of case with the secretary.

Constitution of Disciplinary Committee and notice to respondent and relevant parties

4.—(1) Upon the receipt of a charge under regulation 3, the secretary shall, on the instruction or nomination of the Head of the Disciplinary Panel, constitute a Disciplinary Committee or assign the case to an existing Disciplinary Committee.

(2) The secretary shall, as soon as possible, notify the respondent of the charge by serving on him copies of the charge and statement of case.

(3) Where the respondent is a salesperson, the secretary —

- (a) shall give notice of the charge to the estate agent that the salesperson is registered to act for;
- (b) may give notice of the charge to any other estate agent that the salesperson was registered to act for at the material time; and

- (c) may, in the course of the disciplinary proceedings, keep any estate agent who is notified under paragraph (a) or (b) informed of any matter relating to the proceedings.

PART III

HEARING AND CASE MANAGEMENT

[S 117/2020 wef 21/02/2020]

Admission of charge

5.—(1) Every notice under regulation 4(2) shall give the respondent the opportunity to admit the charge in writing within 14 days after such notice is served on him.

(2) Where a respondent admits a charge and the statement of case without qualification under paragraph (1), the Disciplinary Committee may give such directions as it may consider desirable for the just, expeditious and economical hearing and disposal of the disciplinary action.

Defence, reply and rejoinder

6.—(1) Unless regulation 5(2) applies, the respondent shall lodge with the secretary a defence in response to the charge and statement of case within 14 days after service upon him of the notice under regulation 4(2).

(2) The Council may file with the secretary a reply to the defence within 14 days after the defence is lodged with the secretary.

(3) The respondent may file with the secretary a rejoinder to the reply to the defence within 14 days after receiving a copy of the reply from the secretary.

(4) On receiving a defence, reply or rejoinder, the secretary shall forward a copy thereof to the other party as soon as possible.

Material facts and relevant documents

7.—(1) Every statement of case, defence, reply and rejoinder shall state the material facts relied upon by the respective party.

(2) A party may attach to the statement of case, defence, reply or rejoinder, as the case may be, such documents or copies of such documents as the party may wish to rely upon.

(3) Unless the Disciplinary Committee otherwise allows, no party shall rely upon or adduce evidence of any fact which it has not pleaded in the statement of case, defence, reply or rejoinder, as the case may be.

Amendment of pleadings

8.—(1) A charge, statement of case, defence, reply, rejoinder or any other document may only be amended by the party who filed the document with the permission of the Disciplinary Committee.

(2) Permission to amend may be granted under paragraph (1) if the Disciplinary Committee is satisfied that it is just to do so.

(3) Where the Disciplinary Committee grants permission to amend under paragraph (1), it may impose such terms or conditions as it thinks fit.

Orders and directions

9.—(1) The Disciplinary Committee may, on its own motion or on the application of any party, direct the parties to attend a pre-hearing conference before the Disciplinary Committee at which such orders or directions may be given as the Disciplinary Committee deems fit for the just, expeditious and economical disposal of the disciplinary action.

(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.

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(2) The Disciplinary Committee may also give such orders or directions as are referred to in paragraph (1) by serving those orders or directions on the parties.

[S 117/2020 wef 21/02/2020]

Consolidation

10.—(1) Where 2 or more disciplinary actions are pending and it appears that —

- (a) some common question of law or fact arises in them; or
- (b) the disciplinary actions arise out of the same transaction or series of transactions,

the Disciplinary Committee of the earlier or earliest initiated disciplinary action may, on its own motion or on the application of any party, order such disciplinary actions to be consolidated and give such directions regarding the hearing of such actions as it deems fit.

(2) Unless the Disciplinary Committee orders otherwise, disciplinary actions against an estate agent and a salesperson, respectively shall be consolidated if they arise out of the same transaction or series of transactions.

Conduct of disciplinary action

11.—(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.

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(2) Where the Disciplinary Committee finds sufficient cause for disciplinary action, it may, in the exercise of powers under section 52

of the Act, consider any matter it deems fit or relevant including any previous conduct or record of the respondent.

(3) Where regulation 5(2) does not apply and the respondent fails to file a defence, the Disciplinary Committee concerned may, if satisfied that the respondent had notice of the charge under regulation 4(2), consider the charge and statement of case as not denied, and proceed to give such directions as it may consider desirable for the just, expeditious and economical hearing and disposal of the disciplinary action.

(4) Where a respondent has filed a defence but fails to appear at the hearing (whether the hearing is conducted in person or by video-conference or any other similar technology), the Disciplinary Committee may, if satisfied that the respondent had notice of the hearing, proceed with the hearing in the absence of the respondent.

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(5) Where the Disciplinary Committee has exercised its powers under paragraph (3) or (4), it may reopen the case and set aside any finding or order that it may have made in exercise of its powers under section 52 of the Act if it is just to do so.

(6) The Disciplinary Committee shall record in writing with reasons —

- (a) its finding on whether there is cause for disciplinary action; and
- (b) any powers under section 52(3), (4) or (5) of the Act that it may exercise.

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.

[S 117/2020 wef 21/02/2020]

Adjournments

12. The Disciplinary Committee may, of its own motion or upon the application of any party, postpone or adjourn any pre-hearing conference or hearing, on such terms as it deems fit.

[S 117/2020 wef 21/02/2020]

Form and manner of application or lodgment of documents

13.—(1) Every application made to, and every document lodged with or issued by, the Disciplinary Committee or the secretary shall be in such form as the Head of the Disciplinary Panel may from time to time approve and, where applicable, cause to be published on the Council's website.

(2) The Head of the Disciplinary Panel may modify any form to be used in disciplinary actions from time to time or in any particular case.

(3) Every application or other document shall be filed or lodged with the secretary by delivering the original and its accompanying documents together with 5 copies thereof to the secretary.

(4) Facts in support of, or in opposition to, an application shall be adduced by affidavit.

Extension of time and waiver of requirements

14.—(1) Subject to paragraph (2), the Disciplinary Committee may extend any period prescribed by these Regulations or stipulated in any order or direction of the Disciplinary Committee —

(a) for lodging any document; or

(b) for doing anything,

on such terms as it deems fit, notwithstanding that the application for extension is made after the expiration of that period.

(2) The Disciplinary Committee may waive, on such terms as it deems fit, any of the requirements under these Regulations if it is just to do so.

Withdrawal of charge

15.—(1) The Council may withdraw any charge with the consent of the Disciplinary Committee.

[S 117/2020 wef 21/02/2020]

(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.

[S 117/2020 wef 21/02/2020]

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 —

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- (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.

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Irregularities

16.—(1) Subject to these Regulations, any irregularity resulting from a failure to comply with any provision of these Regulations or any order or direction of the Disciplinary Committee before the Disciplinary Committee has made a finding on whether there is cause for disciplinary action shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Disciplinary Committee, it may give such order or directions as it thinks just to cure, waive, set aside or strike out any document or act or otherwise deal with the irregularity before making a finding if it

considers that any person may have been affected or prejudiced by the irregularity and on such terms as it deems fit.

(3) The Chairman may at any time, by certificate under his hand, correct clerical mistakes in any document recording any disciplinary proceedings, any decision, order or direction of, and any other document issued by, the Disciplinary Committee.

PART IV MISCELLANEOUS

[S 117/2020 wef 21/02/2020]

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;

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- (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.

[S 117/2020 wef 21/02/2020]

Made this 17th day of March 2011.

GREG SEOW FOOK HIN
President,
Council for Estate Agencies,
Singapore.

[CEA 100-12-01-0010; AG/LLRD/SL/95A/2010/8 Vol. 1]