

Legislative Council Brief

Estate Agents Ordinance (Cap. 511)

ESTATE AGENTS (LICENSING) (AMENDMENT) (NO. 2) REGULATION 2009

Introduction

In exercise of the power under section 56 (1) (d) of the Estate Agents Ordinance (Cap. 511) (the Ordinance), the Estate Agents Authority (EAA), with the approval of the Secretary for Transport and Housing, proposes to make the Estate Agents (Licensing) (Amendment) (No. 2) Regulation 2009 (the Amendment Regulation), at the Annex, to enable EAA to grant estate agent's licences to persons who hold the "certificate of registration for real estate agents" (學會註冊證) issued by the China Institute of Real Estate Appraisers and Agents (中國房地產估價師與地產經紀人學會) (the Institute) and are qualified for EAA's estate agent's licences through a mutual recognition of qualifications scheme (the Scheme) to be entered between EAA and the Institute.

Background

2. EAA and the Institute signed a Memorandum of Understanding in January 2009, with a view to entering into a formal agreement to implement the Scheme to give mutual recognition to each other's professional estate agent qualifications. Supplement VI to the Mainland and Hong Kong Closer Economic Partnership Arrangement signed in May 2009 reassured that Hong Kong and the Mainland would take forward the work on the mutual recognition of each other's professional estate agent qualifications.

3. Under the Scheme, EAA and the Institute may each nominate the same number¹ of eligible estate agents² to apply for each other's estate agent licences.

¹ As initially agreed between EAA and the Institute, the Scheme will have a validity period of five years, and may be renewed subject to mutual consent. Subject to confirmation, each side may nominate up to 300 candidates for the first year. The nomination quota for the remaining four year is being finalised between EAA and the Institute.

² To be eligible for nomination, local estate agents have to be holders of estate agent's licence (地產代理牌照) and meet the selection criteria set by the EAA. Likewise, Mainland estate agents have to be holders of the certificate of registration for real estate agents issued by the Institute and meet the selection criteria set by the Institute.

The nominated estate agents from each side will be required to attend a tailor-made course and pass a tailor-made examination organized by the other side and be granted the licences by the other side upon passing the examination. Having obtained the licence, they may engage in estate agency work in the other side, subject to fulfilling other relevant regulations of the other side.

4. Under Section 15 of the Ordinance, an individual or a company has to be a licensed estate agent in order to undertake estate agency work as an estate agent in Hong Kong. The eligibility criteria for an estate agent's licence as required by section 7 of the Estate Agents (Licensing) Regulation (Cap. 511 sub. Leg. A) (the Licensing Regulation) include completing an education level of Form 5 and passing the "Qualifying Examination for Estate Agents" as gazetted by EAA.

5. The completion of the course provided by EAA under the Scheme and the passing of the examination set by EAA under the Scheme, as mentioned in paragraph 3 above, do not fall under any item of the existing prescribed educational qualifications for estate agent's licence as stipulated in section 7 of the Licensing Regulation. It is therefore necessary to make these two requirements as the prescribed educational qualifications under the Licensing Regulation for Mainland persons who hold the "certificate of registration for real estate agents" issued by the Institute.

The Amendment Regulation

6. The Amendment Regulation amends section 7 of the Licensing Regulation so that the EAA may grant an estate agent's licence to a person who holds a certificate of registration for real estate agents issued by the Institute after the person has completed the relevant training course and has passed the relevant examination under the Scheme.

Legislative Timetable

7. The legislative timetable is as follows:

Publication in the Gazette	9 October 2009
Tabling at the Legislative Council	14 October 2009
Effective date of the Amendment Regulation	7 December 2009

Financial Implications

8. The EAA will implement the Scheme on a cost-recovery and self-financing basis. Mainland applicants qualified for estate agent's licences under the Scheme will pay the same licence fees to the EAA as the local licence holders. The Scheme will have no financial implications to the Government.

Public Consultation

9. EAA has consulted the estate agency trade on the Scheme. The trade fully supports the Scheme, and considers the Scheme will enhance the professional status of local estate agents and provide greater business development opportunities for the trade in the Mainland. The estate agency trade looks forward to the early implementation of the Scheme.

Publicity

10. EAA will arrange publicity for the signing of the formal agreement on the Scheme with the Institute and inform the estate agency trade of the implementation details of the Scheme through various channels.

Enquiries

11. Enquiries on this brief should be addressed to Mr Eugene Fung, Principal Assistant Secretary for Transport and Housing (Private Housing) at 2761 5039.

**Transport and Housing Bureau
October 2009**

**ESTATE AGENTS (LICENSING) (AMENDMENT)
(NO. 2) REGULATION 2009**

(Made by the Estate Agents Authority, with the approval of the Secretary for Transport and Housing, under section 56 of the Estate Agents Ordinance (Cap. 511))

1. Commencement

This Regulation comes into operation on 7 December 2009.

2. Educational qualifications and experience for licensees

(1) Section 7(1)(*ac*) of the Estate Agents (Licensing) Regulation (Cap. 511 sub. leg. A) is amended by repealing everything after “complies” and substituting –

“with –

- (i) the requirements mentioned in subsection (4C); or
- (ii) the requirements mentioned in subsection (4CA); or”.

(2) Section 7(4C) is amended by repealing “subsection (1)(*ac*)” and substituting “subsection (1)(*ac*)(i)”.

(3) Section 7 is amended by adding –

“(4CA) The requirements referred to in subsection (1)(*ac*)(ii) are the applicant –

- (a) holds a CIREA Certificate; and
- (b) has completed the training course provided under subsection (4CB)(*a*) and has, within 12 months immediately before the date of the application, passed the examination set under subsection (4CB)(*b*).

(4CB) The Authority –

- (a) may provide a training course to a holder of a CIREA Certificate on the subjects of the examination set under paragraph (b); and
- (b) may set an examination for a holder of a CIREA Certificate to test the holder's competence in doing estate agency work in Hong Kong.”.

(4) Section 7(5) is amended, in the Chinese text, in paragraph (b) of the definition of “符合有關條件”, by repealing the full stop and substituting a semicolon.

(5) Section 7(5) is amended by adding –

““CIREA Certificate” (學會註冊證) means a certificate of registration for real estate agents issued by the China Institute of Real Estate Appraisers and Agents;”.

Chairman,
Estate Agents Authority

2009

Explanatory Note

This Regulation amends the Estate Agents (Licensing) Regulation (Cap. 511 sub. leg. A) so that the Estate Agents Authority may grant an estate agent's licence to a person who holds a certificate of registration for real estate agents issued by the China Institute of Real Estate Appraisers and Agents after the person has completed the relevant training course and has passed the relevant examination.