

LEGISLATIVE COUNCIL BRIEF

Estate Agents (Licensing) Regulation Estate Agents (Exemption from Licensing) Order

PURPOSE

This paper briefs Members on the Estate Agents (Licensing) Regulation and Estate Agents (Exemption from Licensing) Order which have been published in the Government Gazette on 16 October 1998.

BACKGROUND AND BRIEFING

2. The Estate Agents Ordinance (Cap. 511) was enacted in May 1997. It aims to improve the standard of service provided by estate agents and protect consumers involved in property transactions. It provides for the setting up of an Estate Agents Authority (EAA) to regulate the trade through the implementation of a licensing system. The Regulation and Exemption Order are subsidiary legislation made by the EAA under the Ordinance.

Estate Agents (Licensing) Regulation

3. The Regulation sets out the licensing requirements and other miscellaneous matters on licensing procedures, forms and licensing fees.

Educational qualifications and qualifying examination

4. Estate agents play an important role in the property transaction process. To ensure that they are well-equipped to cope with the rapid changes in the operating environment of the real estate market, rising expectations of the consumers and increased complexity of property transaction, new entrants to the trade are required to have an educational qualification of Form 5 and passage of a qualifying examination relevant to estate agency work for the purpose of obtaining a licence. This is in line with the objective to recruit and attract better qualified persons into the trade so as to raise the standard of the service in the long term.

Arrangement for existing practitioners

5. The EAA's aim is to strike a balance between raising the standard of service and minimising disruptions to the trade. Existing practitioners will be granted licences to continue to practice. The educational qualification of completion of Form 5 will not apply to them. Practising agents will be given three years until 1 January 2002 to pass the qualifying examination. In recognition of the experience of some senior members of the trade, estate agents who have six years' experience in estate agency work will be exempted from the examination. They are only required to complete a training relevant to the estate agency work within the three year period. Existing practitioners should therefore have sufficient time to prepare themselves for the examination/training. The licensing system should help to raise the standard of service of the trade in a planned and gradual manner.

6. Professional surveyors with one year's estate agency work experience will also be exempted from examination. This is in recognition of their professional knowledge and experience required to meet a standard generally higher than that of the estate agents.

Licence fee structure

7. The EAA is a self-financing statutory body with income primarily comes from licence fees. The licensing fees are stipulated in Second Schedule of the Regulation. In devising the fee structure, the EAA has taken into full account factors such as its operating costs, size of the estate agency trade and current economic situation. The present establishment of the EAA is only 33, which is required to perform a number of statutory functions including issuance of licences, handling complaints, devising practising regulations, determination of disputes over commission, enforcement, investigation, taking disciplinary actions, training and examination, etc. The prescribed fee levels are the minimum requirement and are reasonable having regard to the need to enable the EAA to have a balanced budget and to discharge its duties effectively.

Estate Agents (Exemption from Licensing) Order

8. The Exemption Order exempts estate agents dealing exclusively with properties outside Hong Kong and dormant partners of a partnership from

obtaining a licence. Owing to the different nature, scope and complexity of work relating to overseas properties, the EAA will need to consider different regulations for such properties. The exemption of dormant partners is in line with the relevant provision in the Ordinance which only requires company directors engaging in the estate agency work to obtain a licence.

Commencement

9. The licensing system is targeted to be implemented on 1 January 1999. To allow sufficient time for the EAA to invite and process licence applications, the Regulation and Exemption Order will be brought into effect on 19 November 1998.

PUBLIC CONSULTATION

10. In considering the licensing requirements, the EAA has taken into account views received from the trade and the public during a consultation exercise conducted in May. A number of seminars were also held in May, June and July this year to exchange views with the trade and the interested parties. A paper has also been submitted to the Legislative Council Panel on Housing for information on 7 September 1998.

PUBLICITY

11. A press release was issued on 16 October 1998.

ENQUIRY

12. Members may address any enquiries about the Regulation and Exemption Order to Ms Eva TO, Principal Assistant Secretary of the Housing Bureau on 2509 0290.

Housing Bureau
Government Secretariat

20 October 1998