

ESTATE AGENTS (LICENSING) REGULATION

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

1. Commencement

This Regulation shall come into operation on 19 November 1998.

2. Interpretation

In this Regulation, unless the context otherwise requires---

"existing practitioner" (現存從業員) means an individual, including a senior practitioner, who has done estate agency work in Hong Kong for any period of time within the period of one year immediately before the implementation date;

"implementation date" (實施日期) means 1 January 1999;

"professional surveyor" (專業測量師) means an individual who is a member of The Hong Kong Institute of Surveyors, or a registered professional surveyor under the Surveyors Registration Ordinance (Cap. 417), on the implementation date;

"senior practitioner" (資深從業員) means an individual who has done estate agency work in Hong Kong for a period or periods totalling at least 6 years within the period of 7 years immediately before the implementation date;

"statement of particulars of business" (營業詳情說明書) means the document described as such and granted by the Authority in accordance with section 10.

3. Register

The register under section 13 of the Ordinance shall be established and maintained by the Authority by recording the matters in question---

(a) in bound books or any other legible form; or

(b) otherwise than in a legible form so long as the recording is capable of being reproduced in a legible form.

4. Forms

(1) The forms in Schedule 1 are prescribed for the purposes of the Ordinance and this Regulation.

(2) A form prescribed under this section shall be---

(a) completed in accordance with such directions and instructions as are specified in the form;

(b) accompanied by such documents as are specified in the form and, where applicable, the prescribed fee; and

(c) if the completed form is required to be provided to---

(i) the Authority;

(ii) another person on behalf of the Authority; or

(iii) any other person,

so provided in the manner, if any, specified in the form.

5. Prescribed fees

(1) For the purposes of the Ordinance and this Regulation, each fee set out in the third column in Schedule 2 shall be prescribed for the matter set out in the second column opposite thereto.

(2) If for any reason a licence ceases to be valid, no part of any fee paid under this section shall be refunded.

(3) For any estate agency business carried on at any place by two or more persons in partnership, payment of any fee in respect of the business by one member discharges all other members of the partnership from the liability in respect of the fee.

6. Minimum age

An individual is not eligible to be granted or hold or continue to hold a licence unless he has attained the age of 18 years at the date of his application for the licence.

7. Educational qualifications and experience for licensees

(1) Subject to subsection (2), no licence shall be granted to or renewed in favour of an individual unless---

(a) he has completed an educational level of Form 5 of secondary education or its equivalent and has, within 12 months immediately before the date of his application for the grant of the licence, passed the relevant examination; or

(b) in the case of an application for the grant of a licence made before 1 January 2002---

(i) he is an existing practitioner or a senior practitioner and has complied with the relevant condition; or

(ii) he is a professional surveyor and has done estate agency work in Hong Kong for a period or periods totalling at least 12 months within the period of 24 months immediately before the implementation date.

(2) A licence may, on or before 31 December 2001, be granted to or renewed in favour of a person who is an existing practitioner or a senior practitioner for a period expiring not later than that date subject to the requirement that the person shall comply with the relevant condition on or before that date.

(3) No licence granted to any person under subsection (2) shall be renewed on or after 1 January 2002 unless---

(a) he has complied with the relevant condition before that date; or

(b) the Authority has granted him an extension under subsection (4) and---

(i) the period of extension has not expired; or

(ii) he has complied with the relevant condition within the period of extension.

(4) The Authority may, if it considers it just and reasonable to do so, grant an extension of time beyond 1 January 2002 within which period an existing practitioner or a senior practitioner must comply with the relevant condition.

(5) In this section---

"compliance with the relevant condition" (符合有關條件) means---

(a) in relation to a senior practitioner, completing a training course relevant to estate agency work as the Authority, with the approval of the Secretary for Housing, specifies by notice in the Gazette;

(b) in relation to an existing practitioner, passing the relevant examination;

"relevant examination" (有關考試) means---

(a) in the case of an estate agent's licence, the qualifying examination for estate agents;

(b) in the case of a salesperson's licence, the qualifying examination for estate agents or the qualifying examination for salespersons,

which is relevant to estate agency work and specified by the Authority, with the approval of the Secretary for Housing, by notice in the Gazette.

8. Minimum number of licensed directors

for corporate licensed estate agent

A company shall not be eligible to be granted or hold or continue to hold an estate agent's licence unless at least one director of the company is a licensed estate agent.

9. Period of validity of licence

Every licence shall be granted or renewed for a period of 12 months, or such lesser period as may be specified by the Authority in the licence, from the date on which it is granted or renewed (as the case may be).

10. Statement of particulars of business

(1) A licensed estate agent shall, before carrying on estate agency business at any place under a particular business name, apply to the Authority for the grant of a statement of particulars of business for that place and name and shall pay to the Authority the relevant portion of the licence fee in respect of such business.

(2) The Authority may, upon an application under subsection (1) and payment of the relevant portion of the licence fee, grant to the licensed estate agent (or, where the business is carried on by two or more licensed estate agents, to any one of them) a statement of particulars of business.

(3) A statement of particulars of business may be granted, and may upon application be renewed, for a period for which the portion of the licence fee in respect of the business has been paid and expiring not later than---

(a) the expiry of the estate agent's licence of the person by whom the statement is to be held; or

(b) in the case of a statement to be held in respect of a partnership, the latest date on which the estate agent's licence of any member of the partnership is to expire.

(4) A statement of particulars of business shall have effect only in so far as the person named therein (or if two or more persons are so named, at least one of them) is a licensed estate agent and, accordingly, the Authority may require any person in possession of any statement that has ceased to have effect under this subsection to surrender it.

(5) For the avoidance of doubt, the grant or renewal of a statement of particulars of business for any period in respect of a business carried on by two or more persons as members of a partnership shall not entitle any such person to do estate agency work after he ceases to be a licensed estate agent.

(6) An application by any person under subsection (1) or (3) for the grant or renewal of a statement of particulars of business for a business carried on by him or as a member of a partnership, whether made at the same time as his application for the grant or renewal of a estate agent's licence or thereafter, forms part of the latter application.

11. Replacement of licence or statement of particulars of business

On payment of the prescribed fee, the Authority may issue a replacement of a licence or a statement of particulars of business to a licensee if the Authority is satisfied that the licence or the statement of particulars of business, as the case may be, has been lost, stolen, damaged or destroyed.

12. Amendment of particulars of a licence, etc.

On payment of the prescribed fee and the production of any documentary or other evidence as the Authority may require, the Authority may upon the request of a licensee amend any particulars of a licence or a statement of particulars of business.

13. Renewal of licence

An application for the renewal of a licence shall be made not more than 3 months and not less than 1 month prior to the expiration of the licence or within such shorter period prior to the expiration thereof as the Authority may in writing permit.

14. General conditions imposed on licensees

(1) Every holder of an estate agent's licence shall---

(a) display and keep displayed, at a conspicuous position at each place at which he carries on business as an estate agent, the relevant statement of particulars of business;

(b) state clearly and conspicuously on any letter, account, receipt, pamphlet, brochure and other document issued by him or on his behalf the following---

(i) the name of the licensee;

(ii) the number of his licence;

(iii) the business name as stated in the relevant statement of particulars of business; and

(iv) the place of business as stated in the relevant statement of particulars of business;

(c) state clearly and conspicuously in all advertisements, pamphlets and brochures excepted, by him or on his behalf, the items in paragraph (b)(i), (ii) and (iii);

(d) not carry on estate agency business under a business name or at a place of business other than the one specified in a statement of particulars of business granted to him; and

(e) apply to the Authority to have his statement of particulars of business amended under section 12 if any matter stated therein is for any reason incorrect.

(2) Every licensee shall, upon request in writing by the Authority, surrender his licence to the Authority for amendment or variation of any existing conditions or for attachment of new conditions.

(3) For the purpose of this section, where a licensed estate agent carries on at any place estate agency business under different business names, he shall display at that place a statement of particulars of business for each and every business name so used.

15. Application for licence not to be made within prescribed period

The period prescribed for the purposes of section 25 of the Ordinance is 12 months

commencing on---

(a) the date on which the application for the grant or renewal of the licence concerned is refused;

(b) the date on which the licence concerned is revoked by the Authority; or

(c) the date on which an appeal (if any) against the refusal or revocation is determined or abandoned,

as the case may be.

16. Acts pending disposal of application not considered contravention of sections 15 and 16 of the Ordinance

(1) If an application has been made for the grant of a licence by an applicant in accordance with this Regulation before the implementation date and has not been finally disposed of on or before the implementation date, then the applicant shall not, by reason only of his doing anything referred to in the relevant provision during the period from the implementation date to the date when the licence is granted and received by him or when he is notified

of the refusal of the application, be regarded as contravening the relevant provision.

(2) In this section, "relevant provision" (有關條文) means---

(a) in the case of an application for the grant of an estate agent's licence, section 15 of the Ordinance;

(b) in the case of an application for the grant of a salesperson's licence, section 16 of the Ordinance.

SCHEDULE 1 [s. 4]

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SCHEDULE 2 [s. 5]

Fees

| Item | Matter in respect of which the fee is payable | Fee |
|------|--|----------------|
| | \$ | |
| 1. | Grant or renewal of a licence | |
| | (a) Salesperson's licence | 2,300 per year |
| | (b) Estate agent's licence (individual) | |
| | --- for individual estate agent | 3,600 per year |
| | plus | |
| | --- for operation of a sole proprietorship/partnership | 3,800 per year |
| | under each business name at one place of business | |
| | plus | |
| | --- for operation of each additional place of | 3,800 per year |
| | business under each business name | |
| | (c) Estate agent's licence (company) | |
| | --- for operating under one business name--- | |
| | (i) at one place of business | 5,000 per year |
| | (ii) at each additional place of business | 3,800 per year |
| | plus | |
| | --- for operating under each additional business | |
| | name--- | |
| | (i) at one place of business | 5,000 per year |
| | (ii) at each additional place of business | 3,800 per year |

Where a licence is granted or renewed for a period less than one year, the licence fee payable shall be calculated on a pro rata basis by reference to the number of months and part of a month shall be reckoned as a month.

2. Replacement of a licence or a statement of particulars of business 300

3. Amending particulars of a licence or a statement of particulars of business 300

4. Certification of a copy of or extract from any entry in the register 150

Marvin CHEUNG Kin-tung
Chairman,
Estate Agents Authority
13 October 1998

Explanatory Note

This Regulation provides for the licensing of estate agents and salespersons.
2. Sections 3 and 4 and Schedule 1 prescribe the manner and form in which the register is to be kept and the form of and particulars to be contained in---
(a) applications for the grant, renewal and replacement of licences and of statements of particulars of business;

- (b) licences;
 - (c) statement of particulars of business.
3. Section 5 and Schedule 2 prescribe fees for---
- (a) the grant, renewal, amendment and replacement of licences;
 - (b) amendment and replacement of a statement of particulars of business; and
 - (c) certified copies or extracts of the register.
4. The minimum age for eligibility of a licensee is prescribed to be 18 years. (Section 6)
5. Educational qualification for obtaining a licence is prescribed to be completion of Form 5 of secondary education or its equivalent and a pass at the relevant qualifying examination specified by the Estate Agents Authority. Alternative requirements are prescribed for individuals having experience in estate agency work before 1 January 1999. (Section 7)
6. A corporate licensed estate agent shall have at least one director who is a licensed estate agent. (Section 8)
7. A licence shall be valid for 12 months or such shorter period as may be specified therein. (Section 9)
8. A licensed estate agent shall, for each place at which and each business name under which he carries on estate agency business, pay the relevant portion of the licence fee and obtain from the Estate Agents Authority a statement of particulars of business for display at that place. (Section 10)
9. Sections 11 and 12 provide for replacement and amendment of a licence or a statement of particulars of business.
10. An application for the renewal of a licence shall be made not more than 3 months and not less than 1 month prior to expiration of the licence. (Section 13)
11. General conditions are imposed on licensees regarding display of statement of particulars of business; particulars to be stated in trade documents and advertisements; name and place of business and surrender of licence for amendment. (Section 14)
12. A person shall not apply for a licence within 12 months of the refusal of his earlier application for grant or renewal of a licence, of the revocation of his licence or of determination or abandonment of his appeal against such refusal or abandonment. (Section 15)
13. Where an application has been made before 1 January 1999 for the grant of a licence, the applicant shall not be regarded as contravening section 15 or 16 of the Estate Agents Ordinance (Cap. 511) by reason of doing, before the application is disposed of, anything referred to in those sections. (Section 16)