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ESTATE AGENTS ACT 2010
(ACT 25 OF 2010)

ESTATE AGENTS
(DISPUTE RESOLUTION SCHEMES)
REGULATIONS 2011

ARRANGEMENT OF REGULATIONS

Regulation

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In exercise of the powers conferred by sections 66 and 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:

Citation and commencement

1. These Regulations may be cited as the Estate Agents (Dispute Resolution Schemes) Regulations 2011 and shall come into operation on 3rd January 2011.

Definitions

- 2.** In these Regulations, unless the context otherwise requires —
- “approved arbitration centre” means any arbitration centre specified in Part II of the Second Schedule;
- “approved dispute resolution centre” means any dispute resolution centre specified in the Second Schedule;

“approved mediation centre” means any mediation centre specified in Part I of the Second Schedule;

“arbitration fees” means the total of —

- (a) the fees (including administrative fees and disbursements) payable to an approved arbitration centre;
- (b) the fees and disbursements payable to an arbitrator; and
- (c) other disbursements reasonably incurred by the parties, for the conduct of an arbitration proceeding, but does not include any fees incurred by any party in the course of obtaining independent legal advice or representation in connection with the arbitration proceeding;

“client” means a person who enters or has entered into a relevant estate agency agreement with a licensed estate agent;

“dispute resolution proceeding” means a dispute resolution proceeding carried out under a dispute resolution scheme;

“dispute resolution scheme” means any dispute resolution scheme prescribed under regulation 3;

“mediation fees” means the total fees (including administrative fees and disbursements) payable to an approved mediation centre for the conduct of a mediation proceeding, but does not include any fees incurred by any party in the course of obtaining independent legal advice or representation in connection with the mediation proceeding;

“party” means a party to a dispute resolution proceeding, being any of the following:

- (a) a client;
- (b) a licensed estate agent;

“relevant dispute” means a dispute which arises from a relevant estate agency agreement entered into between a client and a licensed estate agent;

“relevant estate agency agreement” means an estate agency agreement entered into on or after 1st January 2011 in the form prescribed under regulation 10 of the Estate Agents (Estate

Agency Work) Regulations 2010 (G.N. No. S 644/2010) in respect of estate agency work for any of the following property transactions:

- (a) the sale, purchase or lease of residential property in Singapore on a non-exclusive basis;
- (b) the sale, purchase or lease of residential property in Singapore on an exclusive basis;

“relevant registered salesperson” means a registered salesperson who represented a licensed estate agent under a relevant estate agency agreement in a property transaction pursuant to or out of which a relevant dispute has arisen and is the subject of a dispute resolution proceeding;

“terms of reference” means the terms which define the scope, application, operations and procedures of a dispute resolution scheme.

Prescribed dispute resolution schemes

3. For the purposes of section 66 of the Act, the dispute resolution schemes specified in the First Schedule are prescribed for the resolution of relevant disputes arising from or relating to the provision of services by a licensed estate agent to a client.

Prescribed dispute resolution centres

4. For the purposes of section 66 of the Act, every mediation or arbitration centre specified in the Second Schedule is prescribed as an approved dispute resolution centre for the dispute resolution scheme specified opposite thereto in the Second Schedule.

Participation in prescribed dispute resolution schemes

5.—(1) Every licensed estate agent shall participate in the dispute resolution schemes and shall comply with the terms and conditions of the dispute resolution schemes set out in the Third Schedule.

(2) A relevant registered salesperson shall do the following:

- (a) attend and be present at every hearing or meeting of a dispute resolution proceeding in relation to a relevant dispute in which the relevant registered salesperson represented a licensed estate agent, for the purpose of giving evidence

before the mediator or arbitrator, as the case may be, unless his attendance or presence is dispensed with by the mediator or arbitrator;

- (b) in a case where a dispute resolution proceeding is conducted by way of exchange of documents, participate in the dispute resolution proceeding by providing such document and information as required by any party, the mediator or arbitrator; and
- (c) comply with all reasonable directions of, and provide such assistance as may be reasonably requested by, the mediator or arbitrator.

(3) A licensed estate agent or relevant registered salesperson shall remain subject or liable to such investigation, disciplinary or other action as the Council may take under the Act notwithstanding that any dispute resolution proceeding under any dispute resolution scheme may be pending, in progress or completed.

Terms of reference of the prescribed dispute resolution schemes

6.—(1) A dispute resolution centre shall administer a dispute resolution scheme in accordance with the terms and conditions of the dispute resolution schemes set out in the Third Schedule and the terms of reference which have been approved by the Council.

(2) The Council may, in its discretion, amend the terms of reference of a dispute resolution scheme.

(3) Where there is any conflict or inconsistency between —

- (a) these Regulations; and
- (b) the terms of reference of a dispute resolution scheme, a relevant estate agency agreement or the rules of any approved dispute resolution centre governing a dispute resolution proceeding,

these Regulations shall, to the extent of the conflict or inconsistency, prevail over the terms of reference, the relevant estate agency agreement or the rules of the approved dispute resolution centre referred to in sub-paragraph (b), as the case may be.

FIRST SCHEDULE

Regulation 3

PRESCRIBED DISPUTE RESOLUTION SCHEMES

1. The Council for Estate Agencies Mediation-Arbitration Scheme, which comprises the following sub-schemes:

- (a) the CEA Mediation Sub-scheme; and
- (b) the CEA Arbitration Sub-scheme.

SECOND SCHEDULE

Regulations 2 and 4

PRESCRIBED DISPUTE RESOLUTION CENTRES

PART I

APPROVED MEDIATION CENTRES

*Prescribed dispute
resolution scheme**Approved mediation centre*

- | | |
|---|---|
| 1. The Council for Estate Agencies Mediation-Arbitration Scheme —
The CEA Mediation Sub-scheme | (a) Consumers Association of Singapore
(b) Singapore Institute of Surveyors & Valuers
(c) Singapore Mediation Centre. |
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PART II

APPROVED ARBITRATION CENTRES

*Prescribed dispute
resolution scheme**Approved arbitration centre*

- | | |
|---|---|
| 1. The Council for Estate Agencies Mediation-Arbitration Scheme —
The CEA Arbitration Sub-scheme | (a) Singapore Institute of Arbitrators
(b) Singapore Institute of Surveyors & Valuers. |
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THIRD SCHEDULE

Regulations 5 and 6

TERMS AND CONDITIONS OF THE COUNCIL FOR
ESTATE AGENCIES MEDIATION-ARBITRATION SCHEME

1. In the Council for Estate Agencies Mediation-Arbitration Scheme, a relevant dispute between the parties shall first be resolved in the following manner:

The CEA Mediation Sub-scheme

- (a) The parties shall proceed to mediation at an approved mediation centre selected in writing by the client (referred to in this Schedule as the selected approved mediation centre), unless the client elects in writing not to mediate.
- (b) The selection of the selected approved mediation centre by the client shall be irrevocable.
- (c) In relation to the relevant dispute —
 - (i) the client may make a written request to the licensed estate agent to proceed to mediation at the selected approved mediation centre. Upon receipt of such request, the licensed estate agent shall proceed with the mediation at the selected approved mediation centre; or
 - (ii) the licensed estate agent may ask the client in writing whether he elects to mediate or not and for the approved mediation centre selected by the client. If the client does not reply or does not expressly make any election in writing within 3 weeks after receipt of such enquiry, he shall be deemed to have elected in writing not to proceed to mediation.
- (d) The client shall select the selected approved mediation centre and inform the licensed estate agent in writing of his selection within 4 weeks from the date of the request referred to in sub-paragraph (c)(i) or the date of the election referred to in sub-paragraph (c)(ii), as the case may be.
- (e) The appointment of the mediator shall be in accordance with the rules of the selected mediation centre.

The CEA Arbitration Sub-scheme

- (f) If the relevant dispute remains outstanding for any reason whatsoever, including the following:
 - (i) the client has elected not to mediate;
 - (ii) the client fails to select the selected approved mediation centre and inform the licensed estate agent of his selection within the period specified in sub-paragraph (d); or
 - (iii) the relevant dispute is for any reason not resolved by mediation within 6 weeks from the date of a written notification from the selected approved mediation centre informing the parties of the date of the first mediation session, or such longer period as the parties may mutually agree,

THIRD SCHEDULE — *continued*

the relevant dispute shall be referred to and finally resolved by arbitration in Singapore at an approved arbitration centre selected by the client (referred to in this Schedule as the selected approved arbitration centre) by an arbitrator, unless the client elects in writing not to arbitrate.

- (g) The selection of the selected approved arbitration centre by the client shall be irrevocable.
- (h) The licensed estate agent may ask the client in writing whether he elects to resolve the relevant dispute by arbitration or not and for the approved arbitration centre selected by the client. If the client does not reply or does not expressly make any election in writing within 3 weeks after receipt of such enquiry, he shall be deemed to have elected in writing not to resolve the relevant dispute by arbitration and neither party shall be bound to proceed to arbitration.
- (i) The arbitrator shall be appointed in accordance with the rules of the selected approved arbitration centre.
- (j) Where the relevant dispute is referred to arbitration by, or with the consent of the client, the arbitration shall proceed and the arbitrator may make an award based on the evidence before him for the purpose of resolving the relevant dispute notwithstanding the failure of the licensed estate agent or the relevant registered salesperson to participate in the arbitration proceeding. This shall be without prejudice to the power of the Council to take the necessary action against such licensed estate agent or registered salesperson under section 66(3) of the Act.
- (k) If arbitration proceedings at the selected arbitration centre are not commenced by the client within 3 weeks after the date of the reply or election referred to in sub-paragraph (h), as the case may be, the licensed estate agent shall not be bound to proceed to arbitration thereafter.

2. The Council for Estate Agencies Mediation-Arbitration Scheme shall not apply to a dispute other than a relevant dispute.

3. A person who has presided as a mediator over a mediation proceeding of a dispute resolution proceeding shall not preside as an arbitrator over an arbitration proceeding of the same dispute resolution proceeding.

4. Subject to paragraph 5, nothing in these Regulations shall oblige a client to resolve a relevant dispute by way of the Council for Estate Agencies Mediation-Arbitration Scheme and the client may commence an action against a licensed estate agent in relation to the relevant dispute in court.

5. Where a client commences an action in court against a licensed estate agent in relation to a relevant estate agency agreement, the client shall not require the licensed estate agent to resolve any relevant dispute, whether arising from such relevant estate agency agreement or other relevant estate agency agreement, by way of the Council for Estate Agencies Mediation-Arbitration Scheme.

THIRD SCHEDULE — *continued*

6. A licensed estate agent who is a party to a dispute resolution proceeding shall comply with the following rules which the Council may, in such manner as it considers appropriate, issue or approve —

- (a) the rules governing the mediation processes at the selected approved mediation centre; and
- (b) the rules governing the arbitration processes at the selected approved arbitration centre.

7. Subject to paragraph 8, a licensed estate agent who is a party to a dispute resolution proceeding shall bear the following costs:

- (a) 50% of the mediation fees incurred for the mediation proceeding conducted at the selected approved mediation centre;
- (b) 50% of the deposit as may be required by the selected approved arbitration centre for the arbitration proceeding; and
- (c) such percentage of the arbitration fees as may be ordered by the arbitrator of the arbitration proceeding, which shall not be less than 50% of the arbitration fees.

8. Where the parties to a dispute resolution proceeding comprise more than one licensed estate agent, the licensed estate agents shall bear the costs referred to in paragraph 7 equally or in such proportion as may be determined by the arbitrator.

9. Subject to paragraphs 10 and 11, a client who is a party to a dispute resolution proceeding shall bear the following costs:

- (a) 50% of the mediation fees incurred for the mediation proceeding conducted at the selected approved mediation centre;
- (b) 50% of the deposit as may be required by the selected approved arbitration centre for the arbitration proceeding; and
- (c) such percentage of the arbitration fees as may be ordered by the arbitrator of the arbitration proceeding, which shall not be more than 50% of the arbitration fees.

10. Where the parties to a dispute resolution proceeding comprise more than one client, the clients shall bear the costs referred to in paragraph 9 equally or on such proportion as may be determined by the arbitrator.

11. In the event the arbitrator finds a claim, defence or counterclaim made by a client to be frivolous, vexatious or an abuse of process, he may order the client to bear more than 50% or up to 100% of the arbitration fees.

12. For the avoidance of doubt, the arbitrator of an arbitration proceeding shall not award any costs against any party other than the arbitration fees.

13. A licensed estate agent who is a party to a dispute resolution proceeding shall be represented by a person authorised to make decisions on behalf of the estate agent in the conduct of any dispute resolution proceeding.

THIRD SCHEDULE — *continued*

14. Any party may be represented by his counsel in any dispute resolution proceeding.

15. A licensed estate agent who is party to a dispute resolution proceeding shall comply with any settlement agreement entered into pursuant to a mediation or with any award that may be made in an arbitration, as the case may be, under the Council for Estate Agencies Mediation-Arbitration Scheme.

Made this 31st day of December 2010.

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

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