

# **Estate Agents (Amendment) Bill**

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**Bill No. 17/2020.**

*Read the first time on 26 March 2020.*

A BILL

*intituled*

An Act to amend the Estate Agents Act (Chapter 95A of the 2011 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

## Short title and commencement

1. This Act is the Estate Agents (Amendment) Act 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 Amendment of section 9

2. Section 9(1) of the Estate Agents Act (called in this Act the principal Act) is amended by inserting, immediately after paragraph (d), the following paragraph:

10 “(da) to accredit activities, courses and programmes for continuing professional education for or in respect of estate agents and salespersons;”.

### Amendment of section 15

3. Section 15 of the principal Act is amended —

- 15 (a) by deleting the words “No suit or other legal proceedings shall lie” in subsection (1) and substituting the words “No liability lies”;
- (b) by inserting, immediately after the words “in good faith” in subsection (1), the words “and with reasonable care”;
- 20 (c) by inserting, immediately after the words “pursuant to any written law, neither” in subsection (2), the words “the Council nor”;
- (d) by deleting the words “employees nor” in subsection (2) and substituting the words “employees or”;
- 25 (e) by inserting, immediately after the words “if made in good faith” in subsection (2), the words “, with reasonable care”;
- (f) by inserting, immediately after the words “the duties of” in subsection (2), the words “the Council or”; and
- (g) by deleting the word “personal” in the section heading.

### New section 32A

30 4. The principal Act is amended by inserting, immediately after section 32, the following section:

**“Additional grounds for refusal of licence or registration, etc.**

**32A.—**(1) In addition to sections 30 and 31, the Council —

- (a) may refuse to grant an application for or to renew an estate agent’s licence made under section 33 if the estate agent had been ordered to pay a financial penalty under section 49(6)(a), 52(3) or 66(3)(a), and the financial penalty has not been paid at the time of the application; and 5
- (b) may refuse to grant an application to renew an estate agent’s licence made under section 33 if — 10
  - (i) in the case of an estate agent that is an individual — the estate agent has not satisfied the CPE requirements;
  - (ii) in the case of an estate agent that is a partnership — the key executive officer of the estate agent, or any partner of the estate agent performing or intending to perform estate agency work, has not satisfied the CPE requirements; or 15
  - (iii) in the case of an estate agent that is a body corporate (other than a limited liability partnership) — the key executive officer of the estate agent, or any director of the estate agent performing or intending to perform estate agency work, has not satisfied the CPE requirements. 20

(2) In addition to section 32, the Council —

- (a) may refuse to register or renew the registration of an individual as a salesperson if the individual had been ordered to pay a financial penalty under section 49(6)(a), 52(3) or 66(3)(a), and the financial penalty has not been paid at the time of the application for registration or renewal; and 25

(b) may refuse to renew the registration of an individual as a salesperson if the individual has not satisfied the CPE requirements.

(3) In this section, “CPE requirements” means the prescribed requirements relating to continuing professional education for and in respect of estate agents (including persons who are responsible for the management of estate agents) and salespersons, including the completion of accredited activities, courses and programmes.”.

### 10 **New section 35A**

5. The principal Act is amended by inserting, immediately after section 35, the following section:

#### **“Continuation of licence or registration, etc.**

15 **35A.**—(1) If disciplinary proceedings against a licensed estate agent (*A*) are pending immediately before the date on which *A*’s licence lapses, *A* is treated as a licensed estate agent from and including the date on which the licence lapses until the date the disciplinary proceedings are concluded, but only for the purposes of Part V.

20 (2) If disciplinary proceedings against a registered salesperson (*B*) are pending immediately before the date on which *B*’s registration lapses, *B* is treated as a registered salesperson from and including the date on which the registration lapses until the date the disciplinary proceedings are concluded, but only for the purposes of Part V.

25 (3) This section applies to any licensed estate agent or registered salesperson against whom disciplinary proceedings are pending, whether before, on or after the date of commencement of section 5 of the Estate Agents (Amendment) Act 2020.

30 (4) In this section —

(a) disciplinary proceedings are pending from and including the time that the disciplinary proceedings

commence until the time that the disciplinary proceedings are concluded;

- (b) disciplinary proceedings commence when —
- (i) the Council receives a complaint under section 49(1); or 5
  - (ii) the Council receives any information under section 49(2); and
- (c) disciplinary proceedings are concluded when —
- (i) if the Council decides not to refer the matter to a Disciplinary Committee under section 49(11) after disciplinary proceedings have commenced — 10
    - (A) the Council decides not to exercise any power under section 49(6);
    - (B) the Council exercises any power under section 49(6) and no appeal is lodged against the decision under section 59(1) within the time for lodging the appeal under section 59(2); or 15
    - (C) the Council exercises any power under section 49(6), an appeal is lodged against the decision under section 59(1) and — 20
      - (CA) the appeal is withdrawn;
      - (CB) the Appeals Board confirms, sets aside or modifies the Council's decision under section 59(5)(a); or 25
      - (CC) the Council confirms, sets aside or modifies its decision upon a review required by the Appeals Board under section 59(5)(b); or 30

(ii) if the Council refers the matter to a Disciplinary Committee under section 49(11) after disciplinary proceedings have commenced —

(A) the Disciplinary Committee determines, under section 52(1)(a), that there is no sufficient cause for disciplinary action against the person under investigation;

(B) the Disciplinary Committee exercises any power under section 52(3), (4), (5) or (6), and no appeal is lodged against the decision under section 59(1) within the time for lodging the appeal under section 59(2); or

(C) the Disciplinary Committee exercises any power under section 52(3), (4), (5) or (6), an appeal is lodged against the decision under section 59(1) and —

(CA) the appeal is withdrawn;

(CB) the Appeals Board confirms, sets aside or modifies the Disciplinary Committee's decision under section 59(5)(a); or

(CC) the Disciplinary Committee confirms, sets aside or modifies its decision upon a review required by the Appeals Board under section 59(5)(b).".

### **Amendment of section 36**

**6.** Section 36(3) of the principal Act is amended —

(a) by inserting, immediately after paragraph (a), the following paragraph:

“(aa) the prescribed particulars of any property transaction completed by any client of any

licensed estate agent, within the meaning of section 43A(5);” and

(b) by inserting, immediately after paragraph (b), the following paragraph:

“(ba) the censure of any person under section 49(6)(b) or 66(3)(b);”.

### **New section 43A**

7. The principal Act is amended by inserting, immediately after section 43, the following section:

#### **“Keeping and submission of reports and documents relating to transaction record of licensed estate agents**

**43A.**—(1) The Council may, by written notice, require a licensed estate agent or a registered salesperson of a licensed estate agent to keep and submit to the Council a report containing the prescribed particulars of each property transaction completed by each client of the licensed estate agent and any supporting document.

(2) The report or document mentioned in subsection (1) must be submitted in the form and manner, and at the frequency and within the period, specified by the Council.

(3) Any licensed estate agent or registered salesperson who, without reasonable excuse, fails to submit a report or document required under subsection (1) in accordance with the specifications under subsection (2) shall be guilty of an offence.

(4) Any licensed estate agent or registered salesperson who, in compliance or purported compliance with subsection (1), submits to the Council a report or document containing any information which the licensed estate agent or registered salesperson (as the case may be) knows is false or misleading shall be guilty of an offence.

(5) For the purposes of this section, a property transaction is completed by a client of a licensed estate agent when, as a result of estate agency work done for the client (whether by the licensed estate agent or by a registered salesperson of the

licensed estate agent), the client enters into any agreement for the acquisition or disposition of property, including —

- (a) an option to purchase;
- (b) a sale and purchase agreement;
- 5 (c) a tenancy agreement; and
- (d) a lease.”.

### **New Part IVA**

8. The principal Act is amended by inserting, immediately after section 44, the following Part:

#### “PART IVA

#### PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

#### **Application of this Part**

15 **44A.**—(1) This Part relates to the measures, consistent with standards set by the intergovernmental body known as the Financial Action Task Force, that a licensed estate agent or a registered salesperson must take when doing any estate agency work in relation to an acquisition or a disposition of a property, to prevent the acquisition or disposition of the property from  
20 being used to facilitate money laundering, the financing of terrorism or both.

(2) This Part applies to all licensed estate agents and registered salespersons.

#### **Customer due diligence measures**

25 **44B.**—(1) A licensed estate agent must perform the prescribed customer due diligence measures in any of the following circumstances:

- (a) when doing any estate agency work for a client;
- (b) where the licensed estate agent has reason to suspect  
30 money laundering or terrorism financing;

(c) where the licensed estate agent has reason to doubt the veracity or adequacy of information obtained from earlier customer due diligence measures;

(d) under circumstances prescribed for the purposes of this section. 5

(2) A registered salesperson must perform the prescribed customer due diligence measures in any of the following circumstances:

(a) when doing any estate agency work for a client;

(b) where the registered salesperson has reason to suspect money laundering or terrorism financing; 10

(c) where the registered salesperson has reason to doubt the veracity or adequacy of information obtained from earlier customer due diligence measures;

(d) under circumstances prescribed for the purposes of this section. 15

### **Keeping of records**

**44C.**—(1) A licensed estate agent must keep the following documents and information for such period as may be prescribed: 20

(a) a record of all estate agency work for which the customer due diligence measures mentioned in section 44B(1) or (2) must be performed, containing such particulars as may be prescribed;

(b) a record of all information relating to a client that is kept or obtained by the licensed estate agent, or by a registered salesperson of the licensed estate agent, through the customer due diligence measures performed under section 44B(1) or (2); 25

(c) each supporting document relied on in support of any information referred to in paragraphs (a) and (b); 30

(d) such other document and information as may be prescribed.

(2) A licensed estate agent must keep the documents and information mentioned in subsection (1) in such form and manner as may be prescribed.

5 (3) A licensed estate agent must make the documents and information mentioned in subsection (1) available upon request to the Council in the manner prescribed.

### **Disclosure of suspicious transactions**

10 **44D.** A licensed estate agent or a registered salesperson must, if circumstances exist that require the licensed estate agent or registered salesperson to do so, make a disclosure under section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).

### **Contravention of this Part**

15 **44E.** A licensed estate agent or a registered salesperson who contravenes this Part is liable to disciplinary action.”.

### **New section 44F**

**9.** The principal Act is amended by inserting, immediately before section 45 in Part V, the following section:

#### **“Interpretation of this Part**

20 **44F.** In this Part, unless the context otherwise requires —

“computer” and “computer output” have the meanings given by section 2(1) of the Computer Misuse Act (Cap. 50A);

25 “document” includes, in addition to a document in writing —

(a) any map, plan, graph or drawing;

(b) any photograph;

30 (c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means;

- (d) any disc, tape, soundtrack or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; 5
  - (e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; and 10
  - (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them;
- “writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.”. 15

**Repeal of sections 46, 47 and 48 and re-enactment of sections 46 and 47**

**10.** Sections 46, 47 and 48 of the principal Act are repealed and the following sections substituted therefor: 20

**“Powers to inspect and require persons to provide documents and information, etc.**

**46.—(1)** An inspector may, for the purpose of ascertaining whether this Act has been or is being complied with or any investigation under this Act, do all or any of the following: 25

- (a) enter and inspect any premises under the possession or control of any licensed estate agent to —
- (i) inspect any document, computer, computer program, computer software or computer output on the premises that may relate to compliance with or any investigation under this Act; 30

- (ii) without payment, make copies of or take extracts from any such document, computer, computer program, computer software or computer output;
- 5 (iii) without payment, take possession of any such document, computer, computer program, computer software or computer output where, in the opinion of the inspector —
- 10 (A) the inspection, copying of or extraction from any part of such document, computer, computer program, computer software or computer output cannot reasonably be performed without taking possession;
- 15 (B) such document, computer, computer program, computer software or computer output may be interfered with or destroyed unless possession is taken; or
- 20 (C) such document, computer, computer program, computer software or computer output may be required as evidence in proceedings instituted or commenced for any of the purposes of, or in connection with, this Act;
- 25 (iv) take onto the premises any equipment and materials that the inspector requires for the purpose of exercising any power under this section;
- 30 (v) operate any electronic equipment on the premises, including —
- (A) using a disc, tape or other storage device that is on the premises and that can be used with the equipment or in association with the equipment;

- (B) operating electronic equipment on the premises to put any relevant data in documentary form and remove the documents so produced from the premises; and 5
- (C) operating electronic equipment on the premises to transfer any relevant data to a disc, tape or other storage device that is brought onto the premises for the purpose of exercising any power under this section and to remove the disc, tape or other storage device from the premises; and 10
- (vi) do anything that is necessary or expedient to carry out the inspection;
- (b) require, by written notice, any person who, from any information given to or otherwise obtained by the inspector, appears to be acquainted with the facts or circumstances of the case, to attend personally before the inspector, at a time and place specified in the notice; 15 20
- (c) examine orally any person reasonably believed to be acquainted with the facts or circumstances of the case or with such other matter as the inspector may specify, and reduce into writing the answer given or statement made by that person; 25
- (d) require any person to provide the inspector, in the form and manner specified by the inspector, with any information or any document, computer, computer program, computer software or computer output in the possession, or under the custody or control, of the person. 30

(2) The person mentioned in subsection (1)(c) is bound to state truly the facts or circumstances with which the person is acquainted, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture.

(3) A statement made by the person mentioned in subsection (1)(c) must be read over to the person and must, after correction (if necessary), be signed by the person.

(4) The power of an inspector to require a person to provide any document, computer, computer program, computer software or computer output under subsection (1)(d) includes the power to —

(a) without payment, inspect, copy or take extracts from the document, computer, computer program, computer software or computer output; and

(b) where the person is a licensed estate agent, a key executive officer, a director, a partner or an employee of a licensed estate agent, or a registered salesperson, or where the inspector has reasonable grounds for believing that an offence under this Act has been committed — without payment, take possession of the document where, in the opinion of the inspector —

(i) the inspection, copying of or extraction from any part of the document cannot reasonably be performed without taking possession;

(ii) the document may be interfered with or destroyed unless possession is taken; or

(iii) the document may be required as evidence in proceedings instituted or commenced for any of the purposes of, or in connection with, this Act.

### **Additional powers to investigate offences**

**47.—**(1) In addition to the powers conferred on an inspector by this Act, an inspector who has reasonable grounds for believing that an offence under this Act has been committed may —

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(a) at reasonable hours, enter any premises (whether or not in the possession or control of a licensed estate agent) on which the inspector has reasonable cause to believe evidence of the commission of the offence may be found, and search and inspect any document, computer, computer program, computer software or computer output on those premises;

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(b) require any person whom the inspector reasonably believes to have committed the offence to provide evidence of the person's identity; and

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(c) take any photograph or make any video or audio recording or sketch —

(i) of any person reasonably believed to be acquainted with the facts or circumstances of the case, or with such other matter as the inspector may specify; and

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(ii) on the premises as the inspector thinks necessary.

(2) The power of an inspector to search and inspect any document, computer, computer program, computer software or computer output under subsection (1)(a) includes the power to —

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(a) without payment, inspect, copy or take extracts from the document, computer, computer program, computer software or computer output; and

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(b) without payment, take possession of the document, computer, computer program, computer software or computer output where, in the opinion of the inspector —

(i) the inspection, copying of or extraction from any part of the document, computer, computer program, computer software or computer output cannot reasonably be performed without taking possession;

(ii) the document, computer, computer program, computer software or computer output may be interfered with or destroyed unless possession is taken; or

(iii) the document, computer, computer program, computer software or computer output may be required as evidence in proceedings instituted or commenced for an offence under this Act.”.

#### **Amendment of section 49**

**11.** Section 49 of the principal Act is amended by deleting subsections (6), (7) and (8) and substituting the following subsections:

“(6) Subject to subsections (7), (8), (9), (10) and (11), after considering the report and recommendations submitted under section 50(3), the Council may do one or both of the following:

(a) impose on the licensed estate agent or registered salesperson concerned a financial penalty of any amount, not exceeding \$5,000, that the Council thinks fit;

(b) censure the licensed estate agent or registered salesperson concerned.

(7) The Council must, before making any decision under subsection (6) in relation to the licensed estate agent or registered salesperson, give the licensed estate agent or registered salesperson written notice of the Council’s intention to do so.

(8) Upon receipt of the notice of the Council under subsection (7), the licensed estate agent or registered salesperson may, within 14 days after the date of the notice,

show cause to the Council as to why the Council should not take any or both of the actions (as the case may be) under subsection (6).

(9) The Council must, after the licensed estate agent or registered salesperson has shown cause under subsection (8) or the time to do so has expired, give written notice to the licensed estate agent or registered salesperson of the Council's decision under subsection (6). 5

(10) Subject to section 59, any decision by the Council under subsection (6) does not take effect until 14 days after the Council has served the written notice under subsection (9) to the licensed estate agent or registered salesperson. 10

(11) If the Council considers it appropriate, the Council may, instead of making any decision under subsection (6), refer the matter to a Disciplinary Committee.”. 15

### **Amendment of section 51**

**12.** Section 51(1) of the principal Act is amended by deleting the words “of not more than 20 members” and substituting the words “of not more than the number of members determined by the Council”.

### **Amendment of section 52**

**13.** Section 52 of the principal Act is amended —

(a) by deleting “\$75,000” in subsection (3) and substituting the words “the maximum specified in subsection (12)”; and

(b) by inserting, immediately after subsection (11), the following subsection: 25

“(12) The maximum financial penalty that the Disciplinary Committee may impose is —

(a) in the case of a licensed estate agent — \$200,000; and 30

(b) in the case of a registered salesperson — \$100,000.”.

### **Amendment of section 54**

14. Section 54(2) of the principal Act is amended by inserting, immediately after the words “fine, fee, charge or financial penalty” in paragraph (f), the words “(other than a financial penalty imposed  
5 under section 49(6))”.

### **Amendment of section 55**

15. Section 55(2) of the principal Act is amended by inserting, immediately after the words “fine, fee, charge or financial penalty” in paragraph (f), the words “(other than a financial penalty imposed  
10 under section 49(6))”.

### **Amendment of section 56**

16. Section 56 of the principal Act is amended —

- (a) by inserting, immediately after the words “does not hold an estate agent’s licence” in subsection (2), the words  
15 “, except for the purposes of any disciplinary proceedings under Part V”; and
- (b) by inserting, immediately after the words “is not registered as a salesperson” in subsection (4), the words “, except for the purposes of any disciplinary proceedings under  
20 Part V”.

### **Amendment of section 64**

17. Section 64(1) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraphs:

- “(b) without reasonable excuse, fails, neglects or refuses to  
25 comply with a requirement or notice of an inspector under section 46 or 47;
- (ba) in response to a requirement or notice of an inspector under section 46 or 47, provides any information, document or statement that the person knows is false  
30 or misleading in any material particular;

(*bb*) provides any information, document or statement under section 46 or 47 that is misleading by the intentional suppression of any material fact;”.

### **Amendment of section 70**

**18.** Section 70 of the principal Act is amended — 5

(*a*) by deleting the word “or” at the end of subsection (1)(*a*)(iv);

(*b*) by inserting, immediately after sub-paragraph (v) of subsection (1)(*a*), the following sub-paragraphs:

“(vi) subject to subsection (3B) — by 10  
sending it by email to the  
individual’s last email address; or

(vii) subject to subsection (3B) — by  
sending it by an internet-based  
messaging service to the 15  
individual’s last contact address;”;

(*c*) by deleting the word “or” at the end of subsection (1)(*b*)(ii);

(*d*) by deleting the word “and” at the end of sub-paragraph (iii) 20  
of subsection (1)(*b*), and by inserting immediately  
thereafter the following sub-paragraphs:

“(iv) subject to subsection (3B) — by  
sending it by email to the  
partnership’s last email address; or

(v) subject to subsection (3B) — by 25  
sending it by an internet-based  
messaging service to the  
partnership’s last contact address;  
and”;

(*e*) by deleting the word “or” at the end of 30  
subsection (1)(*c*)(ii);

(f) by deleting the full-stop at the end of sub-paragraph (iii) of subsection (1)(c) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:

5                                   “(iv) subject to subsection (3B) — by sending it by email to the limited liability partnership’s or body corporate’s last email address; or

10                                   (v) subject to subsection (3B) — by sending it by an internet-based messaging service to the limited liability partnership’s or body corporate’s last contact address.”;

15 (g) by inserting, immediately after subsection (3), the following subsections:

20                                   “(3A) Where any notice, order, direction or other document is sent by email or by an internet-based messaging service under subsection (1), service of the notice, order, direction or other document takes effect at the time that the email or message becomes capable of being retrieved by the person to whom it is sent.

25                                   (3B) Service of any notice, order, direction or other document under this Act on a person by email or by an internet-based messaging service may be effected only —

                                  (a) with the person’s prior consent to service in that way; and

                                  (b) in a file format that the person has agreed to.”; and

30 (h) by inserting, immediately after subsection (5), the following subsection:

                                  “(6) In this section —

                                  “last contact address”, in relation to an internet-based messaging service, means —

- (a) the last contact address, for receipt of messages through the internet-based messaging service, given, under this Act, by the addressee concerned to the person giving or serving the notice, order, direction or other document as the contact address for the service of the notice, order, direction or other document; or 5
- (b) the last contact address, for receipt of messages through the internet-based messaging service, of the addressee concerned known to the person giving or serving the notice, order, direction or other document; 10 15

“last email address” means —

- (a) the last email address given, under this Act, by the addressee concerned to the person giving or serving the notice, order, direction or other document as the email address for the service of the notice, order, direction or other document; or 20
- (b) the last email address of the addressee concerned known to the person giving or serving the notice, order, direction or other document.”. 25

## **Amendment of section 72**

**19.** Section 72(2) of the principal Act is amended by inserting, immediately after paragraph (e), the following paragraph: 30

- “(ea) accreditation of any activities, courses and programmes for continuing professional education for or in respect of estate agents (including persons who are responsible for the management of estate agents) and salespersons;” 35

### **Saving and transitional provisions**

**20.**—(1) Despite section 11, section 49 of the principal Act as in force immediately before the date of commencement of section 11 continues to apply to or in relation to —

- 5           (a) any complaint made to the Council under section 49(1) of the principal Act before that date; and
- (b) any information referred to the Council under section 49(2) of the principal Act before that date.

10           (2) Despite section 13, section 52 of the principal Act as in force immediately before the date of commencement of section 13 continues to apply to or in relation to any matter referred to the Disciplinary Committee, under section 49(6) of the principal Act, before that date.

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### **EXPLANATORY STATEMENT**

This Bill seeks to amend the Estate Agents Act (Cap. 95A) for the following main purposes:

- (a) to establish a framework for licensed estate agents and registered salespersons to be obliged to comply with requirements for the prevention of money laundering and terrorism financing in accordance with Singapore’s obligations as a member of the intergovernmental body known as the Financial Action Task Force (FATF);
- (b) to empower the Council for Estate Agencies (the Council) to collect and include in the register established and maintained under section 36(1), information relating to certain property transactions;
- (c) to empower the Council to accredit activities, courses and programmes for continuing professional education for and in respect of licensed estate agents and registered salespersons, and to refuse to renew the licence or registration of an estate agent or a salesperson if the estate agent or salesperson does not satisfy the prescribed requirements relating to continuing professional education;
- (d) to allow the Council to impose financial penalties or to censure licensed estate agents or registered salespersons in certain situations;
- (e) generally to improve the administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 9(1) to provide that the functions and duties of the Council include the accreditation of activities, courses and programmes for continuing professional education for or in respect of estate agents and salespersons.

Clause 3 —

- (a) amends section 15(1) to provide that the immunity conferred on any member, officer, employee or committee member of the Council or other person acting under the direction of the Council only applies (apart from the requirement of good faith) if the act or omission was made with reasonable care; and
- (b) amends section 15(2) to provide that the immunity conferred in relation to provision of a service to the public whereby information is supplied only applies (apart from the requirement of good faith) if the error or omission was made with reasonable care, and to extend the immunity conferred under that provision to the Council.

Clause 4 inserts a new section 32A to set out additional grounds for the Council to refuse to grant an application for or to renew an estate agent's licence, or to refuse to register or renew a registration of an individual as a salesperson.

The Council may refuse to grant an application for or to renew an estate agent's licence, or refuse to register or renew a registration of an individual as a salesperson, if the estate agent or salesperson has not paid certain financial penalties due under the Act at the time of the application.

In addition, the Council may refuse to grant an application to renew an estate agent's licence, or refuse to renew a registration of an individual as a salesperson, if the estate agent or salesperson has not satisfied the prescribed requirements relating to continuing professional education.

Clause 5 inserts a new section 35A relating to pending disciplinary proceedings when an estate agent's licence or salesperson's registration has lapsed. If disciplinary proceedings against a licensed estate agent are pending before the date on which the estate agent's licence lapses, the estate agent is treated as a licensed estate agent until the disciplinary proceedings are concluded for the purposes of Part V. Similarly, if disciplinary proceedings against a registered salesperson are pending before the date on which the salesperson's registration lapses, the salesperson is treated as a registered salesperson until the disciplinary proceedings are concluded for the purposes of Part V.

Clause 6 amends section 36(3) to empower the Council to include the following additional information in the register established and maintained under section 36(1), from time to time and in such form or manner and for such time as the Council considers appropriate:

- (a) the prescribed particulars of any property transaction completed by any client of any licensed estate agent;
- (b) the censure of any person under the new section 49(6)(b) or section 66(3)(b).

Clause 7 inserts a new section 43A to require a licensed estate agent or a registered salesperson of a licensed estate agent to keep and submit to the Council a report containing the prescribed particulars of every property transaction completed by each client of the licensed estate agent.

Clause 8 inserts a new Part IVA (consisting of new sections 44A to 44E) which sets out the obligations for the prevention of money laundering and financing of terrorism that licensed estate agents and registered salespersons must comply with.

The new section 44A sets out the application of the new Part IVA and provides that Part IVA will apply to all licensed estate agents and registered salespersons.

The new section 44B requires a licensed estate agent and a registered salesperson to perform prescribed customer due diligence measures in certain circumstances.

The new section 44C requires a licensed estate agent to keep records in respect of the customer due diligence measures the licensed estate agent is required to perform under the new section 44B, and to make the records available to the Council upon request.

The new section 44D restates the obligation of a licensed estate agent and a registered salesperson to file a suspicious transaction report under section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).

The new section 44E enables disciplinary proceedings to be taken against any licensed estate agent or registered salesperson who contravenes the new Part IVA.

Clause 9 inserts a new section 44F in Part V to define the terms “computer”, “computer output”, “document” and “writing” for the purposes of the powers granted to inspectors under the re-enacted sections 46 and 47.

Clause 10 repeals and re-enacts sections 46 and 47, and repeals section 48, to provide inspectors appointed under section 45 with various powers for the purpose of administering or enforcing the Act or determining if the Act is being or has been complied with, including entering of premises, requesting for information and documents, and examining witnesses.

Clause 11 amends section 49 to allow the Council, after considering the report and recommendations submitted by an inspector under section 50(3), to impose a financial penalty, not exceeding \$5,000, on the licensed estate agent or registered salesperson concerned, or censure the licensed estate agent or registered

salesperson, or both. The licensed estate agent or registered salesperson may show cause to the Council as to why the Council should not take such action. If the Council considers it appropriate, the Council may, instead of imposing the financial penalty or censuring the licensed estate agent or registered salesperson, refer the matter to a Disciplinary Committee.

Clause 12 amends section 51(1) to allow the Council to appoint a Disciplinary Panel of not more than any number of members determined by the Council. Currently, the Council may only appoint a Disciplinary Panel of not more than 20 members.

Clause 13 amends section 52(3), and also inserts a new subsection (12), to increase the maximum financial penalty that a Disciplinary Committee may impose on a licensed estate agent or a registered salesperson under section 52(3). The maximum financial penalty is increased from \$75,000 (in the case of either a licensed estate agent or a registered salesperson) to \$200,000 in the case of a licensed estate agent and \$100,000 in the case of a registered salesperson.

Clause 14 amends section 54(2)(f) to provide that the Council's power to suspend or revoke the licence of an estate agent on the ground of a failure to pay financial penalties does not apply to a failure by the estate agent to pay a financial penalty imposed under the new section 49(6).

Clause 15 amends section 55(2)(f) to provide that the Council's power to suspend or revoke the registration of a salesperson on the ground of a failure to pay financial penalties does not apply to a failure by the salesperson to pay a financial penalty imposed under the new section 49(6).

Clause 16 amends section 56 to provide that —

- (a) section 56(2), which provides that an estate agent whose licence is suspended is deemed to be a person who does not hold an estate agent's licence, does not apply for the purposes of any disciplinary proceedings under Part V; and
- (b) section 56(4), which provides that a salesperson whose registration is suspended is deemed to be a person who is not registered as a salesperson, does not apply for the purposes of any disciplinary proceedings under Part V.

Clause 17 makes consequential amendments to section 64(1) as a result of the repeal of sections 46, 47 and 48 and the re-enactment of sections 46 and 47, and makes it an offence for a person who —

- (a) without reasonable excuse, fails, neglects or refuses to comply with a requirement or notice of an inspector under section 46 or 47;

- (b) in response to a requirement or notice of an inspector under section 46 or 47, provides any information, document or statement that the person knows is false or misleading; or
- (c) provides any information, document or statement under section 46 or 47 that is misleading.

Clause 18 amends section 70 to provide for the service of any notice, order, direction or other document by email or by an internet-based messaging service on any person under the Act, where the person has consented to be served the notice, order, direction or other document through that form of service.

Clause 19 inserts a new paragraph (*ea*) in section 72(2) to allow regulations to be made under section 72(1) for or in respect of the accreditation of activities, courses and programmes for continuing professional education for or in respect of estate agents (including persons who are responsible for the management of estate agents) and salespersons.

Clause 20 contains saving and transitional provisions.

## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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