

Duty to comply with legislation

This bulletin is about the duty, or legal obligation, to comply with the legislation and other laws.

Compliance with the legislation, by brokerages and real estate agents, is crucial for maintaining the overall reputation of the sector and public trust in its regulatory oversight.

Duty of real estate agents

All agents have an obligation to be aware of, understand, and comply with TRESA and its regulations (the legislation), as well as other laws applicable to trading in real estate and carrying on the business of trading in real estate.

Competent service requires knowledge of the requirements set out in the legislation. Not knowing what is required under the legislation is not a defense for a failure to comply with those requirements.

Duty of brokerage to ensure compliance

Brokerages have a legal obligation to ensure that every agent the brokerage employs is carrying out their duties in compliance with the legislation. There is also a specific obligation on the brokerage to ensure that every agent it employs carries out their duties in compliance with the Code of Ethics regulation.

To fulfill these obligations, brokerages employ various methods, including establishing and enforcing brokerage policies, offering guidance in daily practice, and overseeing agents through training and supervision.

Duty of broker of record to ensure compliance

The broker of record has a legal obligation to ensure that the brokerage complies with its duties and obligations under the legislation. There is also a specific obligation on the broker of record to ensure that the brokerage complies with the Code of Ethics regulation.

Compliance is a factor in determining entitlement to registration

To be entitled to registration or renewal of registration, an applicant must satisfy all registration requirements. Before a registration is granted or renewed, RECO must be satisfied that the past and present conduct of the applicant affords reasonable grounds for belief that an applicant for registration or renewal of registration will carry on business in accordance with the law and with integrity and honesty.

RECO Bulletins are a series of publications developed to provide helpful information to brokerages and real estate agents about their duties and obligations under the *Trust in Real Estate Services Act, 2002* (TRESA) and its regulations. Bulletins may be updated as required. Please check the RECO website to ensure you are referencing the most current version.

RECO Bulletins are for convenience only, they do not constitute legal advice. For complete details consult the [legislation](#).

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RECO must also be satisfied that an applicant for registration or renewal of registration has not carried on or is not carrying on activities that are or will be in contravention of the legislation.

No obstruction

As part of complying with the legislation, brokerages and agents must not obstruct RECO's administration of the law. This includes, but is not limited to conduct that:

- Prevents or seeks to prevent a person from making a complaint to RECO,
- Encourages a person to withdraw a complaint made to RECO,
- Prevents or seeks to prevent RECO from making a request for information with respect to a complaint, or
- Prevents or seeks to prevent RECO from receiving accurate and complete information in response to a request for information in relation to a complaint.

For greater clarity, while brokerages and agents are permitted to engage in mediation, settlement discussions, negotiation, or arbitration to settle a dispute, an agreement reached must not include a requirement that the person refrain from making a complaint to RECO or withdraw a complaint already made.

In addition, brokerages and agents must not obstruct an inspector conducting an inspection, or a person accompanying the inspector, or withhold from the inspector or other person or conceal, alter, or destroy any record or other thing that is relevant to the inspection.

Legislation

Trust in Real Estate Services Act, 2002 (TRESA)

General regulation (O. Reg. 567/05)

Educational Requirements, Insurance, Records and Other Matters regulation (O. Reg. 579/05)

Code of Ethics regulation (O. Reg. 365/22)

Personal Real Estate Corporations regulation (O. Reg. 536/20)

Discipline Committee regulation (O. Reg. 367/22)

Other relevant laws include, but are not limited to:

Personal Information Protection and Electronic Documents Act (PIPEDA)

PIPEDA applies to private-sector organizations across Canada that collect, use or disclose personal information in the course of a commercial activity.

FINTRAC (for information about the Proceeds of Crime (Money Laundering) and Terrorist Financing Act)

Brokerages and real estate agents must fulfill specific obligations as required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and associated Regulations, to help combat money laundering and terrorist activity financing in Canada.

Ontario's Human Rights Code

Ontario's *Human Rights Code*, the first in Canada, was enacted in 1962. The *Code* prohibits actions that discriminate against people based on a protected *ground* in a protected *social area*.