

ONTARIO REGULATION 567/05

made under the

REAL ESTATE AND BUSINESS BROKERS ACT, 2002

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GENERAL

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INTERPRETATION

Definitions: Act and regulations

1. (1) In the Act,

“client” means,

- (a) with respect to a brokerage and a trade in real estate, a person who, in the trade, is represented under a representation agreement by the brokerage, and
- (b) with respect to a broker or salesperson and a trade in real estate, a person who, in the trade, is represented under a representation agreement by the brokerage that employs the broker or salesperson, if the broker or salesperson represents the person pursuant to the agreement; (“client”)

“customer” means,

- (a) with respect to a brokerage and a trade in real estate, a person who, in the trade,
 - (i) has an agreement with the brokerage under which the brokerage provides services to the person, and
 - (ii) is not represented under a representation agreement by the brokerage or any other brokerage, and
- (b) with respect to a broker or salesperson and a trade in real estate, a person who, in the trade, obtains services under an agreement, other than a representation agreement, from the brokerage that employs the broker or salesperson, if the broker or salesperson provides services to the person pursuant to the agreement; (“client”)

“organization” includes an individual or other person; (“organisme”)

“representation agreement” means a written, oral or implied agreement between a brokerage and a person under which the brokerage and the person agree that the brokerage will represent the person in respect of a trade in real estate; (“convention de représentation”)

“sell” means dispose of or seek to dispose of an interest in real estate, and “seller” has a corresponding meaning, but “sale” does not have a corresponding meaning. (“vendre”, “vendeur”, “vente”)

(2) In the regulations,

“client” means,

- (a) with respect to a brokerage and a trade in real estate, a person who, in the trade, is represented under a representation agreement by the brokerage, and
- (b) with respect to a broker or salesperson and a trade in real estate, a person who, in the trade, is represented under a representation agreement by the brokerage that employs the broker or salesperson, if the broker or salesperson represents the person pursuant to the agreement; (“client représenté”)

“customer” means,

- (a) with respect to a brokerage and a trade in real estate, a person who, in the trade,
 - (i) has an agreement with the brokerage under which the brokerage provides services to the person, and
 - (ii) is not represented under a representation agreement by the brokerage or any other brokerage, and
- (b) with respect to a broker or salesperson and a trade in real estate, a person who, in the trade, obtains services under an agreement, other than a representation agreement, from the brokerage that employs the broker or salesperson, if the broker or salesperson provides services to the person pursuant to the agreement; (“client non représenté”)

“organization” includes an individual or other person; (“organisme”)

“representation agreement” means a written, oral or implied agreement between a brokerage and a person under which the brokerage and the person agree that the brokerage will represent the person in respect of a trade in real estate; (“convention de représentation”)

“sell” means dispose of or seek to dispose of an interest in real estate, and “seller” has a corresponding meaning, but “sale” does not have a corresponding meaning. (“vendre”, “vendeur”, “vente”)

(3) For the purposes of the definition of “broker” in subsection 1 (1) of the Act, the following qualifications are prescribed:

1. The individual must have successfully completed any relevant educational requirements set out in a regulation made under clause 50 (1) (c) of the Act.

(4) For the purposes of the definition of “salesperson” in subsection 1 (1) of the Act, the following qualifications are prescribed:

1. The individual must have successfully completed any relevant educational requirements set out in a regulation made under clause 50 (1) (c) of the Act.

(5) Subsection (6) applies only if Bill 190 (An Act to promote good government by amending or repealing certain Acts and by enacting one new Act, introduced in the Legislative Assembly of Ontario on April 27, 2005) receives Royal Assent.

(6) On the later of March 31, 2006 and the date Bill 190 receives Royal Assent, subsections (1) and (2) are revoked and the following substituted:

- (1) In the Act and the regulations,

“client” means,

- (a) with respect to a brokerage and a trade in real estate, a person who, in the trade, is represented under a representation agreement by the brokerage, and
- (b) with respect to a broker or salesperson and a trade in real estate, a person who, in the trade, is represented under a representation agreement by the brokerage that employs the broker or salesperson, if the broker or salesperson represents the person pursuant to the agreement; (“client représenté”)

“customer” means,

- (a) with respect to a brokerage and a trade in real estate, a person who, in the trade,
 - (i) has an agreement with the brokerage under which the brokerage provides services to the person, and
 - (ii) is not represented under a representation agreement by the brokerage or any other brokerage, and
- (b) with respect to a broker or salesperson and a trade in real estate, a person who, in the trade, obtains services under an agreement, other than a representation agreement, from the brokerage that employs the broker or salesperson, if the broker or salesperson provides services to the person pursuant to the agreement; (“client non représenté”)

“organization” includes an individual or other person; (“organisme”)

“representation agreement” means a written, oral or implied agreement between a brokerage and a person under which the brokerage and the person agree that the brokerage will represent the person in respect of a trade in real estate; (“convention de représentation”)

“sell” means dispose of or seek to dispose of an interest in real estate, and “seller” has a corresponding meaning, but “sale” does not have a corresponding meaning. (“vendre”, “vendeur”, “vente”)

Definitions: this Regulation

2. In this Regulation,

“buy” means acquire or seek to acquire an interest in real estate, and “buyer” has a corresponding meaning; (“acheter”, “acheteur”)

“buyer representation agreement” means a representation agreement between a brokerage and a buyer. (“convention de représentation de l’acheteur”)

REGISTRATION

Application, form and fee

3. An application for registration or for renewal of registration as a brokerage, broker or salesperson shall contain all the required information, in a form approved by the registrar, and shall be accompanied by the relevant fee set by the administrative authority under clause 12 (1) (b) of the *Safety and Consumer Statutes Administration Act, 1996*, payable to the administrative authority.

Requirements for registration as broker or salesperson

4. (1) For the purposes of subsection 9.1 (1) of the Act, the following requirements are prescribed for an applicant for registration or renewal of registration as a broker or salesperson:

1. The applicant must be at least 18 years of age.
2. The applicant must be a resident of Canada.
3. If the application is for registration as a broker and the applicant has never been registered as a broker, the applicant must,
 - i. have been registered and employed as a salesperson for at least 24 of the 36 months immediately preceding the date of the application, or
 - ii. have experience that, in the opinion of the registrar, is equivalent to the requirement in subparagraph i.
4. The applicant must have paid any group insurance premiums and applicable taxes, and any expenses associated with a group insurance policy, including contributions to reserve funds, that he or she is required to pay by any regulation made under clause 50 (1) (c) of the Act.
5. The applicant must have paid the fee referred to in section 3.

(2) For the purposes of subsection 10 (1) of the Act, the following requirement is prescribed for an applicant for registration or renewal of registration as a broker or salesperson:

1. The registrar must not have refused to grant or renew the registration under subsection 9.1 (1) of the Act.

Conditions of registration as broker or salesperson

5. For the purposes of subsection 10 (2) of the Act, the following are prescribed as conditions of registration for a broker or salesperson:

1. The broker or salesperson must be a resident of Canada.
2. The broker or salesperson must pay any group insurance premiums and applicable taxes, and any expenses associated with a group insurance policy, including contributions to reserve funds, that he or she is required to pay by any regulation made under clause 50 (1) (c) of the Act.

Requirements for registration as brokerage

6. (1) For the purposes of subsection 9.1 (1) of the Act, the following requirements are prescribed for an applicant for registration or renewal of registration as a brokerage:

1. The applicant must have a broker of record.
2. The applicant must have a trust account for the purpose of section 27 of the Act.
3. The applicant must have paid the fee referred to in section 3.

(2) For the purposes of subsection 10 (1) of the Act, the following requirement is prescribed for an applicant for registration or renewal of registration as a brokerage:

1. The registrar must not have refused to grant or renew the registration under subsection 9.1 (1) of the Act.

Conditions of registration as brokerage

7. For the purposes of subsection 10 (2) of the Act, the following are prescribed as conditions of registration for a brokerage:

1. The brokerage must have a broker of record.
2. The brokerage must comply with section 27 of the Act.

Name

8. (1) A registrant may be registered in only one name.

(2) An applicant for registration or renewal of registration as a broker or salesperson shall provide the registrar with one of the following names as the name in which the applicant is to be registered:

1. The complete legal name of the applicant.
2. One or more of the legal given names of the applicant, in the correct order, followed by his or her legal surname.

(3) An applicant for registration or renewal of registration as a brokerage shall provide the registrar with one of the following names as the name in which the applicant is to be registered:

1. The complete legal name of the applicant.

2. One or more of the legal given names of the applicant, in the correct order, followed by his or her legal surname, if the applicant is an individual.
3. A name registered under the *Business Names Act* by the applicant.
- (4) For the purpose of paragraph 2 of subsection (2) and paragraph 2 of subsection (3), the following may be substituted for a given name:
 1. An initial or commonly recognized short form of the given name.
 2. A name by which the applicant is commonly known.
- (5) A registrant may apply to the registrar, in a form approved by the registrar, to change the name in which the registrant is registered, and subsections (2), (3) and (4) apply with necessary modifications.
- (6) A registrant shall not trade in real estate in a name other than the name in which the registrant is registered.
- (7) Subsection 2 (6) of the *Business Names Act* applies despite this section.

Certificate of registration

- 9.** (1) If a registrant is a broker or salesperson, the registrar shall give the registrant a certificate of registration that includes the following information:
1. The registrant's complete legal name and, if the registrant is registered in another name, the name in which the registrant is registered.
 2. An indication whether the registrant is a broker or salesperson.
 3. The employer's name.
 4. The registration number of the registrant.
 5. The expiration date of the registration.
- (2) If a registrant is a brokerage that is registered in respect of only one place, the registrar shall give the registrant a certificate of registration that includes the following information:
1. The registrant's complete legal name and, if the registrant is registered in another name, the name in which the registrant is registered.
 2. An indication that the registrant is a brokerage.
 3. The place to which the certificate of registration relates.
 4. The registration number of the registrant.
 5. The expiration date of the registration.
- (3) If a registrant is a brokerage that is registered in respect of more than one place, the registrar shall give the registrant a certificate of registration for each of those places that includes the following information:
1. The registrant's complete legal name and, if the registrant is registered in another name, the name in which the registrant is registered.
 2. An indication that the registrant is a brokerage.
 3. The place to which the certificate of registration relates.
 4. The registration number of the registrant and, in addition, if the certificate is for a branch office of the brokerage, a separate registration number that relates specifically to that branch office.
 5. The expiration date of the registration.
- (4) When the registrar gives a certificate of registration to a broker or salesperson under subsection (1), he or she shall give a duplicate original of the certificate to the brokerage that employs the broker or salesperson.
- (5) If the registrar revokes, suspends, cancels or refuses to renew the registration of a brokerage, the brokerage shall immediately return to the registrar,
- (a) all certificates of registration that relate to the brokerage and its branch offices, if any; and
 - (b) all certificates of registration in the brokerage's possession that relate to brokers and salespersons employed by the brokerage.
- (6) When a suspension of the registration of a brokerage ends, the registrar shall immediately return to the brokerage all certificates of registration referred to in subsection (5).

(7) If the registrar revokes, suspends, cancels or refuses to renew the registration of a broker or salesperson, or a broker or salesperson ceases to be employed by a brokerage,

- (a) the broker or salesperson shall immediately return his or her certificate of registration to the registrar; and
- (b) the brokerage that employs the broker or salesperson shall immediately return to the registrar the certificate of registration of the broker or salesperson that is in the brokerage's possession.

(8) When a suspension of the registration of a broker or salesperson ends, the registrar shall immediately return the broker's or salesperson's certificates of registration to the person who returned them to the registrar under subsection (7).

(9) A person who is required to return a certificate of registration to another person under this section shall return it using a form of delivery that provides proof of delivery.

Re-employment within specified period

10. (1) If a broker or salesperson ceases to be employed by a brokerage and, within the period described in subsection (2), is employed by that brokerage or another brokerage, the broker or salesperson may, during that period, make an application for registration in a form that the registrar has approved for use in those circumstances.

(2) The period referred to in subsection (1) is the period that begins on the day the broker or salesperson ceased to be employed and ends on the earlier of the following dates:

1. The date that is 60 days after the day the broker or salesperson ceased to be employed.
2. The date that the previous registration of the broker or salesperson would have expired if he or she had not ceased to be employed.

(3) Despite any regulation made under clause 50 (1) (c) of the Act that relates to the expiration of registration, if an application under subsection (1) is approved, the registration expires on the date that the previous registration of the broker or salesperson would have expired if he or she had not ceased to be employed.

Information available to public

11. (1) The registrar shall make the following information available to the public:

1. The complete legal name of every registrant and, if a registrant is registered in another name, the name in which the registrant is registered.
2. For every registrant,
 - i. the registrant's business address and business telephone number, and
 - ii. if known to the registrar, the registrant's business fax number and business e-mail address.
3. For every registrant, whether the registrant is registered as a brokerage, broker or salesperson.
4. If a proposal by the registrar to revoke a registrant's registration has not yet been disposed of, an indication of that fact.
5. If a proposal by the registrar to refuse to renew a registrant's registration has not yet been disposed of, an indication of that fact.
6. If a proposal by the registrar to suspend a registrant's registration has not yet been disposed of, an indication of that fact.
7. If a proposal by the registrar to apply conditions to a registrant's registration has not yet been disposed of, an indication of that fact.
8. If, within the preceding 24 months, a former registrant's registration was revoked or a former registrant was refused renewal of registration, an indication of that fact.
9. If a registrant's registration is currently suspended, an indication of that fact.
10. If conditions, other than conditions prescribed by the regulations or consented to by the registrant, currently apply to a registrant's registration, a description of the conditions.
11. For every registrant, whether or not the registrant has paid any group insurance premiums and applicable taxes, and any expenses associated with a group insurance policy, including contributions to reserve funds, that he or she is required to pay by any regulation made under clause 50 (1) (c) of the Act.
12. If an order described in subsection 38 (1) of the Act has been made against a registrant and is currently in effect, a copy of the order.
13. For every registrant, former registrant and director or officer of a brokerage who is currently charged with an offence as a result of an information laid by an employee of the administrative authority,
 - i. the Act that creates the offence,

- ii. a description of the charge, and
 - iii. the date on which the information was laid.
14. For every registrant, former registrant and director or officer of a brokerage who has been found guilty of an offence as a result of an information laid by an employee of the administrative authority,
- i. the Act that creates the offence,
 - ii. a description of the offence, and
 - iii. a description of the disposition of the charge, including any sentence that was imposed and any order to pay compensation or make restitution.
15. Any information that relates to a registrant, a former registrant, a director or officer of a registrant or a person who is trading in real estate, if the registrar is of the opinion that making the information available to the public could assist in protecting the public.
- (2) The registrar shall make information described in paragraph 12 of subsection (1) available to the public for at least 60 months after,
- (a) the date the registrar made the order under subsection 38 (1) of the Act, if the registrant did not appeal the order; or
 - (b) the date the Tribunal made its order, if the registrant appealed the order made by the registrar under subsection 38 (1) of the Act.
- (3) The registrar shall make information described in paragraph 14 of subsection (1) available to the public for at least 60 months after the registrant was found guilty.
- (4) The registrar,
- (a) shall publish the information described in subsection (1) on the Internet on the administrative authority's website; and
 - (b) shall make the information described in subsection (1) available to the public in at least one other manner that the registrar considers appropriate.
- (5) In making any information available to the public under this section, the registrar shall ensure that the information does not include the name of an individual, unless,
- (a) the individual is an applicant for registration, a registrant, a former registrant, a director or officer of a brokerage or a person who is required to be registered; or
 - (b) the name of the individual is otherwise available to the public in connection with the information.
- (6) The information that this section requires the registrar to make available shall not be disclosed in bulk to any person except as required by law or to a law enforcement authority.

Waiting period for reapplication

12. For the purpose of clause 17 (a) of the Act, 12 months is prescribed as the time to reapply.

COPIES OF AGREEMENTS

Copies of agreements

13. (1) If a broker or salesperson represents a client who enters into a written agreement that deals with the conveyance of an interest in real estate, the broker or salesperson shall use his or her best efforts to deliver a copy of the agreement at the earliest practicable opportunity to the brokerage that employs the broker or salesperson.
- (2) Subsection (1) applies, with necessary modifications, to a broker or salesperson who has a customer, if the customer and the brokerage that employs the broker or salesperson have an agreement that provides for the brokerage to provide services to the customer in respect of any agreement that deals with the conveyance of an interest in real estate.

TRUST MONEY

One account

14. A brokerage shall not maintain more than one trust account for the purpose of section 27 of the Act, unless the registrar consents in writing.

Real Estate Trust Account

15. A brokerage shall ensure that each account maintained under section 27 of the Act is designated as a Real Estate Trust Account.

Variable interest rate trust accounts

16. A brokerage that complies with section 27 of the Act through a variable interest rate account shall, on the request of a person for whom money is held in trust, inform the person of the current interest rate.

Deposit within 5 business days

17. (1) If an amount of money comes into a brokerage's hands in trust for another person in connection with the brokerage's business, the brokerage shall deposit the amount in the trust account maintained under section 27 of the Act within five business days.

(2) In subsection (1),

“business day” means a day that is not,

(a) Saturday, or

(b) a holiday within the meaning of subsection 29 (1) of the *Interpretation Act*.

Requests for disbursements

18. If a brokerage receives a request for a disbursement from the trust account maintained under section 27 of the Act and the disbursement is required by the terms of the applicable trust, the brokerage shall disburse the money as soon as practicable, subject to the terms of the applicable trust.

Authorization of transactions

19. A brokerage shall not engage in any transaction involving money that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business unless the transaction is authorized by the brokerage's broker of record.

OTHER PROPERTY IN TRUST

Other property in trust

20. (1) If property other than money comes into a brokerage's hands in trust for another person in connection with the brokerage's business, the brokerage shall preserve the property in a safe manner.

(2) A brokerage shall not engage in any transaction involving property that is not money and that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business unless the transaction is authorized by the brokerage's broker of record.

(3) If a brokerage receives a request to withdraw all or any part of the property held in trust and the withdrawal is required by the terms of the applicable trust, the brokerage shall withdraw the property requested as soon as practicable, subject to the terms of the applicable trust.

PURCHASE OF BUSINESS

Purchase of business: statements to be delivered

21. (1) The definitions of “buy” and “buyer” in section 2 do not apply to this section.

(2) If the purchase of a business is negotiated by a brokerage on behalf of the person disposing of the business, the brokerage shall provide to the purchaser, before a binding agreement of purchase and sale is entered into, the following statements signed by or on behalf of the person disposing of the business:

1. A profit and loss statement for the business for the preceding 12 months or since the acquisition of the business by the person disposing of it.
2. A statement of the assets and liabilities of the business.
3. A statement containing a list of all fixtures, goods, chattels, other assets and rights relating to or connected with the business that are not included in the trade.

(3) If the brokerage fails to provide the statement mentioned in paragraph 3 of subsection (2) in accordance with that subsection and the agreement of purchase and sale does not expressly deal with whether a fixture, good, chattel, other asset or right relating to or connected with the business is included in the trade, the fixture, good, chattel, other asset or right shall be deemed to be included in the trade.

(4) Paragraphs 1 and 2 of subsection (2) do not apply if a statement is signed by or on behalf of the purchaser and is delivered to the brokerage indicating that the purchaser has received and read a statement under oath or affirmation of the person disposing of the business that sets out the following:

1. The terms and conditions under which the person disposing of the business holds possession of the premises in which the business is being carried on.
2. The terms and conditions under which the person disposing of the business has sublet a part of the premises in which the business is being carried on.

3. All liabilities of the business.
4. A statement that the person disposing of the business has made available the books of account of the business that the person possesses for inspection by the purchaser, or that the person disposing of the business has refused to do so or has no books of account of the business, as the case may be.

OTHER REGISTRANT RESPONSIBILITIES

Multiple representation

22. A registrant shall not represent more than one client in respect of the same trade in real estate unless all of the clients represented by the registrant in respect of that trade consent in writing.

Commissions

23. (1) Subject to subsection 33 (3) of the Act and subsection (2), a registrant shall not charge or collect a commission or other remuneration in respect of a trade in real estate unless,

- (a) the entitlement to the commission or other remuneration arises under a written agreement that is signed by or on behalf of the person who is required to pay the commission or other remuneration; or
- (b) the entitlement to the commission or other remuneration arises under an agreement that is not referred to in clause (a) and,
 - (i) the registrant has conveyed an offer in writing that is accepted, or
 - (ii) the registrant,
 - (A) shows the property to the buyer, or
 - (B) introduces the buyer and the seller to one another for the purpose of discussing the proposed acquisition or disposition of an interest in real estate.

(2) Unless agreed to in writing by the buyer, a registrant shall not charge or collect a commission or other remuneration from a buyer in respect of a trade in real estate if the registrant knows that there is an unexpired buyer representation agreement between the buyer and another registrant.

Office in Ontario

- 24.** (1) A registrant shall not trade in real estate in Ontario from an office that is located outside Ontario.
- (2) A registrant shall maintain an address for service that is in Ontario.
- (3) A registrant shall keep the registrant's business records in Ontario if they relate to trading in real estate in Ontario.

Inducements

25. (1) The definitions of "sell" and "seller" in section 1 and the definitions of "buy" and "buyer" in section 2 do not apply to this section.

(2) A registrant shall not, as an inducement to purchase, lease or exchange real estate, make any representation or promise that the registrant or any other person will sell, lease or exchange the real estate.

(3) A registrant shall not, as an inducement to purchase real estate, make any representation or promise that the registrant or any other person will,

- (a) purchase or sell any of the purchaser's real estate;
- (b) procure for the purchaser a mortgage or extension of a mortgage or a lease or extension of a lease; or
- (c) purchase or sell a mortgage or procure a loan.

(4) A registrant shall not, as an inducement to sell real estate, make any representation or promise that the registrant or any other person will,

- (a) purchase any of the seller's real estate;
- (b) procure a mortgage, extension of a mortgage, lease or extension of a lease; or
- (c) purchase or sell a mortgage or procure a loan.

(5) Subsections (2), (3) and (4) do not apply to a representation or promise if the registrant has entered into a written contract with the person to whom the representation or promise is made that obligates the registrant to ensure that the promise or representation is complied with.

Notice of insurance

26. (1) Before a brokerage enters into an agreement with a buyer or seller in respect of trading in real estate, the broker or salesperson acting on behalf of the brokerage shall, at the earliest practicable opportunity, inform the buyer or seller, in

writing, of whether or not the broker or salesperson is insured under any regulation made under clause 50 (1) (c) of the Act that relates to insurance.

(2) If a broker or salesperson, other than the broker or salesperson referred to in subsection (1), represents or provides services to the buyer or seller pursuant to the agreement referred to in that subsection, the broker or salesperson shall, at the earliest practicable opportunity, inform the buyer or seller, in writing, of whether or not the broker or salesperson is insured under any regulation made under clause 50 (1) (c) of the Act that relates to insurance.

(3) If the insured status of a broker or salesperson referred to in subsection (1) or (2) changes and the agreement referred to in subsection (1) subsists, the broker or salesperson shall, as soon as practicable, inform the buyer or seller, in writing, of the change and of what his or her status is after the change.

COMPLAINTS

Public summaries

27. (1) If an attempt to mediate or resolve a complaint under paragraph 1 of subsection 19 (4) of the Act is resolved to the satisfaction of the registrar, the registrar shall prepare a written summary of the complaint and the result of the complaint and shall make the summary available to the public.

(2) The registrar shall ensure that the summary does not identify any person without that person's written consent.

CORPORATE STRUCTURE OF BROKERAGES

Changes in officers or directors

28. A request for consent under subsection 4 (4) of the Act to a change in the officers or directors of a corporation registered as a brokerage shall be in a form approved by the registrar.

Notice of issue or transfer of shares

29. A notice under subsection 18 (1) or (2) of the Act shall be in a form approved by the registrar and shall identify,

- (a) the person, or the persons that are associated with each other, who, as a result of the issue or transfer of equity shares of the corporation, are acquiring or accumulating beneficial ownership or control of 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation; or
- (b) the person, or the persons that are associated with each other, who already beneficially own or control 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation before the issue or transfer and who, as a result of the issue or transfer of equity shares of the corporation, are increasing that percentage.

MANAGEMENT OF BROKERAGE

Broker of record

30. (1) A broker of record shall,

- (a) actively participate in the management of the brokerage;
- (b) ensure an adequate level of supervision for the brokers, salespersons and other persons employed by the brokerage; and
- (c) take reasonable steps to deal with any failure to comply with the Act or the regulations by a broker, salesperson or other person employed by the brokerage.

(2) A brokerage that is not a sole proprietorship shall designate another broker employed by the brokerage who, when the broker of record is absent or unable to act, shall exercise and perform the powers and duties of the broker of record under sections 19 and 20.

(3) A brokerage that is not a sole proprietorship shall promptly inform the registrar in writing of the designation under subsection (2) and of any change in the designation under that subsection.

Branch offices with more than one salesperson

31. If a branch office of a brokerage has more than one salesperson and is under the direct management of a broker or salesperson under subsection 7 (2) of the Act, the broker or salesperson shall,

- (a) ensure an adequate level of supervision for the brokers, salespersons and other persons employed in the branch office;
- (b) take reasonable steps to deal with any failure to comply with the Act or the regulations by a broker, salesperson or other person employed in the branch office; and
- (c) manage all records relating to the branch office.

BROKERAGES AND THEIR EMPLOYEES

Disclosure by brokers and salespersons to brokerages

32. (1) A broker or salesperson who is registered as a broker or salesperson shall, at the earliest practicable opportunity, disclose the following matters to the brokerage with which he or she is employed:

1. Any ownership interest that the broker or salesperson has in another brokerage.
2. Any conviction, absolute discharge or conditional discharge received by the broker or salesperson for an offence under any Act.
3. Any professional discipline proceeding under any Act that resulted in an order against the broker or salesperson.
4. Whether or not the broker or salesperson is insured under any regulation made under clause 50 (1) (c) of the Act that relates to insurance.

(2) A broker or salesperson who is registered as a broker or salesperson shall also make the disclosure required by paragraph 4 of subsection (1) whenever he or she is required to renew the insurance.

(3) A broker or salesperson who is registered as a broker or salesperson and who communicates with another brokerage with respect to possible employment with the other brokerage shall, at the earliest practicable opportunity, disclose the matters referred to in subsection (1) to the other brokerage.

(4) A broker or salesperson who, under paragraph 4 of subsection (1) or subsection (2) or (3), discloses to a brokerage that he or she is insured shall provide proof of the insurance to the brokerage.

(5) A broker or salesperson who is not registered as a broker or salesperson shall disclose the matters listed in paragraphs 1, 2 and 3 of subsection (1) to a brokerage that is a prospective employer.

Termination of employment

33. (1) A broker or salesperson who initiates the termination of his or her employment with a brokerage shall give the brokerage written notice of the termination, including the date the termination takes effect, and shall forward a copy of the notice to the registrar within five days after the termination takes effect.

(2) A brokerage that initiates the termination of the employment of a broker or salesperson shall give the broker or salesperson written notice of the termination, including the date the termination takes effect, and shall forward a copy of the notice to the registrar within five days after the termination takes effect.

Notice to registrar re certain changes

34. (1) If there is a change to any of the information that was included in the registrant's application under section 3, the registrant shall notify the registrar, in writing, within five days after the change takes place and shall set out the nature of the change.

(2) Subsection (1) does not apply if notice of the change is required to be given to the registrar by any other provision of the Act or the regulations.

TERMINATION OF BROKERAGE'S REGISTRATION

Information for registrar

35. (1) If a brokerage knows that it will cease to be registered, it shall provide the following to the registrar at the earliest practicable opportunity:

1. A letter setting out the exact date that the brokerage will cease to be registered.
2. A copy of a letter that has been sent to all clients and customers of the brokerage, advising them that the brokerage will cease to be registered and will be prohibited from trading in real estate as a brokerage.

(2) If a brokerage has ceased to be registered, it shall provide the following to the registrar at the earliest practicable opportunity:

1. A letter setting out the exact date the brokerage ceased to be registered, if a letter setting out that date was not provided under paragraph 1 of subsection (1).
2. A copy of a letter that has been sent to all clients and customers of the brokerage, advising them that the brokerage has ceased to be registered and is prohibited from trading in real estate as a brokerage, if a copy of a letter was not provided under paragraph 2 of subsection (1).
3. For each trust account maintained under section 27 of the Act, a statement from the financial institution in which the account is maintained that indicates the balance in the account on the date the brokerage ceased to be registered, together with a trust account reconciliation statement prepared by the brokerage that identifies the following as of the date the brokerage ceased to be registered:
 - i. The differences, if any, between the brokerage's records and the records of the financial institution.
 - ii. The balances in the trust account.

- iii. The real estate, if any, to which each balance relates.
 - iv. The persons, if known, who are entitled to each balance.
 - v. Each balance for which it is not known what persons are entitled to it.
4. If the brokerage holds property other than money in trust for another person in connection with the brokerage's business, a statement prepared by the brokerage that, for each of the properties held in trust, describes the property and identifies the following as of the date the brokerage ceased to be registered:
 - i. The place where the property is kept.
 - ii. The real estate, if any, to which the property relates.
 - iii. The person who is entitled to the property, if the person is known, or an indication that the person who is entitled to the property is not known, if the person is not known.
 5. A statement prepared by the brokerage that identifies any changes that occur after the date the brokerage ceases to be registered to the information that is set out in a statement under paragraph 3 or 4 or this paragraph.
 6. A list of all trades in real estate that were pending on the date the brokerage ceased to be registered and that relate to the balance in a trust account maintained under section 27 of the Act or to other property held in trust by the brokerage.
 7. The names, addresses, telephone numbers and other contact information that is on file with the brokerage for all clients and customers of the brokerage who were involved in business that was outstanding on the date the brokerage ceased to be registered.
 8. A financial statement that sets out the assets and liabilities of the brokerage as of the date the brokerage ceased to be registered and a list of the brokerage's creditors and the amounts that are owed to them as of that date.
 9. A letter setting out the location where the brokerage's business records relating to trading in real estate will be kept.

EXEMPTIONS

Brokerages registered under the *Loan and Trust Corporations Act*

36. Subsection 4 (4) of the Act does not apply to a brokerage that is registered in the Loan Corporations Register or the Trust Corporations Register under the *Loan and Trust Corporations Act*.

Public Guardian and Trustee

37. For the purpose of clause 5 (1) (k) of the Act, the Public Guardian and Trustee or a person authorized to act on his or her behalf is prescribed as exempt from registration in respect of any class of trades in real estate.

Compliance with Code of Ethics

38. Subsection 12 (2) and section 26 of the Act do not apply to compliance with the code of ethics established under clause 50 (1) (a) of the Act.

Unclear or unclaimed trust obligations: amounts under \$25

39. (1) Subsections 27 (4) to (15) of the Act do not apply if the amount of money involved is less than \$25.

(2) Despite subsection (1), a brokerage may choose to pay an amount less than \$25 in accordance with subsection 27 (4) or (5) of the Act, in which case subsections 27 (6) to (15) of the Act do apply.

MISCELLANEOUS

Notice of changes under s. 28 of the Act

40. A brokerage, broker or salesperson who gives a notice under subsection 28 (1) or (2) of the Act shall do so in a form approved by the registrar.

Registrar's order re false advertising

41. For the purpose of clause 38 (5) of the Act, the prescribed period is one year from the date the registrar makes the request referred to in subsection 38 (4) of the Act.

Publication of committee decisions

42. (1) Subject to subsections (2) and (4), the discipline committee, shall publish a copy of its final decision or order in each proceeding, including the reasons if any have been given,

- (a) on the Internet on the administrative authority's website; and
- (b) in at least one other manner that the discipline committee considers appropriate.

- (2) If something is published under subsection (1), the discipline committee shall publish it for at least 60 months.
- (3) Subsections (1) and (2) also apply, with necessary modifications, to the appeals committee.
- (4) The discipline committee and the appeals committee shall ensure that nothing published under subsection (1) or (3) identifies any person unless the person consents in writing.
- (5) Subsection (4) does not apply to the identification of a registrant if,
 - (a) the discipline committee has made a determination that the registrant failed to comply with the code of ethics established under clause 50 (1) (a) of the Act and,
 - (i) the time for commencing an appeal has expired and no appeal has been commenced, or
 - (ii) an appeal was commenced but has been withdrawn or abandoned; or
 - (b) the appeals committee has made a determination that the registrant failed to comply with the code of ethics established under clause 50 (1) (a) of the Act.

REVOCATION

Revocation

- 43. Regulation 986 of the Revised Regulations of Ontario, 1990 is revoked.**

COMMENCEMENT

Commencement

- 44. This Regulation comes into force on March 31, 2006.**