

Real Estate and Business Brokers Act, 2002

S.O. 2002, CHAPTER 30 Schedule C

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PART I INTERPRETATION

Interpretation

1. (1) In this Act,

“administrative authority” means the administrative authority as designated under section 3 of the *Safety and Consumer Statutes Administration Act, 1996* for the purpose of administering this Act; (“organisme d’application”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “administrative authority” is repealed and the following substituted:

“administrative authority” means the administrative authority prescribed under clause 4 (1) (b) of the *Delegated Administrative Authorities Act, 2012* to administer specified provisions of this Act and the regulations; (“organisme d’application”)

See: 2012, c. 8, Sched. 11, ss. 51 (1), 54 (1).

“broker” means an individual who has the prescribed qualifications to be registered as a broker under this Act and who is employed by a brokerage to trade in real estate; (“courtier”)

“brokerage” means a corporation, partnership, sole proprietor, association or other organization or entity that, on behalf of others and for compensation or reward or the expectation of such, trades in real estate or holds himself, herself or itself out as such; (“maison de courtage”)

“business” means an undertaking carried on for gain or profit and includes any interest in such undertaking; (“entreprise”)

“employ” means to employ, appoint, authorize or otherwise arrange to have another person act on one’s behalf, including as an independent contractor; (“employer”)

“equity share” means, in respect of a corporation, a share of a class or series of shares of a corporation that carries a voting right either under all circumstances or under circumstances that have occurred and are continuing; (“action participante”)

“investigator” means an investigator appointed under subsection 22 (1); (“enquêteur”)

“Minister” means the Minister of Consumer and Business Services or such other member of the Executive Council to whom administration for this Act is assigned under the *Executive Council Act*; (“ministre”)

“officer” includes the chair and any vice-chair of the board of directors, the president and any vice-president, the secretary and assistant secretary, the treasurer and assistant treasurer and the general manager and assistant general manager of the

corporation or a partner or general manager and assistant general manager of a partnership, any other individual designated as an officer by by-law or resolution or any other individual who performs functions normally performed by an individual occupying such office and the manager of the real estate department of a trust corporation; (“dirigeant”)

“prescribed” means prescribed by regulations made under this Act; (“prescrit”)

“real estate” includes leasehold interests and businesses, whether with or without premises, and fixtures, stock-in-trade and goods connected with the operation of a business; (“bien immobilier”)

“registrant” means a brokerage that is registered under this Act or a broker or salesperson who is registered under this Act; (“personne inscrite”)

“regulations” means regulations made under this Act; (“règlements”)

“salesperson” means an individual who has the prescribed qualifications to be registered as a salesperson under this Act and who is employed by a brokerage to trade in real estate; (“agent immobilier”)

“trade” includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for purchase and sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition, acquisition or transaction, and any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, and the verb “trade” has a corresponding meaning; (“opération”, “mener des opérations”)

“Tribunal” means the Licence Appeal Tribunal established under the *Licence Appeal Tribunal Act, 1999* or such other tribunal as may be prescribed; (“Tribunal”)

“year” means a period of 365 consecutive days or, if the period includes February 29, 366 consecutive days. (“année”) 2002, c. 30, Sched. C, s. 1 (1); 2004, c. 19, s. 18 (1); 2006, c. 34, s. 21 (1).

Associated persons

(2) For purposes of this Act, one person is associated with another person in any of the following circumstances:

1. One person is a corporation of which the other person is an officer or director.
2. One person is a partnership of which the other person is a partner.
3. Both persons are partners of the same partnership.
4. One person is a corporation that is controlled directly or indirectly by the other person.
5. Both persons are corporations and one corporation is controlled directly or indirectly by the same person who controls directly or indirectly the other corporation.
6. Both persons are members of the same voting trust relating to shares of a corporation.
7. Both persons are associated within the meaning of paragraphs 1 to 6 with the same person. 2004, c. 19, s. 18 (2).

PART II OFFICERS

Director

2. (1) Subject to subsection (2), a director shall be appointed for the purposes of this Act and a maximum of two deputy directors may be appointed,

(a) by the board of the administrative authority; or

(b) by the Minister if there is no designated administrative authority. 2002, c. 30, Sched. C, s. 2 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out “designated administrative authority” and substituting “delegated administrative authority”. See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

Director cannot be registrar

(2) A person appointed as the registrar or a deputy registrar under subsection 3 (1) shall not be appointed as the director or a deputy director under subsection (1). 2002, c. 30, Sched. C, s. 2 (2).

Deputy director, duties

(3) A deputy director shall perform such duties as are assigned by the director and shall act as director in his or her absence. 2002, c. 30, Sched. C, s. 2 (3).

Deputy director

(4) If more than one deputy director is appointed, only one deputy director may act as the director under subsection (3) at any one time. 2002, c. 30, Sched. C, s. 2 (4).

Registrar

3. (1) Subject to subsection (2), a registrar shall be appointed for the purposes of this Act and a maximum of two deputy registrars may be appointed,

(a) by the board of the administrative authority; or

(b) by the deputy minister to the Minister if there is no designated administrative authority. 2002, c. 30, Sched. C, s. 3 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out “designated administrative authority” and substituting “delegated administrative authority”. See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

Registrar cannot be director

(2) A person appointed as the director or a deputy director under subsection 2 (1) shall not be appointed as the registrar or a deputy registrar under subsection (1). 2002, c. 30, Sched. C, s. 3 (2).

Powers and duties

(3) The registrar shall exercise the powers and perform the duties imposed on him or her under this Act, and a deputy registrar shall perform such duties as are assigned by the registrar and shall act as the registrar in the registrar’s absence. 2002, c. 30, Sched. C, s. 3 (3); 2009, c. 33, Sched. 10, s. 13 (1).

Deputy registrar

(4) If more than one deputy registrar is appointed, only one deputy registrar may act as the registrar under subsection (3) at any one time. 2002, c. 30, Sched. C, s. 3 (4).

PART III PROHIBITIONS RE: PRACTICE

Prohibition against trade in real estate unless registered

4. (1) No person shall,

(a) trade in real estate as a brokerage unless the person is registered as a brokerage;

(b) trade in real estate as a broker unless he or she is registered as a broker of a brokerage;

(c) trade in real estate as a salesperson unless he or she is registered as a salesperson of a brokerage; or

(d) trade in real estate unless registered under this Act. 2002, c. 30, Sched. C, s. 4 (1).

Unregistered persons

(2) A person who is not registered as a brokerage, broker or salesperson shall not,

(a) directly or indirectly hold himself, herself or itself out as being a brokerage, broker or salesperson, respectively; or

(b) perform any of the functions of a brokerage, broker or salesperson as provided in this Act. 2002, c. 30, Sched. C, s. 4 (2).

Change in partnership

(3) A change in the membership of a partnership shall be deemed to create a new partnership for the purpose of registration. 2002, c. 30, Sched. C, s. 4 (3).

Change in corporation

(4) A change in the officers or directors of a corporation registered as a brokerage may be made only with the consent of the registrar. 2002, c. 30, Sched. C, s. 4 (4).

Exemptions

5. (1) Despite section 4, registration shall not be required in respect of any trade in real estate by,

(a) an assignee, custodian, liquidator, receiver, trustee or other person acting under the *Bankruptcy and Insolvency Act* (Canada), the *Corporations Act*, the *Business Corporations Act*, the *Courts of Justice Act*, the *Winding-up and Restructuring Act* (Canada), or a person acting under the order of any court, or an executor or trustee selling under the terms of a will, marriage settlement or deed of trust;

- (b) an auctioneer if the trade is made in the course of and as part of the auctioneer's duties as auctioneer;
- (c) a person who is registered under the *Securities Act* if the trade is made in the course of and as part of the person's business in connection with a trade in securities;
- (d) a financial institution described in subsection (1.1), if the trade is in real estate owned or administered by the financial institution;
- (e) a person in respect of any mine or mining property within the meaning of the *Mining Act* or in respect of the real estate included in a Crown grant or lease, a mining claim or mineral lands under the *Mining Act* or any predecessor of that Act;
- (f) a full-time salaried employee of a party to a trade if the employee is acting for or on behalf of his or her employer in respect of land situate in Ontario;
- (g) a solicitor of the Superior Court of Justice who is providing legal services if the trade in real estate is itself a legal service or is incidental to and directly arising out of the legal services;
- (h) a person, on the person's own account, in respect of the person's interest in real estate unless,
 - (i) the trade results from an offer of the person to act or a request that the person act in connection with the trade or any other trade, for or on behalf of the other party or one of the other parties to the trade, or
 - (ii) the interest of the person in the real estate was acquired after the offer or request referred to in subclause (i) whether or not the trade is the result of the offer or request;
- (i) a person in respect of the provision for another, for remuneration other than by commission, of all consultations, undertakings and services necessary to arrange for the routing of a right of way including the acquisition of land or interests in land for the purpose, and the person's employees engaged in the project;
- (j) a person who trades in real estate solely for the purpose of arranging leases to which the *Residential Tenancies Act, 2006* applies; or
- (k) such persons or classes of persons that are prescribed as exempt from registration in respect of any class of trades in real estate. 2002, c. 30, Sched. C, s. 5 (1); 2006, c. 17, s. 255; 2007, c. 7, Sched. 7, s. 190 (1).

Financial institutions

- (1.1) A financial institution referred to in clause (1) (d) is,
- (a) a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada);
 - (b) a corporation registered under the *Loan and Trust Corporations Act*;
 - (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*; or
 - (d) an insurer licensed under the *Insurance Act*. 2007, c. 7, Sched. 7, s. 190 (2).

Independent contractor not an employee

- (2) An independent contractor is not an employee for the purpose of clauses (1) (f) and (i). 2002, c. 30, Sched. C, s. 5 (2).

Notification of registration required

6. Subject to subsection 14 (8), no brokerage, broker or salesperson shall trade in real estate until notified in writing by the registrar that the brokerage, broker or salesperson, as the case may be, is registered. 2002, c. 30, Sched. C, s. 6 .

Prohibition against multiple offices unless registered

7. (1) No brokerage shall conduct a business of trading in real estate from more than one place to which the public is invited unless the brokerage is registered in respect of each place, one of which shall be designated as the main office and the remainder as branch offices. 2002, c. 30, Sched. C, s. 7 (1).

Branch offices

(2) Every branch office of a brokerage shall be under the supervision of a broker and each such office having more than one salesperson shall be under the direct management of a broker or of a salesperson who has been registered for at least two years and who is under the supervision of a broker. 2002, c. 30, Sched. C, s. 7 (2).

8. REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* – December 31, 2012.

Registration a requirement to bring action

9. No action shall be brought for commission or other remuneration for services in connection with a trade in real estate unless at the time of rendering the services the person bringing the action was registered or exempt from registration under this Act and the court may stay any such action upon motion. 2002, c. 30, Sched. C, s. 9.

PART IV REGISTRATION

Registration prohibited

9.1 (1) If an applicant for registration or renewal of registration does not meet the prescribed requirements, the registrar shall refuse to grant or renew the registration. 2004, c. 19, s. 18 (3).

Non-application

(2) Section 14 does not apply to a refusal under subsection (1) to grant or renew a registration. 2004, c. 19, s. 18 (3).

Notice of refusal

(3) The registrar shall give the applicant written notice of a refusal under subsection (1), setting out the reasons for the refusal and subsection 45 (3) does not apply to the notice. 2004, c. 19, s. 18 (3).

Registration

10. (1) An applicant that meets the prescribed requirements is entitled to registration or renewal of registration by the registrar unless,

- (a) the applicant is not a corporation and,
 - (i) having regard to the applicant's financial position or the financial position of an interested person in respect of the applicant, the applicant cannot reasonably be expected to be financially responsible in the conduct of business,
 - (ii) the past conduct of the applicant or of an interested person in respect of the applicant affords reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty, or
 - (iii) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for registration or for renewal of registration;
- (b), (c) REPEALED: 2004, c. 19, s. 18 (5).
- (d) the applicant is a corporation and,
 - (i) having regard to its financial position or the financial position of an interested person in respect of the corporation, the applicant cannot reasonably be expected to be financially responsible in the conduct of its business,
 - (ii) having regard to the financial position of its officers or directors or an interested person in respect of its officers or directors, the applicant cannot reasonably be expected to be financially responsible in the conduct of its business,
 - (iii) the past conduct of its officers or directors or of an interested person in respect of its officers or directors or of an interested person in respect of the corporation affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty, or
 - (iv) an officer or director of the corporation makes a false statement or provides a false statement in an application for registration or for renewal of registration;
- (e) the applicant or an interested person in respect of the applicant is carrying on activities that are, or will be if the applicant is registered, in contravention of this Act or the regulations, other than the code of ethics established under section 50;
- (f) the applicant is in breach of a condition of the registration; or
- (g) the applicant fails to comply with a request made by the registrar under subsection (1.1). 2002, c. 30, Sched. C, s. 10 (1); 2004, c. 19, s. 18 (4-6).

Request for information

(1.1) The registrar may request an applicant for registration or renewal of registration to provide to the registrar, in the form and within the time period specified by the registrar,

- (a) information specified by the registrar that is relevant to the decision to be made by the registrar as to whether or not to grant the registration or renewal;
- (b) verification, by affidavit or otherwise, of any information described in clause (a) that the applicant is providing or has provided to the registrar. 2004, c. 19, s. 18 (7).

Conditions

(2) A registration is subject to such conditions as are consented to by the applicant or registrant, as are applied by the registrar under section 13, as are ordered by the Tribunal or as are prescribed. 2002, c. 30, Sched. C, s. 10 (2).

Registration not transferable

(3) A registration is not transferable. 2002, c. 30, Sched. C, s. 10 (3).

Interested person

(4) For the purposes of this section, a person shall be deemed to be an interested person in respect of another person if the person is associated with the other person or if, in the opinion of the registrar,

- (a) the person has or may have a beneficial interest in the other person's business;
- (b) the person exercises or may exercise control either directly or indirectly over the other person; or
- (c) the person has provided or may have provided financing either directly or indirectly to the other person's business. 2002, c. 30, Sched. C, s. 10 (4); 2004, c. 19, s. 18 (8).

Registration of corporation

11. (1) When it registers and on each renewal of its registration, a brokerage that is a corporation shall disclose to the registrar the identity of,

- (a) each person that beneficially owns or controls 10 per cent or more of the equity shares issued and outstanding at the time of the registration or the renewal of registration, as the case may be; and
- (b) persons that are associated with each other and that together beneficially own or control 10 per cent or more of the equity shares issued and outstanding at the time of the registration or the renewal of registration, as the case may be. 2004, c. 19, s. 18 (9).

Calculating number of shares

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total number of all shares beneficially owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried. 2002, c. 30, Sched. C, s. 11 (2).

Broker of record

12. (1) Every brokerage shall,

- (a) designate a broker who is employed by the brokerage as the broker of record and notify the registrar of his or her identity; and
- (b) notify the registrar if the broker of record changes, within five days of the change. 2002, c. 30, Sched. C, s. 12 (1).

Duties

(2) The broker of record shall ensure that the brokerage complies with this Act and the regulations. 2002, c. 30, Sched. C, s. 12 (2).

Sole proprietor

(3) If a brokerage is a sole proprietorship, it shall designate the sole proprietor as the broker of record even though other brokers may be employed by the brokerage. 2002, c. 30, Sched. C, s. 12 (3).

Refusal to register, etc.

13. (1) Subject to section 14, the registrar may refuse to register an applicant or may suspend or revoke a registration or refuse to renew a registration if, in his or her opinion, the applicant or registrant is not entitled to registration under section 10. 2004, c. 19, s. 18 (10).

Conditions

(2) Subject to section 14, the registrar may,

- (a) approve the registration or renewal of a registration on such conditions as he or she considers appropriate; and
- (b) at any time apply to a registration such conditions as he or she considers appropriate. 2002, c. 30, Sched. C, s. 13 (2).

Notice re: refusal, suspension, etc.

14. (1) The registrar shall notify an applicant or registrant in writing if he or she proposes to,
- (a) refuse under subsection 13 (1) to grant or renew a registration;
 - (b) suspend or revoke a registration; or
 - (c) apply conditions to a registration or renewal to which the applicant or registrant has not consented. 2002, c. 30, Sched. C, s. 14 (1); 2004, c. 19, s. 18 (11).

Content of notice

(2) The notice of proposal shall set out the reasons for the proposed action and shall state that the applicant or registrant is entitled to a hearing by the Tribunal if the applicant or registrant mails or delivers, within 15 days after service of the notice, a written request for a hearing to the registrar and to the Tribunal. 2002, c. 30, Sched. C, s. 14 (2).

Service

(3) The notice of proposal shall be served on the applicant or registrant in accordance with section 45. 2002, c. 30, Sched. C, s. 14 (3).

If no request for hearing

(4) If an applicant or registrant does not request a hearing in accordance with subsection (2), the registrar may carry out the proposal. 2002, c. 30, Sched. C, s. 14 (4).

Hearing

(5) If a hearing is requested, the Tribunal shall hold the hearing and may by order direct the registrar to carry out the registrar's proposal or substitute its opinion for that of the registrar and the Tribunal may attach conditions to its order or to a registration. 2002, c. 30, Sched. C, s. 14 (5).

Parties

(6) The registrar, the applicant or registrant and such other persons as the Tribunal may specify are parties to the proceedings under this section. 2002, c. 30, Sched. C, s. 14 (6).

Voluntary cancellation

(7) The registrar may cancel a registration upon the request in writing of the registrant and this section does not apply to the cancellation. 2002, c. 30, Sched. C, s. 14 (7).

Continuation pending renewal

(8) If, within the time prescribed or, if no time is prescribed, before the expiry of the registrant's registration, the registrant has applied for renewal of a registration and paid the required fee, the registration shall be deemed to continue,

- (a) until the renewal is granted;
- (b) until the registrar gives the registrant written notice of the registrar's refusal under section 9.1 to grant the renewal; or
- (c) if the registrant is served notice that the registrar proposes to refuse under subsection 13 (1) to grant the renewal, until the time for requesting a hearing has expired or, if a hearing is requested, until the Tribunal makes its order. 2004, c. 19, s. 18 (12).

Immediate effect

(9) Even if a registrant appeals an order of the Tribunal under section 11 of the *Licence Appeal Tribunal Act, 1999*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. 2002, c. 30, Sched. C, s. 14 (9).

Immediate suspension

15. (1) If the registrar proposes to suspend or revoke a registration under section 14 and if the registrar considers it in the public interest to do so, the registrar may by order temporarily suspend the registration. 2002, c. 30, Sched. C, s. 15 (1).

Immediate effect

- (2) An order under subsection (1) takes effect immediately. 2002, c. 30, Sched. C, s. 15 (2).

Expiry of order

- (3) If a hearing is requested under section 14,
- (a) the order expires 15 days after the written request for a hearing is received by the Tribunal; or
 - (b) the Tribunal may extend the time of expiration until the hearing is concluded, if a hearing is commenced within the 15-day period referred to in clause (a). 2002, c. 30, Sched. C, s. 15 (3).

Same

- (4) Despite subsection (3), if it is satisfied that the conduct of the registrant has delayed the commencement of the hearing, the Tribunal may extend the time of the expiration for the order,
- (a) until the hearing commences; and
 - (b) once the hearing commences, until the hearing is concluded. 2002, c. 30, Sched. C, s. 15 (4).

Requirements for hearing request

16. (1) A request for a hearing under section 14 is sufficiently served if delivered personally or sent by registered mail to the registrar and to the Tribunal. 2002, c. 30, Sched. C, s. 16 (1).

Same

(2) If service is made by registered mail, it shall be deemed to be made on the third day after the day of mailing. 2002, c. 30, Sched. C, s. 16 (2).

Other methods

- (3) Despite subsection (1), the Tribunal may order any other method of service. 2002, c. 30, Sched. C, s. 16 (3).

Suspension without a hearing

16.1 (1) If a registrant does not pay any amounts that the registrant is required to pay with respect to insurance, the registrar shall suspend the registration of the registrant effective as of the date at which the term of the insurance related to the payment begins. 2006, c. 34, s. 21 (2).

No hearing

- (2) Section 14 does not apply to a suspension of registration under subsection (1). 2006, c. 34, s. 21 (2).

Notice of suspension

- (3) The registrar shall give written notice to the registrant, that sets out,
- (a) the fact that the registrar has suspended the registration;
 - (b) the reason for the suspension;
 - (c) the date as of which the suspension took effect;
 - (d) the fact that the registrant is not entitled to request a hearing under section 14 with respect to the suspension; and
 - (e) the registrant's right of revival of the registration under subsection (4). 2006, c. 34, s. 21 (2).

Revival

- (4) The registrant is entitled to have the registration revived for the unexpired balance of its term upon,
- (a) paying the unpaid amounts, for which default in payment resulted in the suspension; and
 - (b) providing to the registrar evidence in writing satisfactory to the registrar that the registrant has paid all amounts that the registrant is required to pay with respect to insurance. 2006, c. 34, s. 21 (2).

Same

- (5) Upon receiving the evidence described in clause (4) (b), the registrar shall,
- (a) revive the registration for the unexpired balance of its term effective from the date on which the registrant paid the unpaid amounts described in clause (4) (a); and
 - (b) give notice in writing to the registrant of the revival and the date on which it is effective. 2006, c. 34, s. 21 (2).

Service of notice

- (6) Subsection 45 (3) does not apply to the notice mentioned in subsection (3) or clause (5) (b). 2006, c. 34, s. 21 (2).

Further application

17. A person whose registration is refused, revoked or refused renewal may reapply for registration only if,
- (a) the time prescribed to reapply has passed since the refusal, revocation or refusal to renew; and
 - (b) new or other evidence is available or it is clear that material circumstances have changed. 2002, c. 30, Sched. C, s. 17.

Notice of issue or transfer of shares

18. (1) In addition to the disclosure required under section 11, every brokerage that is a corporation shall notify the registrar in writing within 30 days after the issue or transfer of any equity shares of the corporation, if the issue or transfer results in,

- (a) any person, or any persons that are associated with each other, 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) an increase in the percentage of issued and outstanding equity shares of the corporation beneficially owned or controlled by any person, or any persons who are associated with each other, where the person or the associated persons already beneficially owned or controlled 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation before the issue or transfer. 2004, c. 19, s. 18 (13).

Same

(2) Despite subsection (1), if a registrant that is a corporation becomes aware of a transfer that otherwise falls into subsection (1) after the transfer has taken place, it shall notify the registrar in writing within 30 days after knowledge of the transfer comes to the attention of its officers or directors. 2002, c. 30, Sched. C, s. 18 (2).

Calculation of total number of equity shares

(3) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purpose of this section, the total number shall be calculated as the total of all the shares beneficially owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries. 2002, c. 30, Sched. C, s. 18 (3).

PART V COMPLAINTS, INSPECTION AND DISCIPLINE

Complaints

19. (1) If the registrar receives a complaint about a registrant, the registrar may request information in relation to the complaint from any registrant. 2002, c. 30, Sched. C, s. 19 (1).

Request for information

(2) A request for information under subsection (1) shall indicate the nature of the complaint. 2002, c. 30, Sched. C, s. 19 (2).

Duty to comply with request

(3) A registrant who receives a written request for information shall provide the information as soon as practicable. 2002, c. 30, Sched. C, s. 19 (3).

Procedures

- (4) In handling complaints, the registrar may do any of the following, as appropriate:
1. Attempt to mediate or resolve the complaint.
 2. Give the registrant a written warning that if the registrant continues with the activity that led to the complaint, action may be taken against the registrant.
 3. Require the broker or salesperson to take further educational courses.
 4. Refer the matter, in whole or in part, to the discipline committee.
 5. Take an action under section 13, subject to section 14.
 6. Take further action as is appropriate in accordance with this Act. 2002, c. 30, Sched. C, s. 19 (4).

Inspection

20. (1) The registrar or a person designated in writing by the registrar may conduct an inspection and may, as part of that inspection, enter and inspect at any reasonable time the business premises of a registrant, other than any part of the premises used as a dwelling, for the purpose of,

- (a) ensuring compliance with this Act and the regulations;
- (b) dealing with a complaint under section 19; or
- (c) ensuring the registrant remains entitled to registration. 2002, c. 30, Sched. C, s. 20 (1).

Powers on inspection

- (2) While carrying out an inspection, an inspector,
 - (a) is entitled to free access to all money, valuables, documents and records of the person being inspected that are relevant to the inspection;
 - (b) may use any data storage, processing or retrieval device or system used in carrying on business in order to produce information that is relevant to the inspection and that is in any form; and
 - (c) may, upon giving a receipt for them, remove for examination and may copy anything relevant to the inspection including any data storage disk or other retrieval device in order to produce information, but shall promptly return the thing to the person being inspected. 2002, c. 30, Sched. C, s. 20 (2); 2006, c. 34, s. 21 (3).

Identification

(3) An inspector shall produce, on request, evidence of his or her authority to carry out an inspection. 2002, c. 30, Sched. C, s. 20 (3).

Assistance to be given

(4) An inspector may, in the course of an inspection, require a person to produce a document or record and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce information that is relevant to the inspection and that is in any form, and the person shall produce the document or record or provide the assistance. 2002, c. 30, Sched. C, s. 20 (4); 2006, c. 34, s. 21 (3).

Obstruction prohibited

(5) No person shall obstruct an inspector conducting an inspection or withhold from him or her or conceal, alter or destroy any money, valuables, documents or records that are relevant to the inspection. 2002, c. 30, Sched. C, s. 20 (5).

Use of force prohibited

(6) An inspector shall not use force to enter and inspect premises under this section. 2002, c. 30, Sched. C, s. 20 (6).

Admissibility of copies

(7) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2002, c. 30, Sched. C, s. 20 (7).

Discipline proceedings

21. (1) A discipline committee shall be established to hear and determine, in accordance with the prescribed procedures, if a registrant has failed to comply with the code of ethics established by the Minister. 2002, c. 30, Sched. C, s. 21 (1).

Appeals committee

(2) An appeals committee shall be established to consider, in accordance with the prescribed procedures, appeals from the discipline committee. 2002, c. 30, Sched. C, s. 21 (2).

Appointment of members

(3) The board of the administrative authority or, if there is no designated administrative authority, the Minister shall appoint the members of the discipline committee and the members of the appeals committee and, in making the appointments, shall ensure that the prescribed requirements for the composition of each committee are met. 2004, c. 19, s. 18 (14).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is amended by striking out “designated a administrative authority” and substituting “delegated administrative authority”. See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

Result of a determination

(4) If the discipline committee makes a determination under subsection (1) that a registrant has failed to comply with the code of ethics, it may order any of the following as appropriate:

1. Require the broker or salesperson to take further educational courses.
2. In accordance with the terms that may be specified by the committee, require the brokerage to fund educational courses for brokers and salespersons employed by the brokerage or to arrange and fund such educational courses.
3. Despite subsection 12 (1) of the *Safety and Consumer Statutes Administration Act, 1996*, impose such fine as the committee considers appropriate, to a maximum of \$25,000, or such lesser amount as may be prescribed, to be paid by the registrant to the administrative authority or to the Minister of Finance if there is no designated administrative authority.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 is repealed and the following substituted:

3. Despite subsection 35 (1) of the *Delegated Administrative Authorities Act, 2012*, impose such fine as the committee considers appropriate, to a maximum of \$25,000, or such lesser amount as may be prescribed, to be paid by the registrant to the administrative authority or to the Minister of Finance if there is no delegated administrative authority.

See: 2012, c. 8, Sched. 11, ss. 51 (2), 54 (1).

4. Suspend or postpone the taking of further educational courses, the funding or the funding and arranging of educational courses or the imposition of the fine for such period and upon such terms as the committee designates.
5. Fix and impose costs to be paid by the registrant to the administrative authority or to the Minister of Finance if there is no designated administrative authority. 2002, c. 30, Sched. C, s. 21 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 5 is amended by striking out “designated administrative authority” and substituting “delegated administrative authority”. See: 2012, c. 8, Sched. 11, ss. 51 (3), 54 (1).

Appeal

(5) A party to the discipline proceeding may appeal the final order of the discipline committee to the appeals committee. 2002, c. 30, Sched. C, s. 21 (5).

Power of the appeals committee

(6) The appeals committee may by order overturn, affirm or modify the order of the discipline committee and may make an order under subsection (4). 2002, c. 30, Sched. C, s. 21 (6).

Payment of fine

- (7) The registrant shall pay any fine imposed under subsection (4),
 - (a) on or before the day specified in the order of the discipline committee or, if the fine is the subject of an appeal, on or before the day specified in the order of the appeals committee; or
 - (b) on or before the 60th day after the date of the last order made in respect of the fine, if no day is specified in that order. 2002, c. 30, Sched. C, s. 21 (7).

Taking of educational course

- (8) The registrant shall take the educational course required under subsection (4),
 - (a) within the time period specified in the order of the discipline committee or, if the requirement is the subject of an appeal, within the time period specified in the order of the appeals committee; or
 - (b) at the first reasonable opportunity after the last order made in respect of the educational course, if no time period is specified in that order. 2002, c. 30, Sched. C, s. 21 (8).

Arranging and funding educational courses

(9) The brokerage shall arrange and fund educational courses for brokers and salespersons employed by the brokerage as required under subsection (4) within the time period specified in the order of the discipline committee or, if the requirement is the subject of an appeal, within the time period specified in the order of the appeals committee. 2002, c. 30, Sched. C, s. 21 (9).

Funding educational courses

(10) The brokerage shall fund the educational courses for brokers and salespersons employed by the brokerage as required under subsection (4),

- (a) within the time period specified in the order of the discipline committee or, if the requirement is the subject of an appeal, within the time period specified in the order of the appeals committee; or

- (b) at the first reasonable opportunity after the last order made in respect of the educational course, if no time period is specified in that order. 2002, c. 30, Sched. C, s. 21 (10).

Public access

(11) Decisions of the discipline committee and the appeals committee shall be made available to the public in such manner as may be prescribed. 2002, c. 30, Sched. C, s. 21 (11).

Appointment of investigators

22. (1) The director may appoint persons to be investigators for the purposes of conducting investigations. 2002, c. 30, Sched. C, s. 22 (1).

Certificate of appointment

(2) The director shall issue to every investigator a certificate of appointment bearing his or her signature or a facsimile of the signature. 2002, c. 30, Sched. C, s. 22 (2).

Production of certificate of appointment

(3) Every investigator who is conducting an investigation, including under section 23, shall, upon request, produce the certificate of appointment as an investigator. 2006, c. 34, s. 21 (4).

Search warrant

23. (1) Upon application made without notice by an investigator, a justice of the peace may issue a warrant, if he or she is satisfied on information under oath that there is reasonable ground for believing that,

- (a) a person has contravened or is contravening this Act or the regulations or has committed an offence under the law of any jurisdiction that is relevant to the person's fitness for registration under this Act; and
- (b) there is,
 - (i) in any building, dwelling, receptacle or place anything relating to the contravention of this Act or the regulations or to the person's fitness for registration, or
 - (ii) information or evidence relating to the contravention of this Act or the regulations or the person's fitness for registration that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant. 2004, c. 19, s. 18 (15); 2006, c. 34, s. 21 (5).

Powers under warrant

- (2) Subject to any conditions contained in it, a warrant obtained under subsection (1) authorizes an investigator,
- (a) to enter or access the building, dwelling, receptacle or place specified in the warrant and examine and seize anything described in the warrant;
 - (b) to use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form;
 - (c) to exercise any of the powers specified in subsection (10); and
 - (d) to use any investigative technique or procedure or do anything described in the warrant. 2004, c. 19, s. 18 (15); 2006, c. 34, s. 21 (6, 7).

Entry of dwelling

(3) Despite subsection (2), an investigator shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling, unless,

- (a) the justice of the peace is informed that the warrant is being sought to authorize entry into a dwelling; and
- (b) the justice of the peace authorizes the entry into the dwelling. 2004, c. 19, s. 18 (15).

Conditions on warrant

(4) A warrant obtained under subsection (1) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2004, c. 19, s. 18 (15).

Expert help

(5) The warrant may authorize persons who have special, expert or professional knowledge and other persons as necessary to accompany and assist the investigator in respect of the execution of the warrant. 2004, c. 19, s. 18 (15); 2006, c. 34, s. 21 (8).

Time of execution

(6) An entry or access under a warrant issued under this section shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise. 2004, c. 19, s. 18 (15).

Expiry of warrant

(7) A warrant issued under this section shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by an investigator. 2004, c. 19, s. 18 (15).

Use of force

(8) An investigator may call upon police officers for assistance in executing the warrant and the investigator may use whatever force is reasonably necessary to execute the warrant. 2004, c. 19, s. 18 (15).

Obstruction

(9) No person shall obstruct an investigator executing a warrant under this section or withhold from him or her or conceal, alter or destroy anything relevant to the investigation being conducted pursuant to the warrant. 2004, c. 19, s. 18 (15).

Assistance

(10) An investigator may, in the course of executing a warrant, require a person to produce the evidence or information described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the evidence or information described in the warrant and the person shall produce the evidence or information or provide the assistance. 2004, c. 19, s. 18 (15).

Return of seized items

(11) An investigator who seizes any thing under this section or section 23.1 may make a copy of it and shall return it within a reasonable time. 2006, c. 34, s. 21 (9).

Admissibility

(12) A copy of a document or record certified by an investigator as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2004, c. 19, s. 18 (15).

Seizure of things not specified

23.1 An investigator who is lawfully present in a place pursuant to a warrant or otherwise in the execution of his or her duties may, without a warrant, seize anything in plain view that the investigator believes on reasonable grounds will afford evidence relating to a contravention of this Act or the regulations. 2006, c. 34, s. 21 (10).

Searches in exigent circumstances

24. (1) An investigator may exercise any of the powers described in subsection 23 (2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant. 2004, c. 19, s. 18 (16).

Dwellings

(2) Subsection (1) does not apply to a building or part of a building that is being used as a dwelling. 2004, c. 19, s. 18 (16).

Use of force

(3) The investigator may, in executing any authority given by this section, call upon police officers for assistance and use whatever force is reasonably necessary. 2004, c. 19, s. 18 (16).

Applicability of s. 23

(4) Subsections 23 (5), (9), (10), (11) and (12) apply with necessary modifications to a search under this section. 2004, c. 19, s. 18 (16).

Freeze order

25. (1) If the conditions in subsection (2) are met, the director may in writing,

- (a) order any person having on deposit or controlling any assets or trust funds of a registrant or former registrant to hold those funds or assets;
- (b) order a registrant or former registrant to refrain from withdrawing any asset or trust fund from a person having it on deposit or controlling it; or

- (c) order a registrant or former registrant to hold any asset or trust fund of a client, customer or other person in trust for the person entitled to it. 2002, c. 30, Sched. C, s. 25 (1); 2006, c. 19, Sched. G, s. 9 (1).

Conditions

(2) The director may make an order under subsection (1) if he or she believes that it is advisable for the protection of the clients or customers of a registrant or former registrant and,

- (a) a search warrant has been issued under this Act; or
- (b) criminal proceedings or proceedings in relation to a contravention under this Act or under any other Act are about to be or have been instituted against the registrant or former registrant in connection with or arising out of the business in respect of which the registrant or former registrant is or was registered. 2002, c. 30, Sched. C, s. 25 (2); 2006, c. 19, Sched. G, s. 9 (2).

Limitation

(3) In the case of a financial institution described in subsection (3.1), the order under subsection (1) applies only to the offices and branches named in the order. 2007, c. 7, Sched. 7, s. 190 (3).

Financial institutions

(3.1) A financial institution referred to in subsection (3) is,

- (a) a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada);
- (b) a corporation registered under the *Loan and Trust Corporations Act*; or
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*. 2007, c. 7, Sched. 7, s. 190 (3).

Release of assets

(4) The director may consent to the release of any particular asset or trust fund from the order or may wholly revoke the order. 2002, c. 30, Sched. C, s. 25 (4).

Exception

(5) Subsection (1) does not apply if the registrant or former registrant files with the director, in such manner and amount as the director determines,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of an insurer licensed under the *Insurance Act* to write surety and fidelity insurance;
- (c) a bond of a guarantor accompanied by collateral security; or
- (d) another prescribed form of security. 2002, c. 30, Sched. C, s. 25 (5).

Application to court

(6) An application may be made to the Superior Court of Justice for a determination in respect of the disposition of an asset or trust fund,

- (a) by a person in receipt of an order under subsection (1), if that person is in doubt as to whether the order applies to the asset or trust fund; or
- (b) by a person who claims an interest in the asset or trust fund that is subject to the order. 2002, c. 30, Sched. C, s. 25 (6).

Notice

(7) If an order is made under this section, the director may register in the appropriate land registry office a notice that an order under subsection (1) has been issued and that the order may affect land belonging to the person referred to in the notice, and the notice has the same effect as the registration of a certificate of pending litigation, except that the director may in writing revoke or modify the notice. 2002, c. 30, Sched. C, s. 25 (7).

Cancellation or discharge application

(8) A registrant or former registrant in respect of which an order is made under subsection (1) or any person having an interest in land in respect of which a notice is registered under subsection (7) may apply to the Tribunal for cancellation in whole or in part of the order or for discharge in whole or in part of the registration. 2002, c. 30, Sched. C, s. 25 (8).

Disposition by Tribunal

(9) The Tribunal shall dispose of the application after a hearing and may cancel the order or discharge the registration in whole or in part if the Tribunal finds,

- (a) that the order or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons having an interest in the land; or
- (b) that the interests of other persons are unduly prejudiced by the order or registration. 2002, c. 30, Sched. C, s. 25 (9) ; 2006, c. 19, Sched. G, s. 9 (3).

Parties

(10) The applicant, the director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal. 2002, c. 30, Sched. C, s. 25 (10).

Court application

(11) If the director has made an order under subsection (1) or registered a notice under subsection (7), he or she may apply to the Superior Court of Justice for directions or an order relating to the disposition of assets, trust funds or land affected by the order or notice. 2002, c. 30, Sched. C, s. 25 (11).

Notice not required

(12) An application by the director under this section may be made without notice to any other person. 2002, c. 30, Sched. C, s. 25 (12).

Freeze orders, non-registrants

25.1 (1) The director may make an order described in subsection (2) in respect of the money or assets of a person who is not registered under this Act and who is alleged to have conducted business for which registration is required under this Act at a time when the person was not registered to do so if,

- (a) the director receives an affidavit in which it is alleged, and in which facts are set out supporting the allegation, that the person who is not registered under this Act,
 - (i) is subject to criminal proceedings or proceedings in relation to a contravention under this Act or any other Act that are about to be or have been instituted against the person in connection with or arising out of conducting business for which registration is required under this Act, or
 - (ii) owns a building, dwelling, receptacle or place, or carries on activities in a building, dwelling, receptacle or place, in respect of which a search warrant has been issued under section 23; and
- (b) the director, based on the affidavit referred to in clause (a), finds reasonable grounds to believe that,
 - (i) in the course of conducting business for which registration is required under this Act, the person who is the subject of the allegation referred to in clause (a) has received money or assets from clients or customers, and
 - (ii) the interests of those clients or customers require protection. 2004, c. 19, s. 18 (17) ; 2006, c. 19, Sched. G, s. 9 (4).

Order

- (2) In the circumstances described in subsection (1), the director may, in writing,
 - (a) order any person having on deposit or controlling any money or asset of the person who is the subject of the allegation referred to in clause (1) (a) to hold the money or asset; or
 - (b) order the person who is the subject of the allegation referred to in clause (1) (a),
 - (i) to refrain from withdrawing any money or asset from a person having it on deposit or controlling it, or
 - (ii) to hold any money or asset of a client, customer or other person in trust for the person who is entitled to it. 2004, c. 19, s. 18 (17) ; 2006, c. 19, Sched. G, s. 9 (5).

Application

(3) Subsections 25 (3) to (12) apply with necessary modifications to an order made under this section. 2004, c. 19, s. 18 (17).

**PART VI
CONDUCT AND OFFENCES**

Duty of brokerage

26. A brokerage shall ensure that every salesperson and broker that the brokerage employs is carrying out their duties in compliance with this Act and the regulations. 2002, c. 30, Sched. C, s. 26.

Trust account

27. (1) Every brokerage shall,

- (a) maintain in Ontario an account designated as a trust account, in,
 - (i) a bank, or an authorized foreign bank, within the meaning of section 2 of the *Bank Act* (Canada),
 - (ii) a corporation registered under the *Loan and Trust Corporations Act*, or
 - (iii) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*;
- (b) deposit into the account all money that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business;
- (c) at all times keep the money separate and apart from money belonging to the brokerage; and
- (d) disburse the money only in accordance with the terms of the trust. 2004, c. 19, s. 18 (18); 2007, c. 7, Sched. 7, s. 190 (4).

Disclosure

(2) Brokerages shall fully and clearly disclose in writing to a person depositing trust money the terms on which the brokerage deposits the money, including whether the money is deposited in an interest bearing account and the interest rate that the brokerage receives on the money. 2002, c. 30, Sched. C, s. 27 (2).

Interest

(3) Unless otherwise provided by contract, all interest on the trust money referred to in subsection (1) shall be paid to the beneficial owner of the trust money. 2002, c. 30, Sched. C, s. 27 (3).

Entitlement unclear

(4) If a brokerage holds money in trust for a period of two years and entitlement to the money has not been determined or is unclear, the brokerage shall pay the money to,

- (a) the administrative authority; or
- (b) if there is no designated administrative authority, the Minister of Finance. 2002, c. 30, Sched. C, s. 27 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out "designated administrative authority" and substituting "delegated administrative authority". See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

Unclaimed trust money

(5) If a brokerage holds money in trust for a period of one year after the person for whom it is held first became entitled to payment of the money and the person cannot be located, the brokerage shall pay the money to,

- (a) the administrative authority; or
- (b) if there is no designated administrative authority, the Minister of Finance. 2002, c. 30, Sched. C, s. 27 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out "designated administrative authority" and substituting "delegated administrative authority". See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

Attempt to locate person entitled to payment of money

(6) Before the brokerage pays the money under subsection (5), the brokerage shall use reasonable efforts to locate the person entitled to the money being held in trust. 2002, c. 30, Sched. C, s. 27 (6).

Information on entitlement

(7) When a brokerage pays money over under subsection (4) or (5), the brokerage shall provide to the administrative authority or to the Minister of Finance, as the case may be, as much information as the brokerage has in order to determine who is entitled to the trust money. 2002, c. 30, Sched. C, s. 27 (7).

Money held in trust

(8) If the administrative authority has been paid money under clause (4) (a) or (5) (a), it shall hold the money in trust until the money is claimed by the person who is entitled to it or the money is transferred to the Minister of Finance under subsection (11). 2002, c. 30, Sched. C, s. 27 (8).

Use of interest

(9) If money has been paid to the administrative authority under clause (4) (a) or (5) (a), the administrative authority shall allocate any interest that is earned after it has received the money to a separate account and may use the money from that account only to cover the costs of administering the trust fund and processing claims for the recovery of money held in trust. 2002, c. 30, Sched. C, s. 27 (9).

Same

(10) If money to which clause (4) (a) or (5) (a) applies is held in an interest bearing account and the money is paid to the administrative authority, the administrative authority shall treat the money that is paid as a capital amount, and for purposes of subsection (9), interest shall be deemed not to be earned on the money until after the administrative authority has received it. 2002, c. 30, Sched. C, s. 27 (10).

Unclaimed trust money to Minister of Finance

(11) If the administrative authority holds money that has been paid under clause (4) (a) or (5) (a) for a period of five years, the administrative authority shall pay the money to the Minister of Finance within one year after it has been held for the five-year period. 2002, c. 30, Sched. C, s. 27 (11).

Attempt to locate person entitled to money

(12) The Minister or the administrative authority, as the case may be, shall use reasonable efforts to locate the person entitled to the money paid under subsection (5). 2002, c. 30, Sched. C, s. 27 (12).

Rights preserved

(13) The payment of money held in trust to the Minister of Finance or the administrative authority is made without any prejudice to the rights of any person to claim entitlement to the trust money. 2002, c. 30, Sched. C, s. 27 (13).

Payment

(14) The Minister of Finance or the administrative authority that receives money under subsection (4) or (5) shall pay it to the person entitled to the money. 2002, c. 30, Sched. C, s. 27 (14).

Transition

(15) If a person who was registered as a broker under the *Real Estate and Business Brokers Act* immediately before that Act is repealed is holding money to which subsection (4) or (5) would apply if they were in force for the period specified in the subsection or for a longer period immediately before this section is proclaimed into force, within one year after this section has come into force, the person deemed to be a brokerage under subsection 49 (2) shall pay the money to,

- (a) the administrative authority; or
- (b) if there is no designated administrative authority, the Minister of Finance. 2002, c. 30, Sched. C, s. 27 (15).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out “designated administrative authority” and substituting “delegated administrative authority”. See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

Notice of changes to registrar

28. (1) Every brokerage shall, within five days after the event, notify the registrar in writing of,
- (a) any change in address for service;
 - (b) in the case of a corporation or partnership, any change in the officers or directors; and
 - (c) the date of commencement or termination of the employment of every broker and salesperson and, in the case of termination of employment of a broker or salesperson, the reason for the termination. 2002, c. 30, Sched. C, s. 28 (1); 2004, c. 19, s. 18 (19).

Same

- (2) Every broker or salesperson shall, within five days after the event, notify the registrar in writing of,
- (a) any change in address for service; and
 - (b) the commencement or termination of his or her employment by a brokerage and the date of the commencement or termination. 2002, c. 30, Sched. C, s. 28 (2); 2004, c. 19, s. 18 (20).

Timing

(3) The registrar shall be deemed to have been notified on the day on which he or she is actually notified or, where the notification is by mail, on the day of mailing. 2002, c. 30, Sched. C, s. 28 (3).

Financial statements

(4) Every brokerage shall, when required by the registrar, file a financial statement showing the matters specified by the registrar and signed by the broker of record and certified by a person licensed under the *Public Accounting Act, 2004*. 2002, c. 30, Sched. C, s. 28 (4); 2004, c. 8, s. 46; 2011, c. 1, Sched. 2, s. 7.

Confidential

(5) The information contained in a financial statement filed under subsection (4) is confidential and no person shall otherwise than in the ordinary course of the person's duties communicate any such information or allow access to the financial statement. 2002, c. 30, Sched. C, s. 28 (5).

Carrying on business as sole proprietor

29. (1) A brokerage carrying on business alone through an individual broker shall carry on business in the name of the broker and shall not use any description or device that would indicate that the brokerage's business is being carried on by more than one person or by a corporation. 2002, c. 30, Sched. C, s. 29 (1).

Exception

(2) Despite subsection (1), a surviving or remaining partner may carry on business in the name of the original partnership if the surviving or remaining partner publishes on all letterhead, circulars and advertisements used in connection with the business the fact that the surviving or remaining partner is the sole proprietor. 2002, c. 30, Sched. C, s. 29 (2).

Restrictions re: employees

30. No brokerage shall,

- (a) employ another brokerage's broker or salesperson to trade in real estate or permit such broker or salesperson to act on the brokerage's behalf;
- (b) employ an unregistered person to perform a function for which registration is required; or
- (c) pay any commission or other remuneration to a person referred to in clause (a) or (b). 2002, c. 30, Sched. C, s. 30.

Restrictions re: brokers and salespersons

31. (1) No broker or salesperson shall trade in real estate on behalf of any brokerage other than the brokerage which employs the broker or salesperson. 2002, c. 30, Sched. C, s. 31 (1).

Same

(2) No broker or salesperson is entitled to or shall accept any commission or other remuneration for trading in real estate from any person except the brokerage which employs the broker or salesperson. 2002, c. 30, Sched. C, s. 31 (2).

Acquisition or divestiture by registrant

32. (1) Unless the registrant first delivers to all other parties to the agreement the notice described in subsection (2) and the other parties have acknowledged in writing receipt of the notice, no registrant shall, directly or indirectly,

- (a) purchase, lease, exchange or otherwise acquire for himself, herself, or itself, any interest in real estate, or make an offer to do so; or
- (b) divest himself, herself, or itself of any interest in real estate, or make an offer to do so. 2004, c. 19, s. 18 (21).

Contents of notice

(2) The notice referred to in subsection (1) shall be in writing and shall include,

- (a) a statement that the registrant is a brokerage, broker or salesperson, as the case may be;
- (b) full disclosure of all facts within the registrant's knowledge that affect or will affect the value of the real estate; and
- (c) in the case of a transaction described in clause (1) (a), the particulars of any negotiation, offer or agreement by or on behalf of the registrant for the subsequent sale, lease, exchange or other disposition of an interest in the real estate to any other person. 2004, c. 19, s. 18 (21).

Prohibition re: breaking contract

33. (1) No registrant shall induce any party to an agreement for purchase and sale or an agreement for rental of real estate to break the agreement for the purpose of entering into another such agreement. 2002, c. 30, Sched. C, s. 33 (1).

Date of signing

(2) Every salesperson and broker shall make all reasonable efforts to ensure that a person signing an agreement in respect of a trade in real estate sets out the date upon which the signature was affixed. 2002, c. 30, Sched. C, s. 33 (2).

Commission

(3) Unless agreed to in writing by the seller, no brokerage is entitled to claim commission or other remuneration from the seller in respect of a trade in real estate if the real estate is, to the knowledge of the brokerage, covered by an unexpired listing agreement with another brokerage. 2002, c. 30, Sched. C, s. 33 (3); 2004, c. 19, s. 18 (22).

Falsifying information

34. No registrant shall falsify, assist in falsifying or induce or counsel another person to falsify or assist in falsifying any information or document relating to a trade in real estate. 2002, c. 30, Sched. C, s. 34.

Furnishing false information

35. No registrant shall furnish, assist in furnishing or induce or counsel another person to furnish or assist in furnishing any false or deceptive information or documents relating to a trade in real estate. 2002, c. 30, Sched. C, s. 35.

Note: On July 1, 2015, the day named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2013, c. 13, Sched. 3, ss. 1, 3 (2))

Offers to purchase real estate

35.1 (1) No registrant shall,

- (a) while acting on behalf of a purchaser, present an offer to purchase real estate except if the offer is in writing;
- (b) represent to any person that a written offer to purchase real estate exists except if the offer is in writing. 2013, c. 13, Sched. 3, s. 1.

Records

(2) A brokerage acting on behalf of a seller shall retain, for the period of time prescribed, copies of all written offers that it receives to purchase real estate or copies of all other prescribed documents related to those offers. 2013, c. 13, Sched. 3, s. 1.

Request for inquiry by registrar

(3) A person who has made a written offer to purchase real estate or a registrant acting on behalf of such a person may request that the registrar make an inquiry to determine the number of written offers that the brokerage acting for a seller has received to purchase the real estate. 2013, c. 13, Sched. 3, s. 1.

Inquiry

(4) On receiving a request under subsection (3), the registrar may make an inquiry of the brokerage and the brokerage shall,

- (a) respond within a reasonable period of time, or within the time that is prescribed; and
- (b) at the request of the registrar, provide the registrar with copies of the written offers or other documents that it is required to retain under subsection (2). 2013, c. 13, Sched. 3, s. 1.

Disclosure by registrar

(5) The registrar shall determine the number of written offers that the brokerage has received to purchase the real estate and shall disclose the number of the offers as soon as practicable, or within the period of time that is prescribed, to the person who requested the inquiry under subsection (3), but shall not disclose the substance of any of the offers or the identity of the person making any of the offers. 2013, c. 13, Sched. 3, s. 1.

Other action by registrar

(6) Nothing in this section limits the authority of the registrar to take any other action against a registrant that this Act authorizes the registrar to take. 2013, c. 13, Sched. 3, s. 1.

Commission and remuneration

36. (1) All commission or other remuneration payable to a brokerage in respect of a trade in real estate shall be an agreed amount or percentage of the sale price or rental price, as the case may be, or a combination of both. 2013, c. 13, Sched. 3, s. 2.

If no agreement

(1.1) If there is no agreement as to the amount of the commission or other remuneration, the rate of it or other basis for determining it shall be that generally prevailing in the community where the real estate is located. 2013, c. 13, Sched. 3, s. 2.

Percentages

(2) If the commission payable in respect of a trade in real estate is expressed as a percentage of the sale price or rental price, the percentage does not have to be fixed but may be expressed as a series of percentages that decrease at specified amounts as the sale price or rental price increases. 2002, c. 30, Sched. C, s. 36 (2).

Prohibition

(3) No registrant shall request or enter into an arrangement for the payment of a commission or any other remuneration based on the difference between the price at which real estate is listed for sale or rental and the actual sale price or rental price, as the case may be, of the real estate, nor is a registrant entitled to retain any commission or other remuneration computed upon any such basis. 2002, c. 30, Sched. C, s. 36 (3).

False advertising

37. No registrant shall make false, misleading or deceptive statements in any advertisement, circular, pamphlet or material published by any means relating to trading in real estate. 2002, c. 30, Sched. C, s. 37.

Order of registrar re: false advertising

38. (1) If the registrar believes on reasonable grounds that a registrant is making a false, misleading or deceptive statement in any advertisement, circular, pamphlet or material published by any means, the registrar may,

- (a) order the cessation of the use of such material;
- (b) order the registrant to retract the statement or publish a correction of equal prominence to the original publication; or
- (c) order both a cessation described in clause (a) and a retraction or correction described in clause (b). 2002, c. 30, Sched. C, s. 38 (1).

Procedures

(2) Section 14 applies with necessary modifications to an order under this section in the same manner as to a proposal by the registrar to refuse a registration. 2002, c. 30, Sched. C, s. 38 (2).

Effect

(3) The order of the registrar shall take effect immediately, but the Tribunal may grant a stay until the registrar's order becomes final. 2002, c. 30, Sched. C, s. 38 (3).

Pre-approval

(4) If the registrant does not appeal an order under this section or if the order or a variation of it is upheld by the Tribunal, the registrant shall, upon the request of the registrar, submit all statements in any advertisement, circular, pamphlet or material to be published by any means to the registrar for approval before publication for such period as the registrar specifies. 2002, c. 30, Sched. C, s. 38 (4); 2004, c. 19, s. 18 (23).

Specified period

- (5) The registrar shall not specify under subsection (4) a period,
- (a) that exceeds such period as may be prescribed; or
 - (b) any part of which falls outside such period as may be prescribed. 2004, c. 19, s. 18 (24).

Restraining orders

39. (1) If it appears to the director that a person is not complying with this Act or the regulations or an order made under this Act, the director may apply to the Superior Court of Justice for an order directing that person to comply, and, upon the application, the court may make such order as the court thinks fit. 2002, c. 30, Sched. C, s. 39 (1).

Same

(2) Subsection (1) applies in addition to any other procedures that may be available to the director, whether or not the director has exercised his or her rights under such procedures. 2002, c. 30, Sched. C, s. 39 (2).

Appeal

- (3) An appeal lies to the Divisional Court from an order made under subsection (1). 2002, c. 30, Sched. C, s. 39 (3).

Offence

40. (1) A person is guilty of an offence who,
- (a) furnishes false information in any application under this Act or in any statement or return required under this Act;

- (b) fails to comply with any order, other than an order made under section 21, direction or other requirement under this Act; or
- (c) contravenes or fails to comply with any section of this Act or the regulations made under the Act, other than a code of ethics established by the Minister under section 50. 2002, c. 30, Sched. C, s. 40 (1).

Brokerages

(2) An officer or director of a brokerage is guilty of an offence who fails to take reasonable care to prevent the brokerage from committing an offence mentioned in subsection (1). 2002, c. 30, Sched. C, s. 40 (2).

Penalties

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years less a day, or both, and a corporation that is convicted of an offence under this Act is liable to a fine of not more than \$250,000. 2002, c. 30, Sched. C, s. 40 (3).

Limitation

(4) No proceeding under this section shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the director. 2002, c. 30, Sched. C, s. 40 (4).

Orders for compensation, restitution

41. (1) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to pay compensation or make restitution. 2002, c. 30, Sched. C, s. 41 (1).

If insurance has paid

(2) If an order is made in a person's favour under subsection (1) and that person has already received compensation or restitution from an insurer, the person ordered to pay the compensation or make restitution shall deliver the amount to the insurer. 2002, c. 30, Sched. C, s. 41 (2).

Default in payment of fines

42. (1) If a fine payable as a result of a conviction for an offence under this Act is in default for at least 60 days, the director may disclose to a consumer reporting agency the name of the defaulter, the amount of the fine and the date the fine went into default. 2002, c. 30, Sched. C, s. 42 (1).

If payment made

(2) Within 10 days after the director has notice that the fine has been paid in full, the director shall inform the consumer reporting agency of the payment. 2002, c. 30, Sched. C, s. 42 (2).

Transition

(3) If a fine is payable as a result of a conviction under the *Real Estate and Business Brokers Act*, despite the repeal of that Act, the director may treat the fine as if it is payable as a result of a conviction under this Act, and subsections (1) and (2) apply to such a fine in like manner as they apply to a fine payable for a conviction under this Act. 2002, c. 30, Sched. C, s. 42 (3).

Liens and charges

43. (1) If a fine payable as a result of a conviction for an offence under this Act is in default for at least 60 days, the director may by order create a lien against the property of the person who is liable to pay the fine. 2002, c. 30, Sched. C, s. 43 (1).

Liens on personal property

- (2) If the lien created by the director under subsection (1) relates to personal property,
 - (a) the *Personal Property Security Act*, except Part V, applies with necessary modifications to the lien, despite clause 4 (1) (a) of that Act;
 - (b) the lien shall be deemed to be a security interest that has attached for the purposes of the *Personal Property Security Act*; and
 - (c) the director may perfect the security interest referred to in clause (b) for the purposes of the *Personal Property Security Act* by the registration of a financing statement under that Act. 2002, c. 30, Sched. C, s. 43 (2).

Liens and charges on real property

(3) If the lien created by the director under subsection (1) relates to real property, the director may register the lien against the property of the person liable to pay the fine in the proper land registry office and on registration, the obligation under the lien becomes a charge on the property. 2002, c. 30, Sched. C, s. 43 (3).

Initiation of sale proceedings prohibited

(4) The director shall not initiate sale proceedings in respect of any real property against which he or she has registered a lien under subsection (3). 2002, c. 30, Sched. C, s. 43 (4).

Proceeds of sale

(5) If a lien is perfected by registration under subsection (2) or is registered against real property under subsection (3) and the related real or personal property is sold, the director shall ensure that the funds he or she receives as a result of the sale are used to pay the fine. 2002, c. 30, Sched. C, s. 43 (5).

Discharge of lien

- (6) Within 10 days after the director has knowledge of the payment in full of the fine, the director shall,
- (a) discharge the registration of any financing statement registered under clause (2) (c); and
 - (b) register a discharge of a charge created on registration of a lien under subsection (3). 2002, c. 30, Sched. C, s. 43 (6).

**PART VII
GENERAL**

Confidentiality

44. (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;
- (b) to a ministry, department or agency of a government engaged in the administration of legislation similar to this Act or legislation that protects consumers or to any other entity to which the administration of legislation similar to this Act or legislation that protects consumers has been assigned;
- (b.1) as authorized under the *Regulatory Modernization Act, 2007*;
- (c) to a prescribed entity or organization, if the purpose of the communication is consumer protection;
- (d) to a law enforcement agency;
- (e) to his, her or its counsel; or
- (f) with the consent of the person to whom the information relates. 2004, c. 19, s. 18 (25); 2007, c. 4, s. 41.

Testimony

(2) Except in a proceeding under this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations. 2004, c. 19, s. 18 (25).

Service

45. (1) Any notice, order or request is sufficiently given or served if it is,
- (a) delivered personally;
 - (b) sent by registered mail; or
 - (c) sent by another manner if the sender can prove receipt of the notice, order or request. 2002, c. 30, Sched. C, s. 45 (1).

Deemed service

(2) If service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date. 2002, c. 30, Sched. C, s. 45 (2).

Exception

(3) Despite subsections (1) and (2), the Tribunal may order any other method of service it considers appropriate in the circumstances. 2002, c. 30, Sched. C, s. 45 (3).

Fees

46. (1) The Minister may by order establish fees that are payable under this Act in respect of registration, renewal of registration, late filings and other administrative matters. 2002, c. 30, Sched. C, s. 46 (1).

Exception

(2) Subsection (1) does not apply if there is a designated administrative authority 2002, c. 30, Sched. C, s. 46 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by striking out “designated administrative authority” and substituting “delegated administrative authority”. See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

Legislation Act, 2006, Part III

(3) An order made under this section is not a regulation for the purposes of Part III (Regulations) of the *Legislation Act, 2006*. 2002, c. 30, Sched. C, s. 46 (3); 2006, c. 21, Sched. F, s. 129.

Certificate as evidence

47. (1) For all purposes in any proceeding, a statement purporting to be certified by the director is, without proof of the office or signature of the director, admissible in evidence as proof in the absence of evidence to the contrary, of the facts stated in it in relation to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the registrar;
- (c) the time when the facts upon which the proceedings are based first came to the knowledge of the director; or
- (d) any other matter pertaining to registration or non-registration of persons or to filing or non-filing of information. 2002, c. 30, Sched. C, s. 47 (1).

Proof of document

(2) Any document made under this Act that purports to be signed by the director or a certified copy of the document is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, that the document is signed by the director without proof of the office or signature of the director. 2002, c. 30, Sched. C, s. 47 (2).

Names of and information concerning registrants

48. (1) As required by regulation, the registrar shall make available to the public the names of registrants and other information, as prescribed, in respect of registrants. 2002, c. 30, Sched. C, s. 48 (1).

Same

(2) The names of registrants shall be made available in the prescribed form and manner and with such information as is prescribed. 2002, c. 30, Sched. C, s. 48 (2).

Transition

49. (1) Despite the repeal of the *Real Estate and Business Brokers Act*, any person who was registered as a broker or salesperson under that Act immediately before this Act is proclaimed into force shall be deemed to be registered as a broker or salesperson, as the case may be, under this Act until the person is required to renew their registration under this Act. 2002, c. 30, Sched. C, s. 49 (1).

Same

(2) If a person was registered as a broker under the *Real Estate and Business Brokers Act* immediately before this Act is proclaimed into force and the person would be required to be registered as a brokerage under this Act, the person shall be deemed to be registered as a brokerage under this Act until the person is required to renew their registration under this Act. 2002, c. 30, Sched. C, s. 49 (2).

PART VIII REGULATIONS

Minister’s regulations

50. (1) The Minister may make regulations,
- (a) establishing a code of ethics for the purposes of subsection 21 (1);

- (b) governing the jurisdiction and procedures of any committee established under this Act;
- (c) respecting any matter that is delegated by the Lieutenant Governor in Council to the Minister under paragraph 25 of subsection 51 (1). 2002, c. 30, Sched. C, s. 50 (1); 2004, c. 19, s. 18 (26).

Code of ethics

(1.1) A regulation under clause (1) (c) may be made as part of the code of ethics established under clause (1) (a). 2004, c. 19, s. 18 (27).

Delegation

(2) Despite subsection 3 (4) of the *Safety and Consumer Statutes Administration Act, 1996*, the Minister may, by regulation, delegate to the board of the administrative authority the power to make some or all of the regulations under subsection (1), subject to the approval of the Minister. 2004, c. 19, s. 18 (28).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is repealed. See: 2012, c. 8, Sched. 11, ss. 51 (4), 54 (1).

Approval

(3) The Minister may approve or refuse to approve the regulations but approval shall not be given unless, in his or her opinion, they have been made in accordance with the consultation criteria and process set out in the administrative agreement described in subsection 4 (1) of the *Safety and Consumer Statutes Administration Act, 1996*. 2002, c. 30, Sched. C, s. 50 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed. See: 2012, c. 8, Sched. 11, ss. 51 (4), 54 (1).

Revocation, transition

(4) The Minister may, by regulation, revoke a delegation to the board of the administrative authority under subsection (2), but the revocation of a delegation does not result in the revocation of any regulation made by the board of the administrative authority under the delegated power before the revocation of the delegation, and the board's regulation remains valid. 2004, c. 19, s. 18 (28).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is repealed. See: 2012, c. 8, Sched. 11, ss. 51 (4), 54 (1).

Residual authority to act

(4.1) Despite any delegation under this section to the board of the administrative authority and without having to revoke the delegation, the Minister continues to have authority to make regulations in respect of the matter that is the subject of the delegation. 2009, c. 33, Sched. 10, s. 13 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4.1) is repealed. See: 2012, c. 8, Sched. 11, ss. 51 (4), 54 (1).

Conflicts

(5) If there is a conflict between a regulation made under this section and a regulation made by the Lieutenant Governor in Council under section 51, the latter prevails. 2002, c. 30, Sched. C, s. 50 (5).

General or particular

(6) A regulation under this section may be general or particular in its application. 2002, c. 30, Sched. C, s. 50 (6).

Lieutenant Governor in Council regulations

51. (1) The Lieutenant Governor in Council may make regulations,
1. exempting any person or class of persons or class of trades from any provision of this Act or the regulations and attaching conditions to an exemption;
 2. respecting applications for registration or renewal of registration and prescribing conditions of registration;
 - 2.1 prescribing requirements for the purposes of subsections 9.1 (1) and 10 (1);
 3. governing educational requirements for applicants for registration, applicants for renewal of registration and registrants, including,
 - i. establishing areas of specialization and prescribing different educational requirements for each area,
 - ii. establishing a certification process in respect of an area of specialization,
 - iii. requiring applicants for registration, applicants for renewal of registration and registrants to meet educational requirements specified by the board of the administrative authority, the Minister, the director or the registrar or to complete a program of studies that has been, or take one or more courses that have been, designated by the board of the administrative authority, the Minister, the director or the registrar,

- iv. authorizing the board of the administrative authority, the Minister, the director or the registrar to designate organizations that are authorized to provide the programs and courses designated under subparagraph iii, and
 - v. requiring that all educational requirements specified under subparagraph iii and the list of all programs and courses designated under that subparagraph be made available to the public;
4. governing specialization in respect of brokerages that are corporations, including restricting or prohibiting the certification of corporations as specialists;
 5. REPEALED: 2004, c. 19, s. 18 (31).
 6. respecting financial security requirements for brokerages, brokers and salespersons, including requiring them to be bonded or insured or have collateral security, and prescribing the forfeiture of bonds, the disposition of proceeds and other terms related to the financial security requirements;
 7. governing the insurance that brokerages, brokers or salespersons must have, including,
 - i. prescribing the types of insurance they must have,
 - ii. prescribing the minimum amounts for which they must be insured under each type of insurance,
 - iii. governing group insurance for brokerages, brokers or salespersons, including,
 - A. authorizing the board of the administrative authority or, if there is no designated administrative authority, the Minister to arrange for and administer group insurance on behalf of brokerages, brokers or salespersons and to act as named insured, and

Note: On a day to be named by proclamation of the Lieutenant Governor, sub-subparagraph A is amended by striking out “designated administrative authority” and substituting “delegated administrative authority”. See: 2012, c. 8, Sched. 11, ss. 51 (5), 54 (1).

- B. requiring brokerages, brokers or salespersons to participate in group insurance;
8. governing the documents, records and trust accounts that must be kept by brokerages, including the manner and location in which they are kept and the time periods for retaining such information and authorizing the registrar to specify the location at which they must be kept;
 9. prescribing the responsibilities of brokers of record, brokerages, brokers or salespersons;
 10. requiring registrants to provide information to the registrar concerning persons other than the registrants in order to assist in determining whether such persons are or may be interested persons;
 11. prescribing procedures and other matters related to complaints under section 19;
 12. respecting inspections and investigations under this Act;
 13. governing the composition of the discipline committee and the appeals committee and, subject to subsection 21 (3), governing matters relating to the appointment of the members of those committees;
 14. requiring registrants to provide, on request and in the prescribed circumstances, proof of registration and prescribing the nature of the proof and the manner in which it is to be provided;
 15. respecting the manner in which and the frequency with which decisions of the discipline committee and appeals committee are made available to the public;
 16. varying the manner in which a notice under subsection 25 (7) or a lien under subsection 43 (3) is registered as a result of technological or electronic changes in the filing of documents in the land registry office;
 17. prescribing information that must be provided to the registrar and requiring that specified information be verified by affidavit;
 18. governing the activities of registrants including,
 - i. prescribing matters that must be disclosed and when they must be disclosed in the course of a trade in real estate, including matters related to any holdings in brokerages other than the brokerage by which they are employed, in the case of salespersons and brokers, or in other brokerages, in the case of brokerages and the conditions under which such disclosures may be required,
 - ii. setting out the manner in which trust accounts are wound down when a brokerage’s registration ends,
 - iii. regulating advertising and representations or promises intended to induce a trade in real estate,
 - iv. regulating listing agreements, representation agreements and specific types of representation agreements,

- v. prescribing conditions that must be met before commissions or other remuneration may be charged or collected,
 - vi. prescribing statements that are to be provided in respect of any trade in real estate, the content of the statement, the manner in which the statement is to be provided, the circumstances under which a statement is not required and the consequences of failing to provide a statement,
 - vii. setting out obligations of a brokerage, broker and salesperson that follow the acceptance of an offer to sell, purchase, exchange, lease or rent real estate;
19. governing the conduct of registrants when they represent more than one party in a trade;
 20. requiring that any information required under this Act be in a form approved by the director, the registrar or the Minister, as specified in the regulation;
 21. prescribing matters that must be disclosed by brokers and salespersons to the brokerages by which they are employed and to brokerages that are prospective employers and the conditions under which such disclosures are required;
 22. requiring the registrar to make available to the public the names of registrants and prescribing the form and manner in which the names of registrants are made available and prescribing other information in respect of registrants that may be made available to the public;
 23. requiring registrants to maintain business premises that comply with the prescribed rules;
 24. providing for any transitional matter necessary for the effective implementation of this Act or the regulations;
 25. delegating any matter that may be the subject of a regulation under this section to the Minister;
 26. prescribing rules relating to addresses for service under the Act;
 27. prescribing any matter or thing that this Act refers to as being prescribed or in accordance with the regulations;
 28. governing the application of the *Electronic Commerce Act, 2000* or any part of that Act to this Act;
 29. defining, for the purposes of this Act and the regulations, any word or expression that is used in this Act but not defined in this Act;
 30. authorizing the director or the board of the administrative authority to conduct quality assurance programs in relation to the administration of this Act or the regulations and to use information collected under this Act for the purposes of those programs. 2002, c. 30, Sched. C, s. 51 (1); 2004, c. 19, s. 18 (29-34).

Residual authority to act

(2) Despite any delegation to the Minister under paragraph 25 of subsection (1) and without having to revoke the delegation, the Lieutenant Governor in Council continues to have authority to make regulations in respect of the matter that is the subject of the delegation. 2002, c. 30, Sched. C, s. 51 (2).

Revocation, transition

(3) The Lieutenant Governor in Council may, by regulation, revoke a delegation to the Minister under paragraph 25 of subsection (1), but the revocation of a delegation does not result in the revocation of any regulation that was made, before the revocation of the delegation,

- (a) by the Minister under the delegated power; or
- (b) by the board of the administrative authority pursuant to a delegation by the Minister under subsection 50 (2),

and the Minister's or board's regulation remains valid. 2004, c. 19, s. 18 (35).

Making regulation not revocation

(4) The making of a regulation to which subsection (2) applies by the Lieutenant Governor in Council shall not constitute the revocation of a delegation under this section unless the regulation so specifies. 2002, c. 30, Sched. C, s. 51 (4).

General or particular

(5) A regulation under this section may be general or particular in its application. 2002, c. 30, Sched. C, s. 51 (5).

52. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2002, c. 30, Sched. C, s. 52.

53. OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2002, c. 30, Sched. C, s. 53.

Français

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