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as at 10 July 2026

Real Estate Agents Act 2008

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Commencement	see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Real Estate Agents Act 2008.

2 Commencement

(1) Sections 10 to 24, 33, 75, 76, 100, and 156 of this Act come into force on the day after the date on which it receives the Royal assent.

(2) The rest of this Act comes into force on the day that is 14 months after the date it receives the Royal assent.

Part 1
Interpretation and application

3 Purpose of Act

(1) The purpose of this Act is to promote and protect the interests of consumers in respect of transactions that relate to real estate and to promote public confidence in the performance of real estate agency work.

(2) The Act achieves its purpose by—

(a) regulating agents, branch managers, and salespersons:

(b) raising industry standards:

(c) providing accountability through a disciplinary process that is independent, transparent, and effective.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

agency agreement means an agreement under which an agent is authorised to undertake real estate agency work for a client in respect of a transaction

agent means a real estate agent who holds, or is deemed to hold, a current licence as an agent under this Act

Authority means the Real Estate Agents Authority established by section 10

branch manager means a person who holds, or is deemed to hold, a current licence as a branch manager under this Act

client means the person on whose behalf an agent carries out real estate agency work

company means a company within the meaning of the Companies Act 1993, and includes a building society within the meaning of the Building Societies Act 1965, and a limited partnership registered under the Limited Partnerships Act 2008

contractual document, in relation to a transaction, means a document that contains or records an agreement or a proposed agreement to enter into or effect the transaction, and includes a document that contains or records an offer that, on its acceptance, gives rise to such an agreement

commission means remuneration by way of commission, fee, gain, or reward for services provided by an agent in respect of a transaction

Complaints Assessment Committee or **Committee** means a Complaints Assessment Committee established under section 75

crime involving dishonesty has the same meaning as in section 2(1) of the Crimes Act 1961

Disciplinary Tribunal or **Tribunal** means the Disciplinary Tribunal established under section 100

expenses means any sum or reimbursement for expenses or charges incurred in connection with services provided by an agent in the capacity of agent

former licensee means a person who was, but is no longer, a licensee, and includes a person who was a real estate agent, branch manager, or salesperson under the Real Estate Agents Act 1976

land includes all estates and interests, whether freehold or chattel, in real property, and includes any building and any part of a building, and any licence that is registrable under the Land Transfer Act 2017, and any occupation right agreement within the meaning of the Retirement Villages Act 2003; and, in relation to any transaction relating to land that also relates to any goods, chattels, or other property, also includes those goods or chattels and that other property

lawyer has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

licence means a licence granted under this Act to act as an agent, branch manager, or salesperson

licensee means an agent, a branch manager, or a salesperson

Minister means the Minister who is for the time being responsible for the administration of this Act

officer, in relation to a licensee that is a company,—

(a) means every director, manager, or secretary of the company who, on behalf and in the name of the company, carries on the company's business as a real estate agent; and

(b) includes any person, however designated, who is responsible for the management of the company and any person who is responsible for the management of any branch of the company, or (in relation to any company that carries on any other business in addition to its business as a real estate agent) the person responsible for the management of the company's real estate agency work

real estate agency work or **agency work**—

(a) means any work done or services provided, in trade, on behalf of another person for the purpose of bringing about a transaction; and

(b) includes any work done by a branch manager or salesperson under the direction of, or on behalf of an agent to enable the agent to do the work or provide the services described in paragraph (a); but

(c) does not include—

(i) the provision of general advice or materials to assist owners to locate and negotiate with potential buyers; or

(ii) the publication of newspapers, journals, magazines, or websites that include advertisements for the sale or other disposal of any land or business; or

(iii) the broadcasting of television or radio programmes that include advertisements for the sale or other disposal of any land or business; or

(iv) the lending of money on mortgage or otherwise; or

(v) the provision of investment advice; or

(vi) the provision of conveyancing services within the meaning of the Lawyers and Conveyancers Act 2006

register means the register required to be established by the Registrar under section 63

REINZ means the Real Estate Institute of New Zealand Incorporated

residential property means any property used, or intended to be used, exclusively or principally for residential purposes

salesperson means a person who holds, or is deemed to hold, a current licence as a salesperson under this Act

sole agency agreement means an agreement between an agent and a client in which the client agrees not to instruct any other agent to act for the client in respect of the transaction to which the agreement relates

transaction means any 1 or more of the following:

(a) the sale, purchase, or other disposal or acquisition of a freehold estate or interest in land:

(b) the grant, sale, purchase, or other disposal or acquisition of a leasehold estate or interest in land (other than a tenancy to which the Residential Tenancies Act 1986 applies):

(c) the grant, sale, purchase, or other disposal or acquisition of a licence that is registrable under the Land Transfer Act 2017:

(d) the grant, sale, purchase, or other disposal or acquisition of an occupation right agreement within the meaning of the Retirement Villages Act 2003:

(e) the sale, purchase, or other disposal or acquisition of any business (either with or without any interest in land).

(2) To avoid doubt, the sale, purchase, or other disposal or acquisition of shares comes within the definition of transaction in subsection (1) if, and only if, the shares entitle the holder to a licence that is registrable under subpart 6 of Part 3 of the Land Transfer Act 2017.

Section 4(1) **land**: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 4(1) **transaction** paragraph (c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 4(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

5 Act binds the Crown

This Act binds the Crown.

6 Persons may not carry out real estate agency work unless licensed or exempt

(1) A person must not carry out any real estate agency work unless the person—

(a) is licensed under this Act and acts within the scope of that licence; or

(b) is exempt from the licensing requirement under any of sections 7 to 9 or under another enactment.

(2) No person may hold himself or herself out to the public as ready to carry out any agency work if that person is not licensed under this Act or exempt from the licensing requirement under any of sections 7 to 9 or under another enactment.

(3) For the purposes of this section, it is immaterial whether or not a person carries out any agency work as a business in its own right or as part of, or in connection with, any other business.

Compare: 1976 No 9 s 3(1)

7 Exemption for lawyers and conveyancers

(1) This section applies to any person who is—

(a) a lawyer within the meaning of the Lawyers and Conveyancers Act 2006 or a person acting under the supervision of such a lawyer; or

(b) a conveyancing practitioner within the meaning of the Lawyers and Conveyancers Act 2006 or a person acting under the supervision of such a conveyancing practitioner; or

(c) an incorporated firm within the meaning of the Lawyers and Conveyancers Act 2006.

(2) A person to whom this section applies may carry out any real estate agency work but, in respect of the sale or other disposal of any land or business, is not entitled to be remunerated for that work by commission in addition to, or instead of, the professional charges of that lawyer or conveyancing practitioner.

(3) When any person to whom this section applies carries out any real estate agency work, that person—

(a) is deemed not to be doing so as an agent; and

(b) is not subject to any of the provisions of this Act; but

(c) is deemed to be acting in his or her capacity—

(i) as a lawyer within the meaning of the Lawyers and Conveyancers Act 2006; or

(ii) as a person acting under the supervision of a lawyer within the meaning of the Lawyers and Conveyancers Act 2006; or

(iii) as a conveyancing practitioner within the meaning of the Lawyers and Conveyancers Act 2006; or

(iv) as a person acting under the supervision of a conveyancing practitioner within the meaning of the Lawyers and Conveyancers Act 2006; or

(v) as an incorporated firm within the meaning of the Lawyers and Conveyancers Act 2006; and

(d) is subject accordingly to the provisions of the Lawyers and Conveyancers Act 2006.

Compare: 1976 No 9 s 3(7), (8)

8 Exemption for licensed auctioneers

A person who is registered as an auctioneer under the Auctioneers Act 2013 may sell or offer to sell any land by auction.

Section 8: amended, on 18 December 2013, by section 28(3) of the Auctioneers Act 2013 (2013 No 148).

9 Exemption under regulations

A person who is exempted by a regulation made under section 156(1)(a) may, in accordance with that regulation, carry out real estate agency work.

Part 2
Real Estate Agents Authority

Establishment of Authority

10 Authority established

This section establishes the Real Estate Agents Authority.

Nature of Authority

11 Authority a Crown entity

(1) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(2) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.

Authority's functions

12 Authority's functions

(1) The functions of the Authority are to—

(a) administer the licensing regime for agents, branch managers, and salespeople, including the granting and renewal of licence applications; and

(b) appoint a Registrar of the register of licensees; and

(c) ensure that the register of licensees is established, kept, and maintained; and

(d) develop practice rules for the Minister's approval and maintain these rules for licensees, including ethical responsibilities; and

(e) set fees and levies; and

(f) appoint Complaints Assessment Committees and maintain a panel of persons suitable to serve as members of Complaints Assessment Committees; and

(g) develop consumer information on matters relating to real estate transactions, including approved guides on agency agreements and sale and purchase agreements; and

(h) develop and provide consumer information on matters relating to the provision of real estate services, including providing the public with information on how to make a complaint; and

(i) set professional standards for agents; and

(j) investigate and initiate proceedings in relation to offences under this Act and any other enactment; and

(k) investigate of its own motion any act, omission, allegation, practice, or other matter which indicates or appears to indicate unsatisfactory conduct or misconduct on the part of a licensee; and

(l) provide procedures for the lodging of complaints; and

(m) receive complaints relating to the conduct of licensees; and

(n) carry out any other function that the Minister may direct the Authority to perform in accordance with section 112 of the Crown Entities Act 2004; and

(o) carry out any other functions that may be conferred on the Authority by this Act or any other enactment.

(2) The Authority may, where it considers it appropriate to do so, consult with representatives of the real estate industry about any matter that relates to the functions of the Authority.

(3) To avoid doubt, nothing in subsection (1) affects the role of an industry skills board established under section 362 of the Education and Training Act 2020 for the real estate industry.

Section 12(3): replaced, on 1 April 2020, by section 78(1) of the Education (Vocational Education and Training Reform) Amendment Act 2020 (2020 No 1).

Section 12(3): amended, on 22 October 2025, by section 51 of the Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56).

Section 12(3): amended, on 1 January 2026, by section 51 of the Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56).

Membership of Authority

13 Membership of Authority

(1) The Authority consists of no more than 7 members.

(2) Members of the Authority are the board for the purposes of the Crown Entities Act 2004.

(3) The Minister must appoint 1 member to be the chairperson of the board.

(4) The Minister must appoint—

(a) at least 2 members who are licensees or former licensees:

(b) at least 1 member who is a lawyer of not less than 7 years' legal experience.

(5) *[Repealed]*

(6) In addition to the criteria for appointments set out in section 29 of the Crown Entities Act 2004, the Minister must, when making any appointment, consider

the need for the Authority to represent the views of a broad range of interests, including consumer and industry interests.

Section 13(3): amended, on 10 July 2026, by section 18(1) of the Regulatory Systems (Occupational Regulation) Amendment Act 2026 (2026 No 43).

Section 13(4): replaced, on 10 July 2026, by section 18(2) of the Regulatory Systems (Occupational Regulation) Amendment Act 2026 (2026 No 43).

Section 13(5): repealed, on 10 July 2026, by section 18(3) of the Regulatory Systems (Occupational Regulation) Amendment Act 2026 (2026 No 43).

Practice rules

14 Code of professional conduct and client care

(1) The Authority may make any practice rules to enable it to discharge the duty imposed on it by subsection (2).

(2) The Authority must have rules that include or provide for a code of professional conduct and client care, which will be a reference point for discipline and which will focus on, but need not be limited to, the duties of agents to their clients.

(3) Practice rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 14(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 14(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

15 Continuing education

(1) The Authority may make practice rules that—

(a) provide for the times or frequencies at which continuing education must be undertaken and the topics to be addressed:

(b) require that particular continuing education be undertaken, or (in addition or as an alternative) require that the continuing education comply with specified requirements:

(c) exempt, or provide for the exemption of, any agent, branch manager, or salesperson from all or any practice rules made under paragraph (b).

(2) Practice rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 15(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 15(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

16 Consultation in relation to practice rules

Practice rules may be made by the Authority only after the Minister has approved, and the following people have been consulted on, the proposed rules:

(a) agents, branch managers, and salespersons that the Authority considers to be representative of the real estate industry; and

(b) any other persons or groups that the Minister may direct.

Section 16: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

17 Criteria in relation to approval of practice rules by Minister

The Minister must, in deciding whether to approve any practice rules, have regard, among other things, to—

(a) the principle that it may be necessary or expedient to impose duties or restrictions on agents, branch managers, or salespersons in order to protect the interests of consumers:

(b) the principle that the burden of a duty or restriction should be proportionate to the benefits that are expected to result from the imposition of the duty or restriction:

(c) the consistency of the rules with New Zealand's international obligations:

(d) the provisions of this Act and all rights and obligations of agents under the law.

18 Power of Minister to amend practice rules

(1) If the Minister considers any practice rules to be deficient in any respect, the Minister may, by notice and subject to subsections (2) and (3), make any amendments to those rules that are necessary to remedy the deficiency.

(2) Amendments made under subsection (1) to practice rules may relate only to matters in respect of which practice rules may be made.

(3) The Minister, in deciding whether to make amendments under subsection (1) to any practice rules,—

(a) must consult the Authority; and

(b) may consult with agents, branch managers, and salespersons that the Minister considers to be representative of the real estate industry; and

(c) may consult with any other persons or groups that the Minister thinks fit.

(4) A notice that amends rules under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 18(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 18(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

19 Further provision relating to practice rules and amendments

(1) This section applies to—

(a) practice rules under section 14 or 15; and

(b) notices under section 18.

(2) The rules and notices come into force on a date specified in them, which must be not less than 28 days after the date of their publication under the Legislation Act 2019.

Section 19: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Fees and levies

20 Authority may prescribe fees

(1) The Authority may from time to time, by notice, prescribe the fees payable for any action that a person wishes the Registrar to perform under this Act.

(2) Different fees may be prescribed under this section for different kinds of action and for different classes of person, depending on the kind of licence that they have, or wish to obtain or renew.

(3) Any notice prescribing any fee under this section may exempt any class or classes of person from liability to pay any such fee, and may provide for the waiver or refund of any such fee.

(4) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 20(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 20(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

21 Operational levy

(1) The Authority may from time to time, by notice, impose on every licensee an operational levy of any amount that the Authority thinks fit for the purpose of funding the costs arising from any or all of the following:

(a) the performance of the functions of the Authority:

(b) the performance of the functions of the Registrar:

(c) any investigation by, or proceeding of, a Complaints Assessment Committee.

(2) Any notice imposing any levy under this section may do either or both of the following:

(a) prescribe different amounts as the levy payable by different classes of licensee:

(b) exempt from liability to pay that levy, in whole or in part, any class or classes of licensee, and may provide for the waiver or refund of the whole or part of that levy.

(3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 21(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 21(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

22 Disciplinary levy

(1) The Authority may from time to time, by notice, impose on every licensee a disciplinary levy of any amount that the Authority thinks fit for the purpose of funding the costs arising from any proceeding of the Tribunal.

(2) Any notice imposing any levy under this section may do either or both of the following:

(a) prescribe different amounts as the levy, in whole or in part, payable by different classes of licensee:

(b) exempt from liability to pay that levy, in whole or in part, any class or classes of licensee, and may provide for the waiver or refund of the whole or part of that levy.

(3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2003 No 48 s 131

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 22(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 22(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

23 Further provisions relating to fees and levies

(1) Every notice under any of sections 20 to 22 comes into force on a date specified in the notice, being not less than 28 days after the date of publication of the notice under the Legislation Act 2019.

(2) *[Repealed]*

(3) *[Repealed]*

(4) Every levy imposed by the Authority under sections 20 to 22, is payable, and recoverable as a debt due, to the Authority.

(5) The Authority receives any levies imposed under section 22 as agent for the chief executive of the Ministry of Justice.

(6) If any fee is payable to the Authority under this Act, the Registrar may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable, until the fee is paid.

Compare: 2003 No 48 s 132

Section 23(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 23(2): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 23(3): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

24 Payment of fees, levies, and fines

(1) All fees and levies required to be paid under this Act are payable to the Registrar or the Authority, except fees paid under regulations made under section 156(1)(g), which must be paid to the Ministry of Justice.

(2) All fines imposed on a person by a Complaints Assessment Committee or by the Disciplinary Tribunal are payable to the Registrar.

Section 24(1): amended, on 14 November 2018, by section 230 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Powers of intervention

25 Grounds for intervention

The grounds for exercising a power conferred by any of sections 26 to 28 in respect of any agent are—

(a) that there are reasonable grounds to believe that the agent, or, if the agent is a company, any officer of the company, has been guilty of theft or of any improper conduct in relation to the money or other property of any other person; or

(b) that there are reasonable grounds to believe that any money or other property entrusted to the agent has been stolen by his or her employee, salesperson, or person acting on behalf of the agent, or, if the agent is a company, by any officer, employee, salesperson, or person acting on behalf of the company; or

(c) that the agent is, owing to physical or mental disability, unable to properly administer the agent's trust account; or

(d) that the agent has died; or

(e) that the agent has been adjudicated a bankrupt or has been subject to subpart 4 of Part 5 of the Insolvency Act 2006, or has been placed in receivership or liquidation under the Companies Act 1993; or

(f) if the agent is a building society, that the building society is being dissolved; or

(g) that the licence of the agent has been cancelled or suspended; or

(h) that there are reasonable grounds to believe that the agent has ceased to carry on business and has neglected to wind up the agent's trust account after reasonable notice has been given to the agent by the Authority requiring the agent to do so; or

(i) that there are reasonable grounds to believe that the agent has not administered the trust account in accordance with this Act and any regulations made under it; or

(j) that there are reasonable grounds to believe that the agent operates a trust account that has been administered fraudulently or recklessly.

Compare: 1976 No 9 s 88

26 Power to take possession of documents

(1) In this section, **documents** includes financial records and deeds.

(2) If the Authority is satisfied that 1 or more of the grounds specified in section 25 apply to an agent, the Authority may, if in its opinion it is appropriate to do so, by notice, require any person to give the Authority possession of any documents that—

(a) belong to the agent; or

(b) in the course of the agent's business, are, or have been, in the possession or control of—

(i) the agent; or

(ii) if the agent is a company, any officer, employee, or person acting on behalf of the company.

Compare: 1976 No 9 s 88(2)

27 Administration of trust account in certain cases

(1) If the Authority is satisfied that 1 or more grounds specified in section 25 apply to an agent, the Authority may, if in its opinion it is appropriate to do so, make an order appointing a suitable person as the administrator of the agent's trust account for a period specified by the Authority.

(2) A copy of every order made by the Authority under this section must be served on the banker, and on receipt of that copy the bank in which the trust account is kept must allow the person appointed by the order to administer the trust account.

Compare: 1976 No 9 s 33

28 Appointment of interim administrator in certain cases

(1) The Authority may make an order appointing an appropriate person as an interim administrator of an agent's trust account if the Authority—

(a) reasonably suspects that any money entrusted to the agent may be at risk; and

(b) is satisfied that 1 or more of the grounds specified in section 25 apply to that agent.

(2) The function of the interim administrator is to preserve the assets until the termination of the order under subsection (1).

(3) An order under subsection (1) is terminated when—

(a) the Authority notifies the agent concerned that the Authority no longer considers that money entrusted to the agent is at risk; or

(b) an order is made under section 27.

(4) Section 27(2) applies, with all necessary modifications, to an order made under this section.

29 Authority may direct audit of agent's trust account

(1) The Authority may direct an audit of an agent's trust account at any time and appoint an auditor to carry out that audit.

(2) No person is qualified for appointment as an auditor of the trust account unless the person is a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).

Section 29(2): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

30 Authority may inspect certain financial records

(1) This section applies if the Authority has reasonable grounds to believe that any money entrusted to an agent or to any person acting on behalf of the agent has been stolen by any of the following persons:

(a) by the agent or by a person who is, or has been, employed or engaged by the agent:

(b) in the case of a company that is an agent, by a person who is, or has been, an officer of the company or who is, or has been, employed or engaged by the company.

(2) The Authority may, by notice, require any person (including, without limitation, any banker) who has possession or control of financial records or other records that relate to any money received by any person specified in subsection (1) to produce those records to a person authorised by the Authority and to permit that person to inspect and copy those records.

Compare: 1976 No 9 s 89

31 District Court Judge may order Authority to return documents

(1) Upon taking possession of any document under section 26, the Authority must, without delay, serve on the agent concerned a notice giving particulars of the document and the date on which it was taken into the Authority's possession.

(2) Within 14 days after the notice has been served, the agent, or any of his or her partners, may apply to a District Court Judge for an order directing the Authority to return any document specified in the order to the person from whom it was received, or for any other order that the District Court Judge thinks fit.

Compare: 1976 No 9 s 90

32 High Court Judge may give directions to administrator of trust account or cancel appointment

(1) If the Authority makes an order, under section 27 or 28, appointing an administrator or interim administrator, the Authority must, without delay, serve a copy of the order on—

(a) the agent concerned; and

(b) if the agent carries out agency work in partnership, any partner in the partnership; and

(c) any person who, to the knowledge of the Authority, is or may be entitled to any money held in the trust account administered by the administrator.

(2) A person on whom a copy of the order is served may, within 14 days after service of the order, apply to the High Court for an order under subsection (4).

(3) The following persons may, at any time while an order under section 27 or 28 is in force, apply for an order under subsection (4):

(a) the administrator or interim administrator:

(b) the banker with whom the trust account is kept:

(c) a person who claims to be entitled to any money held in the trust account, but who has not been served under subsection (1)(c).

(4) On an application under this section, a High Court Judge may, by order—

(a) direct the administrator, interim administrator, or the banker on the action to be taken in relation to the administration of the trust account (including the winding-up of that account):

(b) rescind or vary the order of the Authority by which the administrator or interim administrator was appointed.

Registrar

33 Authority to appoint Registrar

The Authority must appoint one of its employees as Registrar of the register of licensees.

34 Functions of Registrar

The functions of the Registrar are to—

(a) establish, keep, and maintain the register under section 63; and

(b) make decisions about whether persons meet the requirements for licensing or continued licensing; and

(c) issue, cancel, and suspend licences, and to perform the other functions relating to licensing under Part 3; and

(d) provide administrative support for the board of the Authority sufficient to enable the board to perform its functions efficiently and effectively; and

(e) perform any other function conferred on the Registrar by this Act or any other enactment.

35 Power of Registrar to delegate

(1) Except as provided in subsection (2), the Registrar may delegate to any person (whether an employee of the State services or not), either generally or particularly, any of the Registrar's functions, duties, and powers.

(2) The Registrar must not delegate the Registrar's general power of delegation and must not, without the prior approval of the Authority, delegate any of the Registrar's functions, duties, and powers set out in section 34(b) or (c).

(3) A delegation—

(a) must be in writing; and

(b) may be made subject to any restrictions and conditions that the Registrar thinks fit; and

(c) is revocable at any time, in writing; and

(d) does not prevent the performance or exercise of a function or duty or exercise of any power by the Registrar.

(4) A person to whom any functions, duties, or powers are delegated may perform those functions and duties and exercise those powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

(5) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

Part 3
Licensing

How to become licensed

36 Entitlement to licence

(1) An individual may be licensed as an agent or branch manager if the individual satisfies the Registrar that he or she—

(a) has attained the age of 18 years; and

(b) is not prohibited from holding a licence under section 37; and

(c) is a fit and proper person to hold a licence; and

(d) has the prescribed qualifications; and

(e) has obtained 3 years' experience in real estate agency work within the 10 years preceding the application to be licensed as an agent or branch manager under this Act.

(2) An individual may be licensed as a salesperson if the individual satisfies the Registrar that he or she—

(a) has attained the age of 18 years; and

(b) is not prohibited from holding a licence under section 37; and

(c) is a fit and proper person to hold a licence; and

(d) has the prescribed qualifications.

(3) A company may be licensed as an agent if at least 1 officer of the company satisfies the Registrar of the matters set out in subsection (1).

Compare: 1976 No 9 s 17(1), (3)

37 Persons prohibited from being licensed

(1) The following persons are not eligible to hold a licence:

(a) a person who has been convicted, whether in New Zealand or another country, of a crime involving dishonesty (or of a crime that, if committed in New Zealand, would be a crime involving dishonesty) within the 10 years preceding the application for a licence:

(b) a person who has been convicted of an offence under sections 12A, 14, 17 to 22, or 24 of the Fair Trading Act 1986, within the 5 years preceding the application for a licence:

(c) a person whose licence or certificate of approval has been cancelled within the preceding 5 years or whose licence is suspended at the time of application under the Real Estate Agents Act 1976:

(d) a person—

(i) whose licence has, within the preceding 5 years, been cancelled under section 54(c) to (h); or

(ii) whose licence is currently suspended under section 110(2)(c) or 115:

(e) a person subject to an order made, or a notice given, under the law of a country, State, or territory outside New Zealand, within the preceding 5 years who is prohibited from acting as an agent, branch manager, or salesperson (or equivalent) in that country, State, or territory, unless the person satisfies the Authority that he or she is a fit and proper person to hold a licence:

(f) a person who is an officer of a licensee company, a chief executive officer of a licensee company, or a branch manager and who has been disqualified from holding a licence or whose licence has been suspended under the Real Estate Agents Act 1976:

(g) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993:

(h) a company, or other corporate entity or partnership, where a person concerned in its management is disqualified from being licensed in his or her own right under paragraph (a):

(i) a person described in section 7(1) (which relates to the exemption of lawyers and conveyancers from this Act) who is subject to the provisions of the Lawyers and Conveyancers Act 2006.

(2) A person is not eligible to hold an agent's licence if he or she is an undischarged bankrupt or is subject to subpart 4 of Part 5 of the Insolvency Act 2006.

Compare: 1976 No 9 s 17(2)

Section 37(1)(b): amended, on 17 June 2014, by section 41(2) of the Fair Trading Amendment Act 2013 (2013 No 143).

Section 37(1)(d): replaced, on 12 December 2012, by section 4 of the Real Estate Agents Amendment Act 2012 (2012 No 112).

Section 37(1)(g): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

38 Application for licence

An application for a licence under this Part must—

(a) be made to the Registrar in the prescribed form; and

(b) be accompanied by a declaration made in the form prescribed in the Oaths and Declarations Act 1957 that the person is eligible to obtain a licence by virtue of section 36 and is not prohibited from being licensed under section 37; and

(c) be accompanied by the prescribed fee (if any).

Compare: 1976 No 9 s 18

39 Applicant must advertise application

The applicant must advertise the application for a licence in the prescribed manner.

Compare: 1976 No 9 s 20(1)

40 Objections to issue of licence

(1) A person may, within the prescribed time and in the prescribed manner, give the Registrar written notice of his or her desire to object to the issue of a licence to the applicant.

(2) No objection may be made under subsection (1) except on 1 or more of the following grounds:

(a) that the applicant is not eligible to obtain a licence by virtue of section 36 or 37:

(b) if the applicant is a company, that any person who will be an officer of the company if the application is granted is not, by reason of his or her personal character or financial position, a proper person to be an officer of a licensee company.

(3) The notice of objection must include a statement of the grounds relied on and any prescribed matters.

(3A) The notice of objection may include a request for a hearing under section 42(4).

(4) The Registrar must send a copy of the notice to the applicant.

Compare: 1976 No 9 s 20(2)–(5)

Section 40(3A): inserted, on 5 December 2013, by section 4 of the Real Estate Agents Amendment Act 2013 (2013 No 129).

41 Written submission in response by applicant

(1) An applicant to whom a notice of objection has been sent may, within the prescribed time, send to the Registrar a written submission in response to the notice of objection.

(2) If an applicant sends a written response to the Registrar, the Registrar must send a copy of it to the person who gave notice of an objection.

(3) A written response to the Registrar may include a request for a hearing under section 42(4).

Section 41(3): inserted, on 5 December 2013, by section 5 of the Real Estate Agents Amendment Act 2013 (2013 No 129).

42 Procedure in Registrar determining licence application and objection

(1) This section applies if notice of an objection to an application is made under section 40.

(2) Unless subsection (4) applies, the Registrar may consider the application and notice of objection to that application on the papers or by a hearing in accordance with subsection (5).

(3) If the Registrar considers the application and notice of objection to that application on the papers, he or she must consider any written submission in response that is provided by the applicant under section 41.

(4) If the Registrar has received a request for a hearing under section 40(3A) or 41(3), the Registrar must hold a hearing in accordance with subsection (5).

(5) If the Registrar elects to hold a hearing under subsection (2) or is required to hold a hearing under subsection (4), the Registrar must,—

(a) as soon as practicable, appoint a time and place for hearing the application and objection; and

(b) give at least 14 days' notice of the hearing to the applicant and to any person objecting to the issue of the licence; and

(c) hear the applicant and any person objecting to the issue of the licence; and

(d) consider the evidence put before him or her, including any written submission in response that is provided by the applicant under section 41.

Section 42: replaced, on 5 December 2013, by section 6 of the Real Estate Agents Amendment Act 2013 (2013 No 129).

43 Registrar to license applicant or decline application

(1) The Registrar must grant a licence to the applicant if, after considering or hearing any objection to the issue of a licence, the Registrar is satisfied that—

(a) the applicant is entitled to be licensed as an agent, branch manager, or salesperson under section 36; and

(b) the applicant is not prohibited from being licensed as an agent, branch manager, or salesperson under section 37; and

(c) if the applicant is a company, any person who will be an officer of the company if the application is granted is, by reason of both his or her personal character and his or her financial position, a proper person to be an officer of a licensee company.

(2) The Registrar, on granting the licence, must—

(a) issue to the applicant 1 of the following classes of licence:

(i) an agent's licence; or

(ii) a branch manager's licence; or

(iii) a salesperson's licence; and

(b) send to the applicant evidence of the issue of that licence, in the prescribed form; and

(c) enter the applicant's name in the register; and

(d) issue a registration number to the applicant and notify the applicant as to what the registration number is.

(3) If the Registrar is not satisfied that the applicant is entitled to be licensed as an agent, branch manager, or salesperson, the Registrar must—

(a) decline the application; and

(b) notify the applicant of the Registrar's decision and the reasons for it; and

(c) notify the applicant of his or her right of review by the Tribunal against the decision.

Compare: 1976 No 9 s 23

Section 43(1): amended, on 5 December 2013, by section 7 of the Real Estate Agents Amendment Act 2013 (2013 No 129).

Section 43(1)(c): amended, on 12 December 2012, by section 5 of the Real Estate Agents Amendment Act 2012 (2012 No 112).

Provisions relating to licences

44 Special provisions in respect of partnerships and companies

(1) A person must not, after the issue to him or her of an agent's licence, enter into partnership with any person in respect of his or her business as an agent without the prior approval of the Authority; and the Authority must refuse to grant its approval unless it is satisfied that the proposed partner holds an agent's licence.

(2) If a company is the holder of an agent's licence, at least 1 officer of the company must, at any given time, hold an agent's licence.

Compare: 1976 No 9 s 30

45 Duty to produce evidence of issue of licence

A licensee must, if asked by any person, produce for inspection by that person either—

(a) the evidence of the issue of a licence sent to that person under section 43; or

(b) a copy of that evidence.

46 Term of licence

(1) A licence continues in force for a period of 12 months commencing on the date that the Registrar enters the applicant's name in the register, unless—

(a) the licence is cancelled under section 54; or

(b) the licensee is suspended under section 58, 110(2)(c), or 115; or

(c) the licence is surrendered under section 61.

(2) A licence may be renewed for further periods of 12 months in accordance with section 52.

47 Licence may not be transferred

A licence may not be transferred and may not vest by operation of law in any person other than the person to whom the licence was granted.

Effect of licences and status of licensees

48 Agent's licence

(1) An agent's licence authorises the licensee to carry out real estate agency work on his or her own account, whether in partnership or otherwise.

(2) An agent's licence authorises the licensee to sell or offer to sell land by auction, and operates as an exemption from the requirement in the Auctioneers Act 2013 to be registered as an auctioneer.

(3) However, every licensee who conducts an auction of land must comply with the rules about the conduct of auctions set out in sections 36Y to 36ZE (but not the rule in section 36ZF) of the Fair Trading Act 1986.

Section 48(2): replaced, on 18 December 2013, by section 28(3) of the Auctioneers Act 2013 (2013 No 148).

Section 48(3): inserted, on 18 December 2013, by section 28(3) of the Auctioneers Act 2013 (2013 No 148).

49 Branch manager's or salesperson's licence

(1) A branch manager's licence or a salesperson's licence authorises the licensee to carry out real estate agency work for or on behalf of an agent.

(2) The licence also authorises the licensee to sell or to offer to sell, on behalf of the agent, any land by auction, and operates as an exemption from the requirement in the Auctioneers Act 2013 to be registered as an auctioneer.

(3) However, every licensee who conducts an auction of land must comply with the rules about the conduct of auctions set out in sections 36Y to 36ZE (but not the rule in section 36ZF) of the Fair Trading Act 1986.

Section 49(2): amended, on 8 September 2018, by section 86(1) of the Statutes Amendment Act 2018 (2018 No 27).

Section 49(3): inserted, on 8 September 2018, by section 86(2) of the Statutes Amendment Act 2018 (2018 No 27).

50 Salespersons must be supervised

(1) A salesperson must, in carrying out any agency work, be properly supervised and managed by an agent or a branch manager.

(2) In this section **properly supervised and managed** means that the agency work is carried out under such direction and control of either a branch manager or an agent as is sufficient to ensure—

(a) that the work is performed competently; and

(b) that the work complies with the requirements of this Act.

51 Employment status of salesperson

(1) A salesperson may be employed by an agent as an employee or may be engaged by an agent as an independent contractor.

(2) Any written agreement between an agent and a salesperson is conclusive so far as it expressly states that the relationship between the agent and the salesperson is that of employer and independent contractor.

(3) An agent who engages a salesperson as an independent contractor is liable for the acts and omissions of the salesperson in the same manner, and to the same extent, as if the agent had employed the salesperson as an employee.

Renewal of licence

52 Renewal of licence

(1) An application for renewal of a licence must, before the date on which the licence expires,—

(a) be made to the Registrar in the prescribed form; and

(b) be accompanied by the prescribed fee (if any).

(2) Subject to subsection (3), sections 36, 37, and 43 apply, with any necessary modifications, to an application for renewal of a licence.

(3) The Registrar must, in addition to the matters specified in section 43(1), be satisfied that the applicant for renewal of a licence has completed any continuing education required by practice rules made by the Authority pursuant to section 15.

(4) If an application for renewal of a licence has been made but not determined before the date on which the licence is due to expire, the licence continues in force until the application is determined.

(5) The grant of a renewal of a licence takes effect from the date of expiry of the previous licence.

Compare: 1976 No 9 s 29

53 Expiry of licence

If no application for the renewal of a licence is made on or before the date on which the licence would otherwise expire, the Registrar must record the expiry of the licence in the register as soon as practicable after that date.

Cancellation, suspension, surrender of licence, etc

54 Cancellation of licence

The Registrar must cancel a person's licence and remove that person's name from the register,—

(a) in the case of an individual, if the person dies; or

(b) if the person gives written notice to the Registrar requesting that the Registrar cancel his or her licence; or

(c) if the person has failed to maintain the prescribed qualifications; or

(d) if the person has failed to complete any continuing education required by practice rules made by the Authority pursuant to section 15; or

(e) in accordance with section 99; or

(f) in accordance with section 110(2)(b); or

(g) if the licence was granted on the basis of any false or fraudulent representation or declaration made orally or in writing; or

(h) if the person has failed to pay any prescribed fees or levies, or payment of the fee or levy has subsequently been dishonoured.

55 Process for cancellation

(1) The process for cancellation of a licence, other than by determination of the Tribunal under section 110 or at the request of the licensee under section 54(b), is as follows:

(a) the Registrar must give the licensee written notice of the Registrar's intention to cancel the licence; and

(b) the notice must—

(i) contain or be accompanied by a statement of the Registrar's reasons for the cancellation; and

(ii) state that the licensee has 10 working days within which to make written representations to the Registrar as to why the licence should not be cancelled; and

(c) if any written representations are made by the licensee in accordance with paragraph (b)(ii), the Registrar must take those representations into account when deciding whether to cancel the licence; and

(d) the Registrar must then decide whether to cancel the licence and notify the licensee of the Registrar's decision as soon as practicable.

(2) If the Registrar decides to cancel the licence, the Registrar must—

(a) include in the notice referred to in subsection (1)(d) the grounds for the decision and the date on which the cancellation takes effect; and

(b) specify in the notice that the licensee has a right of appeal to the Tribunal under section 112; and

(c) record the cancellation on the register as soon as practicable.

56 Effective date of cancellation

The cancellation takes effect on the date specified by the Registrar in the notice given to the licensee under section 55(1)(d), which must be a date after the date of that notice.

Suspension of licence

57 Recording of suspension of licence

The Registrar must, on receiving notice from the Tribunal that the licence of a licensee has been suspended under section 110(2)(c) or 115, record that suspension on the register for the period specified in the notice.

58 Voluntary suspension of licence

(1) A licensee may, by written notice to the Registrar, request that the Registrar suspend his or her or its licence for a period specified in the notice.

(2) The Registrar must suspend the person's licence and record the suspension in the register for that specified period.

(3) A person whose licence is suspended under this section may, by written notice to the Registrar, request that the Registrar revive that person's licence.

(4) The Registrar must then revive that person's licence unless there is some other ground for cancellation or suspension of that person's licence under section 54, 110(2)(c), or 115.

59 Effect of suspension of licence

(1) A person is not a licensed agent, branch manager, or salesperson for the purposes of this Act for the period during which his or her licence is suspended.

(2) At the end of the period of suspension the person's licence is immediately revived unless there is some other ground for cancellation or suspension of that person's licence under section 54, 110(2)(c), or 115.

60 Effective date of suspension

(1) The suspension of a licence under section 110(2)(c) or 115 takes effect on the date notified in the Tribunal's decision communicated under section 113 or 115.

(2) The suspension of a licence under section 58 takes effect on the date the suspension is recorded in the register.

Surrender of licence

61 Voluntary surrender of licence

(1) A licensee may, by written notice to the Registrar, surrender his or her licence.

(2) A written notice under subsection (1) must be accompanied by the licence.

(3) The Registrar must cancel the person's licence and record the cancellation in the register.

(4) The cancellation takes effect on the date the cancellation is recorded in the register.

(5) The surrender of a licence under this section does not affect the licensee's liability—

(a) to pay any fees or other money payable or to be payable in accordance with this Act on or before the date on which the licence would, but for its surrender, expire:

(b) to perform any obligation required to be performed by him or her by or under this Act on or before that date:

(c) for any act done or default made before the date on which the licence ceased to have effect.

Temporary licence

62 Temporary licence

(1) A reference in this section to a licensee is a reference to a licensee who is an agent.

(2) Any of the following persons may apply to the Registrar in the prescribed form for permission to carry on or appoint some other person to carry on the licensee's business as an agent for a period specified by the Registrar:

(a) in the case of a licensee who is a person subject to a property order under the Protection of Personal and Property Rights Act 1988, the manager of his or her estate; or

(b) in the case of a licensee who is deceased, his or her personal representative; or

(c) in the case of a licensee who has been adjudicated bankrupt, his or her assignee in bankruptcy; or

(d) in the case of a licensee company that is in liquidation or receivership, the liquidator or receiver of that company, as the case may be; or

(e) in the case of a licensee who is sick, absent, or is otherwise temporarily prevented from carrying on business as a real estate agent, his or her nominated representative; or

(f) in the case of a licensee building society that is being dissolved, the liquidator or other person conducting its dissolution, or a trustee appointed under an instrument of dissolution of the building society.

(3) If, under subsection (2), a person mentioned in that subsection has applied to the Registrar for permission to carry on or to appoint some other person to carry on a licensee's business, then, until the application has been determined, the Registrar may, in writing, authorise the applicant to carry on the licensee's business, either personally or by an agent, for any period not exceeding 2 months.

(4) Despite subsection (3), an authority given under that subsection in any event ceases to have effect when the application for the Registrar's permission under subsection (2) is determined.

Compare: 1976 No 9 s 32

Register of licensees

63 Register of licensees

(1) The Registrar must establish, keep, and maintain, in accordance with this Act, a register of licensees.

(2) The Registrar must enter in the register—

(a) the name of every licensee; and

(b) the information about that licensee that is specified in section 66, to the extent that the information is relevant to that person.

(3) The Registrar must make any other entries in the register that may be required, permitted, or directed to be entered by or under this Act or the regulations.

Compare: 1976 No 9 s 36

64 Purpose of register

The purpose of the register is—

(a) to enable the public to—

(i) determine whether a person is a licensed agent, branch manager, or salesperson and, if so, the status and history of that person's licence; and

(ii) choose a suitable agent or salesperson from a list of agents and salespersons; and

(iii) know how to contact the agent or salesperson; and

(iv) know which licensees have been disciplined within the last 3 years; and

(b) to facilitate the administrative, disciplinary, and other functions of the Authority, Registrar, and Disciplinary Tribunal under this Act.

65 Form of register

(1) The register may be kept—

(a) as an electronic register (for example, on the Authority's website); or

(b) in any other manner that the Registrar thinks fit.

(2) The register must be operated at all times, unless the Registrar suspends the operation of the register, in whole or in part, in accordance with subsection (3).

(3) The Registrar may refuse access to the register or otherwise suspend the operation of the register, in whole or in part, if the Registrar considers that it is not practicable to provide access to the register.

66 Matters to be contained in register

(1) The register must contain all of the following information for each licensee whose name is entered in the register:

(a) the full name and business address or, in the case of a company, registered office address:

(b) any aliases:

(c) the registration number issued by the Registrar:

(d) the address for communications under this Act:

(e) the name of any company, body corporate, or other agent that is associated with the licensee:

(f) any information about the status and history of the person's licence, particularly—

(i) the class of licence held by the person; and

(ii) the date on which the person's name was entered in the register; and

(iii) the date of expiry of the person's licence, or as the case may be, the date of renewal of the licence; and

(iv) the date on which the term of renewal of the licence expires; and

(v) any action taken on a disciplinary matter in respect of the person in the last 3 years:

(g) whether the licensee has completed any continuing education required by practice rules made by the Authority pursuant to section 15:

(h) any other information that the Registrar considers necessary for the purposes of the register.

(2) The register must also show—

(a) whether a licence was suspended in the last 3 years; and

(b) if paragraph (a) applies,—

(i) the ground under this Act for the suspension; and

(ii) the period of the suspension; and

(iii) any conditions for termination of the suspension.

67 Obligation to notify Registrar

(1) Each applicant for a licence, and each licensee, must give written notice to the Registrar of any change in circumstances within 10 working days after the change.

(2) In this section, **change of circumstances** means—

(a) any change in the information recorded in the register; and

(b) any change in the real estate business for which the agent, branch manager, or salesperson works (if any); and

(c) any change that may be prescribed.

68 Alterations to register

The Registrar may at any time make any amendments to the register that are necessary to—

(a) reflect any changes in the name of the licensee or the information specified in section 66; or

(b) correct a mistake caused by any error or omission on the part of the Registrar or any person to whom the Registrar has delegated his or her functions, duties, or powers.

Compare: 1976 No 9 s 38

69 Search of register

(1) A person may search the register, on payment of the prescribed fee (if any), for a purpose set out in section 64.

(2) The Registrar must make the register available for public inspection—

(a) during the hours when the office of the Registrar is open to the public for the transaction of business on a working day; and

(b) at any other time that the Registrar allows.

(3) The Registrar must supply copies of all or part of the register on request and on payment of a reasonable charge for the production of the copy if the provision of those copies is consistent with the register's purposes.

Section 69(1): amended, on 7 July 2010, by section 4 of the Real Estate Agents Amendment Act 2010 (2010 No 82).

70 When search constitutes interference with privacy of individual

A person who searches the register for a purpose that is not a purpose set out in section 64 must be treated, for the purposes of Parts 5 and 6 of the Privacy Act 2020, as having breached an information privacy principle under section 69(2)(a)(i) of that Act.

Section 70: replaced, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Part 4
Complaints and discipline

Interpretation

71 Meaning of licensee in this Part

In this Part, unless the context otherwise requires, **licensee** has the meaning given to it by section 4 and includes—

(a) a former licensee; and

(b) a person who is or has been an officer of a company that is, or has been, a licensee.

Unsatisfactory conduct and misconduct

72 Unsatisfactory conduct

For the purposes of this Act, a licensee is guilty of unsatisfactory conduct if the licensee carries out real estate agency work that—

(a) falls short of the standard that a reasonable member of the public is entitled to expect from a reasonably competent licensee; or

(b) contravenes a provision of this Act or of any regulations or rules made under this Act; or

(c) is incompetent or negligent; or

(d) would reasonably be regarded by agents of good standing as being unacceptable.

73 Misconduct

For the purposes of this Act, a licensee is guilty of misconduct if the licensee's conduct—

(a) would reasonably be regarded by agents of good standing, or reasonable members of the public, as disgraceful; or

(b) constitutes seriously incompetent or seriously negligent real estate agency work; or

(c) consists of a wilful or reckless contravention of—

(i) this Act; or

(ii) other Acts that apply to the conduct of licensees; or

(iii) regulations or rules made under this Act; or

(d) constitutes an offence for which the licensee has been convicted, being an offence that reflects adversely on the licensee's fitness to be a licensee.

74 Complaints about licensees

(1) Any person may, in accordance with regulations made under this Act, complain in writing to the Authority about the conduct of a licensee.

(2) When the Authority receives a complaint under this section, the Authority must—

(a) refer the complaint to the Registrar of the register of licensees, who must consider whether to deal with the complaint under subsection (3); and

(b) if the Registrar decides not to deal with the complaint under that subsection, refer the complaint to a Committee for determination and notify the person complained about of the reference.

(3) The Registrar may determine that—

(a) the complaint is not sufficiently serious to warrant further action, and for that reason need not be pursued:

(b) the complaint is frivolous or vexatious or not made in good faith, and for that reason need not be pursued:

(c) the complaint should be referred to another agency, and refer it accordingly:

(d) the complaint has been resolved to the complainant's satisfaction and no further action is needed.

Section 74(2): replaced, on 14 November 2018, by section 231 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 74(3): inserted, on 14 November 2018, by section 231 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 74(3)(a): replaced, on 27 November 2025, by section 139 of the Statutes Amendment Act 2025 (2025 No 74).

Complaints Assessment Committees

75 Authority to appoint Complaints Assessment Committees

(1) The Authority must appoint as many Complaints Assessment Committees as, in its opinion, are required to deal effectively with complaints and allegations about licensees.

(2) Each Committee consists of 3 members appointed from the panel maintained under section 76.

(3) *[Repealed]*

(4) *[Repealed]*

(5) One of the members of each Committee must be a lawyer of not less than 7 years' legal experience.

(6) The Authority must designate one of the members as the chairperson of the Committee, and another member as the deputy chairperson.

Section 75(2): amended, on 5 December 2013, by section 8(1) of the Real Estate Agents Amendment Act 2013 (2013 No 129).

Section 75(3): repealed, on 5 December 2013, by section 8(2) of the Real Estate Agents Amendment Act 2013 (2013 No 129).

Section 75(4): repealed, on 5 December 2013, by section 8(2) of the Real Estate Agents Amendment Act 2013 (2013 No 129).

Section 75(5): amended, on 5 December 2013, by section 8(3) of the Real Estate Agents Amendment Act 2013 (2013 No 129).

76 Panel

(1) The Authority must maintain a panel of up to 20 persons who are suitable to serve as members of Complaints Assessment Committees.

(2) In considering the suitability of any person for inclusion on the panel, the Authority must have regard not only to the person's personal attributes but also to the person's knowledge and experience of matters likely to come before a Committee.

(3) The knowledge and experience referred to in subsection (2) includes, without limitation, experience and knowledge of—

(a) law:

(b) the real estate industry:

(c) consumer affairs.

(4) The name of a person must be removed from the panel when 5 years have elapsed since the Authority approved the inclusion of the person's name on the panel or if the person resigns from the panel.

(5) If subsection (4) applies, the name of the person must not be removed from the panel until any current matters that the person is considering as a member of a Committee have been disposed of by the Committee.

77 Constitution of Committees for consideration of matters before it

For the purposes of considering any matter before it, each Committee consists of—

(a) the chairperson of the Committee or, if the chairperson is absent from duty for any reason, the deputy chairperson of the Committee; and

(b) 1 other member or, if the chairperson or deputy chairperson so directs, 2 members.

78 Functions of Committees

The functions of each Committee are—

(a) to inquire into and investigate complaints made under section 74:

(b) on its own initiative, to inquire into and investigate allegations about any licensee:

(c) to promote, in appropriate cases, the resolution of complaints by negotiation, conciliation, or mediation:

(d) to make final determinations in relation to complaints, inquiries, or investigations:

(e) to lay, and prosecute, charges before the Disciplinary Tribunal:

(f) in appropriate cases, to refer the complaint to another agency:

(g) to inform the complainant and the person complained about of its decision, reasons for the decision, and appeal rights:

(h) to publish its decisions.

79 Procedure on receipt of complaint

(1) As soon as practicable after receiving a complaint concerning a licensee, a Committee must consider the complaint and determine whether to inquire into it.

(2) The Committee may—

(a) determine that the complaint alleges neither unsatisfactory conduct nor misconduct and dismiss it accordingly:

(b) determine that the complaint discloses only an inconsequential matter, and for this reason need not be pursued:

(c) determine that the complaint is frivolous or vexatious or not made in good faith, and for this reason need not be pursued:

(d) determine that the complaint should be referred to another agency, and refer it accordingly:

(e) determine to inquire into the complaint.

Section 79(2)(c): amended, on 14 November 2018, by section 232 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

80 Decision to take no action on complaint

(1) A Committee may, in its discretion, decide to take no action or, as the case may require, no further action on any complaint if, in the opinion of the Committee,—

(a) the length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made is such that an investigation of the complaint is no longer practicable or desirable; or

(b) the subject matter of the complaint is inconsequential.

(2) Despite anything in subsection (1), the Committee may, in its discretion, decide not to take any further action on a complaint if, in the course of the investigation of the complaint, it appears to the Committee that, having regard to all the circumstances of the case, any further action is unnecessary or inappropriate.

Compare: 2006 No 1 s 138

81 Notice of decision

(1) In any case where a Committee decides to take no action on a complaint, the Committee must promptly give written notice of that decision to—

(a) the complainant; and

(b) the person complained about.

(2) The notice must—

(a) state the decision and the reasons for it; and

(b) describe the right of appeal conferred by section 111.

Compare: 2006 No 1 s 139

82 Inquiry by Committee

(1) If a Committee decides to inquire into a complaint or into matters raised by allegations about a licensee, it must inquire into the complaint or those matters as soon as practicable.

(2) The Committee may authorise any person to assist it with its inquiry.

Compare: 2006 No 1 s 140

83 Notice to licensee

A Committee—

(a) must send particulars to the licensee, and invite the licensee to make a written explanation in relation to the complaint (if any):

(b) may require the licensee to appear before it to make an explanation in relation to the inquiry:

(c) may, by written notice served on the licensee, request that specified information be supplied to the Committee in writing.

Compare: 2006 No 1 s 141

84 Procedure of Committee

(1) A Committee must exercise its powers and perform its duties and functions in a way that is consistent with the rules of natural justice.

(2) The Committee may, subject to subsection (1), direct such publication of its decisions under sections 80, 89, and 93 as it considers necessary or desirable in the public interest.

(3) The Committee may regulate its procedure in any manner that it thinks fit as long as it is consistent with this Act and any regulations made under it.

Compare: 2006 No 1 s 142

85 Powers to call for information or documents

(1) If the conditions stated in subsection (2) are satisfied, a Committee may, by notice in writing, require any person to produce to the Committee any papers, documents, records, or things.

(2) The conditions referred to in subsection (1) are that—

(a) the members of the Committee believe, on reasonable grounds, that the exercise of the powers conferred by that subsection is necessary to enable the Committee to carry out its inquiry; and

(b) the person to whom a notice under that subsection is to be given has failed to comply with a previous request to produce to the Committee, within a reasonable time, the papers, documents, records, or things required by the notice; and

(c) the members of the Committee believe, on reasonable grounds, that—

(i) it is not reasonably practicable to obtain the information required by the Committee from another source; or

(ii) for the purposes of the investigation, it is necessary to obtain the papers, documents, records, or things to verify or refute information obtained from another source.

Compare: 2003 No 48 s 77

86 Compliance with requirement to provide information or document

(1) A person who receives a notice under section 85 must, without charge, comply with the requirement stated in the notice in the manner and within the period (being not less than 10 working days after the notice is given to the person) specified in the notice.

(2) Subsection (1) does not require a person to provide any information or produce any document that would be privileged in a court of law.

(3) No person is required to produce to the Committee any papers, records, documents, or things if compliance with that requirement would be in breach of an obligation of secrecy or non-disclosure imposed on the person by an enactment (other than this Act, the Official Information Act 1982, or the Privacy Act 2020).

Compare: 2003 No 48 s 78

Section 86(3): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

87 Negotiation, conciliation, and mediation

(1) A Committee may give, in relation to any complaint received by it, a direction that, within a time or before a date fixed by the Committee, the parties both—

(a) explore the possibility of resolving, by negotiation, conciliation, or mediation,—

(i) the complaint; or

(ii) any issues relating to the complaint as the Committee specifies; and

(b) report to the Committee.

(2) The Committee must not give a direction under subsection (1) if it considers that such a direction—

(a) would not contribute constructively to resolving the complaint; or

(b) would not, in all the circumstances, be in the public interest; or

(c) would undermine the urgent nature of the complaint.

(3) If the parties reach an agreed settlement in relation to the complaint or any issue involved in the complaint, the Committee—

(a) may record the terms of the settlement; and

(b) may, by consent of the parties, declare all or some of the terms of the settlement to be all or part of a final determination of the complaint by the Committee.

(4) No evidence is admissible in any court or before any person acting judicially or before the Committee or before the Disciplinary Tribunal of any information, statement, or admission disclosed or made to any person in the course of any negotiation, conciliation, or mediation conducted, in accordance with a

direction given under subsection (1), for the purpose of resolving a complaint or any issue involved in a complaint.

(5) Nothing in this section prevents the discovery or affects the admissibility of any evidence (being evidence which is otherwise discoverable or admissible and which existed independently of any negotiation, conciliation, or mediation conducted under a direction given under subsection (1) for the purpose of resolving a complaint or any issue involved in a complaint) merely because the evidence was presented in the course of the negotiation, conciliation, or mediation.

Compare: 2006 No 1 s 143

88 Evidence

(1) A Committee may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not the statement, document, information, or matter would be admissible in a court of law.

(2) The Committee may take evidence on oath, and for that purpose, any member or officer of the Committee may administer an oath.

(3) The Committee may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Committee thinks fit, verifying that statement by oath.

(4) The Evidence Act 2006 applies (subject to subsections (1) to (3)) to the Committee in the same manner as if it were a court within the meaning of that Act.

(5) This section is subject to sections 84(1) and 87(4).

Compare: 2006 No 1 s 151

89 Power of Committee to determine complaint or allegation

(1) A Committee may make 1 or more of the determinations described in subsection (2) after both inquiring into a complaint or allegation and conducting a hearing with regard to that complaint or allegation.

(2) The determinations that the Committee may make are as follows:

(a) a determination that the complaint or allegation be considered by the Disciplinary Tribunal:

(b) a determination that it has been proved, on the balance of probabilities, that the licensee has engaged in unsatisfactory conduct:

(c) a determination that the Committee take no further action with regard to the complaint or allegation or any issue involved in the complaint or allegation.

(3) Nothing in this section limits the power of the Committee to make, at any time, a decision under section 80 with regard to a complaint.

Compare: 2006 No 1 s 152(1)–(3)

90 Hearings on papers

(1) A hearing conducted under section 89(1) by a Committee is to be a hearing on the papers, unless the Committee otherwise directs.

(2) If the Committee conducts the hearing on the papers, the Committee must make its determination on the basis of the written material before it.

(3) Consideration of the written material may be undertaken in whatever manner the Committee thinks fit.

Compare: 2006 No 1 s 153(1), (7), (8)

91 Reference of complaint to Disciplinary Tribunal

If a Committee makes a determination that the complaint or allegation be determined by the Disciplinary Tribunal, the Committee must—

(a) frame an appropriate charge and lay it before the Disciplinary Tribunal by submitting it in writing to the Tribunal; and

(b) give written notice of that determination and a copy of the charge to the person to whom the charge relates and to the complainant.

Compare: 2006 No 1 s 154

92 Application for suspension of licence

If, under section 91(a), a Committee lays before the Disciplinary Tribunal a charge against a licensee, the Committee may apply to the Tribunal for an order that, pending the determination of the charge, the licence of the licensee be suspended.

Compare: 2006 No 1 s 155

93 Power of Committee to make orders

(1) If a Committee makes a determination under section 89(2)(b), the Committee may do 1 or more of the following:

(a) make an order censuring or reprimanding the licensee:

(b) order that all or some of the terms of an agreed settlement between the licensee and the complainant are to have effect, by consent, as all or part of a final determination of the complaint:

(c) order that the licensee apologise to the complainant:

(d) order that the licensee undergo training or education:

(e) order the licensee to reduce, cancel, or refund fees charged for work where that work is the subject of the complaint:

(f) order the licensee—

(i) to rectify, at his or her or its own expense, any error or omission; or

(ii) where it is not practicable to rectify the error or omission, to take steps to provide, at his or her or its own expense, relief, in whole or in part, from the consequences of the error or omission:

(g) order the licensee to pay to the Authority a fine not exceeding $10,000 in the case of an individual or $20,000 in the case of a company:

(h) order the licensee, or the agent for whom the person complained about works, to make his or her or its business (including any records, accounts, and assets) available for inspection or take advice in relation to management from persons specified in the order:

(ha) if the Committee is satisfied that the unsatisfactory conduct involves more than a minor or technical breach of this Act or of any regulations or rules made under this Act, make an order referring the matter to the Disciplinary Tribunal for the Tribunal to consider whether to make a compensation order under section 110(5):

(i) order the licensee to pay the complainant any costs or expenses incurred in respect of the inquiry, investigation, or hearing by the Committee.

(2) An order under this section may be made on and subject to any terms and conditions that the Committee thinks fit.

Compare: 2006 No 1 s 156(1)

Section 93(1)(h): amended, on 24 October 2019, by section 119 of the Statutes Amendment Act 2019 (2019 No 56).

Section 93(1)(h): amended, on 14 November 2018, by section 233(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 93(1)(ha): inserted, on 29 October 2019, by section 233(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

94 Notice of determination

(1) When a Committee makes a determination under section 89, the Committee must promptly give written notice of that determination to the complainant and to the licensee.

(2) The notice must—

(a) state the determination and the reasons for it; and

(b) specify any orders made under section 93 and be accompanied by copies of those orders; and

(c) describe the right of appeal conferred by section 111.

Compare: 2006 No 1 s 158

95 Members of Committee not personally liable

(1) A person who is a member of a Committee or any person authorised by a Committee to assist it with any investigation or proceeding is not under any civil or criminal liability in respect of—

(a) any act done or omitted to be done in the course of performing or exercising any of that person's functions, duties, or powers under this Act or done or omitted to be done to assist in that performance or exercise; or

(b) any words spoken or written at, or for the purpose of, the hearing of any proceedings under this Act; or

(c) anything contained in any notice given under this Act.

(2) Subsection (1) does not apply if the person acts in bad faith.

Compare: 2006 No 1 s 185

96 Protection and privileges of witnesses

Every person has the same privileges and immunities as a witness has in a court of law in relation to—

(a) the giving of information to a Committee; and

(b) the giving of evidence to, or the answering of questions put by, the Committee; and

(c) the production of papers, documents, records, or things to the Committee.

Compare: 2006 No 1 s 186(1)

97 Privileges and immunities of counsel

Every counsel appearing before a Committee has the same privileges and immunities as counsel in a court of law.

Compare: 2006 No 1 s 187

98 Enforcement of orders

An order made by a Committee may be enforced in all respects as if it were an order of the District Court on the filing of a sealed copy in that court.

99 Non-payment of fines or costs

If money payable by a person under an order by a Committee or by the Disciplinary Tribunal remains unpaid for 60 days or longer after the date of the order, the Committee may suspend the person's licence until the person pays the money and, if he or she does not do so within 12 months, cancel his or her licence and direct the Registrar to remove the person's name from the register.

Real Estate Agents Disciplinary Tribunal

100 Real Estate Agents Disciplinary Tribunal established

(1) This section establishes a body to be known as the Real Estate Agents Disciplinary Tribunal.

(2) The Tribunal consists of—

(a) a person to act as chairperson of the Tribunal, who must be a barrister or solicitor with not less than 7 years' legal experience; and

(b) at least 3 other members, at least one of whom must be a licensee.

(3) The members of the Tribunal are appointed by the Minister.

(4) The Minister must consult with REINZ when making the first appointment of a licensee under subsection (2)(b).

(5) The Minister must designate one of the members referred to in subsection (2)(b) as the deputy chairperson of the Tribunal.

Section 100(2)(a): amended, on 14 November 2018, by section 234(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 100(2)(b): amended, on 14 November 2018, by section 234(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

101 Constitution of Tribunal for hearings

For the purposes of each hearing, the Tribunal consists of—

(a) the chairperson of the Tribunal, or, if he or she is absent from duty for any reason, the deputy chairperson of the Tribunal; and

(b) 2 other members.

Section 101(a): replaced, on 14 November 2018, by section 235 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

102 Functions of Tribunal

The functions of the Tribunal are—

(a) to hear and determine any application made by a Complaints Assessment Committee for the suspension of the licence of a licensee pending the determination of a charge that the Committee has laid against the licensee:

(b) to hear and determine any charge against a licensee brought by the Committee:

(c) to hear any appeal under section 111 against a determination by the Committee (including a determination to take no action):

(d) to conduct any review, under section 112, of a decision of the Registrar:

(e) any other functions conferred by this Act.

Section 102(e): inserted, on 14 November 2018, by section 236 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

103 Services for Tribunal

The Ministry of Justice must furnish such secretarial, recording, and clerical services as may be necessary to enable the Tribunal to discharge its functions.

104 Further provisions in relation to Tribunal and its proceedings

The provisions of Schedule 1 have effect in relation to the Tribunal and its proceedings.

105 Proceeding before Tribunal

(1) The Tribunal may regulate its procedures as it thinks fit.

(2) Subsection (1) is subject to the rules of natural justice, this Act, any regulations made under this Act, and any practice notes issued under section 115A.

Section 105(2): amended, on 14 November 2018, by section 237 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

105A Manner of giving documents to Tribunal

Any notice or other document required under the following sections to be given to the Tribunal by written notice may be given electronically if it is transmitted to an electronic address provided by the Tribunal:

(a) section 91:

(b) section 111:

(c) section 112:

(d) section 115.

Section 105A: inserted, on 27 November 2025, by section 140 of the Statutes Amendment Act 2025 (2025 No 74).

106 Representation before Disciplinary Tribunal

(1) Every person whose rights may be affected by a proceeding of the Disciplinary Tribunal (other than a review under section 112) is entitled to appear and be heard at the hearing of that proceeding and to be represented by counsel or otherwise.

(2) A charge made by the Committee against a licensee is, at the hearing, to be prosecuted by the Committee, which, for that purpose, may be represented by counsel or otherwise.

107 Hearings

(1) Every hearing of the Disciplinary Tribunal must be held in public.

(2) Subsection (1)—

(a) does not apply to reviews under section 112; and

(b) is subject to subsections (3) and (4) and to section 108.

(3) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may hold a hearing or part of a hearing in private.

(4) The Disciplinary Tribunal may, in any case, deliberate in private on its decision or on any question arising in the course of a hearing.

(5) The hearing of a matter, or any part of it, may be conducted by telephone, audiovisual link, or other remote access facility if the chairperson or the Tribunal considers it appropriate and the necessary facilities are available.

Compare: 2006 No 1 s 238

Section 107 heading: replaced, on 14 November 2018, by section 238(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 107(5): inserted, on 14 November 2018, by section 238(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

107A Hearing on papers

(1) Despite anything in this Act to the contrary, the Disciplinary Tribunal may determine a proceeding on the papers if the Tribunal considers it appropriate.

(2) Before doing so, the Tribunal must give the parties a reasonable opportunity to comment on whether the proceeding should be dealt with in that manner.

Section 107A: inserted, on 14 November 2018, by section 239 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

108 Restrictions on publication

(1) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may make 1 or more of the following orders:

(a) an order prohibiting the publication of any report or account of any part of any proceedings before it, whether held in public or in private:

(b) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at any hearing:

(c) an order prohibiting the publication of the name or any particulars of the affairs of the person charged or any other person.

(2) Unless it is reversed or modified in respect of its currency by the High Court on appeal under section 116, an order made under subsection (1) continues in force as specified in the order, or, if no time is specified, until the Disciplinary Tribunal, in its discretion, revokes it on the application of any party to the proceedings in which the order was made or of any other person.

(3) Subsection (1)(c) does not apply to any communications between the Disciplinary Tribunal and the Authority.

(4) A person who breaches an order made under this section is liable on conviction to a fine not exceeding $3,000.

Compare: 2006 No 1 s 240

Section 108(4): inserted, on 14 November 2018, by section 240 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

109 Evidence

(1) Subject to section 105, the Disciplinary Tribunal may receive as evidence any statement, document, information, or thing that may, in its opinion, assist it to deal effectively with the matters before it, whether or not that statement, document, information, or thing would be admissible in a court of law.

(2) The Disciplinary Tribunal may take evidence on oath and, for that purpose, any member of the Disciplinary Tribunal may administer an oath.

(3) The Disciplinary Tribunal may permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath.

(4) Subject to subsections (1) to (3), the Evidence Act 2006 applies to the Disciplinary Tribunal in the same manner as if the Disciplinary Tribunal were a court within the meaning of that Act.

(5) A hearing before the Disciplinary Tribunal is a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

Compare: 2006 No 1 s 239

Section 109(1): amended, on 14 November 2018, by section 241 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

109A Disciplinary Tribunal may strike out, determine, or adjourn proceeding

(1) The Disciplinary Tribunal may strike out, in whole or in part, a proceeding if satisfied that it—

(a) discloses no reasonable cause of action; or

(b) is likely to cause prejudice or delay; or

(c) is frivolous or vexatious; or

(d) is otherwise an abuse of process.

(2) If a party is neither present nor represented at the hearing of a proceeding, the Disciplinary Tribunal may,—

(a) if the party is required to be present, strike out the proceeding; or

(b) determine the proceeding in the absence of the party; or

(c) adjourn the hearing.

Section 109A: inserted, on 14 November 2018, by section 242 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

110 Determination of charges and orders that may be made if charge proved

(1) If the Disciplinary Tribunal, after hearing any charge against a licensee, is satisfied that it has been proved on the balance of probabilities that the licensee has been guilty of misconduct, it may, if it thinks fit, make 1 or more of the orders specified in subsection (2).

(2) The orders are as follows:

(a) 1 or more of the orders that can be made by a Committee under section 93 (except under section 93(1)(ha)):

(b) an order cancelling the licence of the licensee and, in the case of a licensee that is a company, also cancelling the licence of any officer of the company:

(c) an order suspending the licence of the licensee for a period not exceeding 24 months and, in the case of a licensee that is a company, also suspending the licence of any officer of the company for a period not exceeding 24 months:

(d) an order that a licensee not perform any supervisory functions until authorised by the Board to do so:

(e) an order, in the case of a licensee who is an employee or independent contractor, or former employee or former independent contractor, that any current employment or engagement of that person by a licensee be terminated and that no agent employ or engage that person in connection with real estate agency work:

(f) an order that a licensee who is an individual pay a fine not exceeding $15,000 and order a licensee that is a company pay a fine not exceeding $30,000:

(g) where it appears to the Tribunal that any person has suffered loss by reason of the licensee's misconduct and the order is one that a court of competent jurisdiction could make in relation to a similar claim in accordance with principles of law, an order that the licensee pay to that person a sum by way of compensation as is specified in the order, being a sum not exceeding $100,000.

(3) The making of an order under this section for the payment of compensation to any person does not affect the right (if any) of that person to recover damages in respect of the same loss, but any sum ordered to be paid under this section, and the effect of any order made under this section for the reduction, cancellation, or refund of fees, must be taken into account in assessing any such damages.

(4) If the Disciplinary Tribunal, after hearing any charge against a licensee, is satisfied that, although not guilty of misconduct, he or she has engaged in unsatisfactory conduct, it may do either or both of the following:

(a) make any of the orders that a Complaints Assessment Committee may make under section 93 (except under section 93(1)(ha)):

(b) if it appears to the Tribunal that any person has suffered loss by reason of the licensee's unsatisfactory conduct, make an order that the licensee pay to that person a sum not exceeding $100,000 by way of compensation, but only if—

(i) the unsatisfactory conduct is more than a minor or technical contravention of this Act or of any regulations or rules made under this Act; and

(ii) the order is one that a court of competent jurisdiction could make in relation to a similar claim in accordance with principles of law.

(5) If a Complaints Assessment Committee refers a matter to the Tribunal under section 93(1)(ha), the Tribunal may, if satisfied that the requirements of subsection (4)(b) (except paragraph (b)(i)) are met, make a compensation order under that subsection.

(6) For the purposes of subsection (5), the Disciplinary Tribunal—

(a) must apply, and may not overturn, a Complaints Assessment Committee determination that there was unsatisfactory conduct involving more than a minor or technical contravention of this Act or of any regulations or rules made under this Act; and

(b) must apply, and must not overturn, a Complaints Assessment Committee determination of any substantive matter in the case; and

(c) has no jurisdiction to inquire into a determination described in paragraph (a) or (b).

Section 110(2)(a): amended, on 29 October 2019, by section 243(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 110(2)(g): amended, on 29 October 2019, by section 243(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 110(4): replaced, on 29 October 2019, by section 243(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 110(5): inserted, on 29 October 2019, by section 243(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 110(6): inserted, on 29 October 2019, by section 243(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

110A Costs

(1) In any proceedings under this Act, the Disciplinary Tribunal may make any award as to costs that it thinks fit, whether or not it grants any other remedy.

(2) Without limiting the matters that the Disciplinary Tribunal may consider in determining whether to make an award of costs under this section, the Disciplinary Tribunal may take into account whether, and to what extent, any party to the proceedings—

(a) has participated in good faith in the proceedings:

(b) has facilitated or obstructed the process of information gathering by the Disciplinary Tribunal:

(c) has acted in a manner that facilitated the resolution of the issues that were the subject of the proceedings.

(3) If a party fails to prosecute any proceedings at the time fixed for a hearing or to give adequate notice of the abandonment of any proceedings, the Disciplinary Tribunal, if it considers it proper to do so, may order the party in default to pay costs to the Crown in a sum that it considers reasonable.

(4) A person to whom costs are awarded under this section, but who has not been paid in full, may file a copy of the order in the District Court, where it may be enforced for so much of the amount that is still owing as if it were a judgment of the District Court.

Section 110A: inserted, on 14 November 2018, by section 244 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

111 Appeal to Tribunal against determination by Committee

(1) A person affected by a determination of a Committee may appeal to the Disciplinary Tribunal against the determination within 20 working days after the day on which notice of the relevant decision was given under section 81 or 94, except that no appeal may be made against a determination under section 89(2)(a) that a complaint or an allegation be considered by the Disciplinary Tribunal.

(1A) The Disciplinary Tribunal may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if it is satisfied that exceptional circumstances prevented the appeal from being made in time.

(2) The appeal is by way of written notice to the Tribunal of the appellant's intention to appeal, accompanied by—

(a) a copy of the notice given to the person under section 81 or 94; and

(ab) the prescribed fee, if any; and

(b) any other information that the appellant wishes the Tribunal to consider in relation to the appeal.

(3) The appeal is by way of rehearing.

(4) After considering the appeal, the Tribunal may confirm, reverse, or modify the determination of the Committee.

(5) If the Tribunal reverses or modifies a determination of the Committee, it may exercise any of the powers that the Committee could have exercised.

Section 111(1): replaced, on 14 November 2018, by section 245(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 111(1A): inserted, on 14 November 2018, by section 245(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 111(2)(ab): inserted, on 14 November 2018, by section 245(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

112 Application to Tribunal to review determination by Registrar

(1) An applicant may apply to the Tribunal against a determination of the Registrar that adversely affects the applicant within 20 working days after the date the applicant is notified of the determination.

(2) The application must be made by way of written notice to the Tribunal of the applicant's intention to apply, accompanied by—

(a) a copy of the notification; and

(ab) the prescribed fee, if any; and

(b) any other information that the applicant wishes the Tribunal to consider in relation to the appeal.

(3) The review must be conducted on the papers unless the applicant requests to be heard in his or her application.

(4) After conducting the review, the Tribunal may confirm, reverse, or modify the decision of the Registrar.

(5) If the Tribunal reverses or modifies a determination of the Registrar, it may exercise any of the powers that the Registrar could have exercised.

Section 112(2)(ab): inserted, on 14 November 2018, by section 246 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

113 Notification by Tribunal

When the Tribunal determines a matter in a proceeding, the Tribunal must notify every person involved in the proceeding, the Authority, and the Registrar of the determination in writing, setting out the reasons for the decision and the right of appeal to the High Court.

114 Enforcement of order

Any order made by the Tribunal under section 110 may be enforced in all respects as if it were an order of the District Court on the filing of a sealed copy in that court.

115 Suspension of licence pending outcome of hearing

(1) The Tribunal may suspend the licence of a licensee where—

(a) a licensee has been charged under section 91; and

(b) the Tribunal considers that it is necessary or desirable to suspend the licence having regard to the interests of the public.

(2) The process for suspending a licence under this section is as follows:

(a) the Tribunal must give a licensee written notice of its intention to suspend the licence; and

(b) the notice must—

(i) contain the Tribunal's reasons for the intended suspension; and

(ii) state that the licensee has 10 working days within which to make written representations to the Tribunal as to why the licence should not be suspended; and

(iii) state the proposed period, or otherwise describe the proposed duration, of the suspension; and

(c) if any written representations are made by the licensee within the period referred to in paragraph (b)(ii), the Tribunal must take those representations into account in deciding whether to suspend the licence and the period or duration of any suspension; and

(d) the Tribunal must then decide whether to suspend the licence, and notify the licensee accordingly, as soon as practicable.

(3) If the Tribunal decides to suspend the licence, the Tribunal must give the licensee and the Registrar written notice of its decision and—

(a) include in the notice the grounds for the decision, the date on which the suspension takes effect, and the period or duration of the suspension; and

(b) specify in the notice the right of the licensee to appeal to the High Court under section 116.

115A Practice notes

(1) The chairperson of the Disciplinary Tribunal may issue practice notes as he or she thinks fit.

(2) The practice notes must not be inconsistent with this Act or any regulations made under it, and are for the guidance of the members of the Disciplinary Tribunal, officers of the Disciplinary Tribunal, and parties before the Tribunal.

Section 115A: inserted, on 14 November 2018, by section 247 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

115B Online publication of information about procedures, time frames, and progress of decisions

The following information must be published on an Internet site maintained by or on behalf of the chief executive of the Ministry of Justice:

(a) information about the purpose of the Disciplinary Tribunal and how to commence a proceeding:

(b) any requirements that must be met to bring a proceeding:

(c) guidelines on how and when parties may obtain information on the progress of their case and when a decision may be expected.

Section 115B: inserted, on 29 October 2019, by section 248 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Appeals against decisions of Tribunal

116 Right of appeal

A person who is affected by a decision of the Tribunal may appeal to the High Court against the decision.

116A Time for appeal to High Court

(1) An appeal to the High Court must, subject to subsection (2), be made in the prescribed manner to the court within 20 working days after the day on which notice of the relevant decision is given to the appellant.

(2) The court may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if the court is satisfied that exceptional circumstances prevented the appeal from being made in time.

Section 116A: inserted, on 14 November 2018, by section 249 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

117 High Court may make interim order

(1) At any time before the final determination of an appeal, the High Court may make an interim order allowing an appellant who is a licensee to carry out real estate agency work until the close of the day on which the High Court finally determines the appeal.

(2) An interim order may be subject to any conditions that the High Court thinks fit.

118 Duties of Registrar if interim order made

(1) If an interim order is made allowing a licensee to engage in agency work,—

(a) that person is to be treated for the purposes of this Act as if he or she were licensed; and

(b) the Registrar must, as appropriate, enter, retain, or restore the person's name on the register and enter any conditions contained in the interim order.

(2) To enable the Registrar to fulfil the duties imposed by this section, the Registrar of the court in which the interim order is made must send a copy of the order to the Registrar as soon as practicable.

Compare: 2007 No 15 s 83

119 Determination of appeal

(1) The High Court's decision in the determination of an appeal is final.

(2) This section is subject to the right of a party to appeal to the Court of Appeal on a question of law under section 120.

Compare: 2007 No 15 s 84

120 Appeal to Court of Appeal on question of law

(1) If dissatisfied with a decision of the High Court on the ground that it is erroneous in law, a party to an appeal under this Part may appeal to the Court of Appeal on a question of law only.

(2) The appeal must be heard and determined in accordance with the rules of court.

(3) The decision of the Court of Appeal on any appeal under this section is final.

Compare: 2007 No 15 s 85

120A Time for appeal to Court of Appeal

(1) An appeal to the Court of Appeal must, subject to subsection (2), be made in the prescribed manner to the court within 20 working days after the day on which notice of the relevant decision is given to the appellant.

(2) The court may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if the court is satisfied that exceptional circumstances prevented the appeal from being made in time.

(3) In deciding whether to accept a late appeal, the court must have regard to whether the appellant made a late appeal against the original decision, and the appellant's reasons for that late appeal.

Section 120A: inserted, on 14 November 2018, by section 250 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Part 5
Duties relating to real estate agency work

Business to be identified

121 Agent to display required name information

(1) In this section,—

business, in relation to an agent, means the agent's business as a real estate agent

required name information, in relation to an agent, means—

(a) the name of the agent and the fact that the agent is licensed under this Act; and

(b) if the agent's business as a real estate agent is not carried on in the agent's name, the name or style under which that business is carried on.

(2) Every agent must ensure that the required name information is displayed in a prominent place—

(a) at each office or shop maintained by the agent for the purposes of the business; and

(b) on every website maintained by the agent for the purposes of the business; and

(c) on all notices, advertisements, and other material published by or on behalf of the agent in the course of the business; and

(d) on all letters, accounts, contractual documents, agreements, and other documents sent or handed out, entered into, or published by or on behalf of the agent in the course of the business.

(3) The required name information must be capable of being easily read from outside each office or shop maintained by the agent for the purposes of the business.

Compare: 1976 No 9 s 53

Receipt of money and audit of accounts

122 Duty of agent with respect to money received in course of business

(1) All money received by an agent in respect of any transaction in his or her capacity as an agent must be paid to the person lawfully entitled to that money or in accordance with that person's directions.

(2) Despite subsection (1), if an agent is in doubt on reasonable grounds as to the person who is lawfully entitled to the money, he or she must take all reasonable steps to ascertain as soon as practicable the person who is entitled and may retain the money in his or her trust account until that person has been ascertained.

(3) Pending the payment of any such money, the money must be paid by the agent into a general or separate trust account at any bank carrying on business in New Zealand under the authority of any Act and may not be drawn upon except for the purpose of paying it to the person entitled or as that person may in writing direct.

(4) No money to which this section applies is available for payment of the agent's debts, nor may it be attached or taken in execution under the order or process of any court at the instance of any of the agent's creditors.

(5) Nothing in this section takes away or affects any just lien or claim that an agent who holds money to which this section applies has against the money.

Compare: 1976 No 9 s 56

123 Money to be held by agent for 10 working days

(1) When an agent receives any money in respect of any transaction in his or her capacity as an agent, he or she must not pay that money to any person for a period of 10 working days after the date on which he or she received it.

(2) Despite subsection (1), a court order or an authority signed by all the parties to the transaction may require the agent to pay the money before the expiry of the period specified in that subsection.

(3) If at any time while holding any money on behalf of any party to the transaction, the agent receives written notice of any requisitions or objections in

respect of the title to any land affected by the transaction, the agent must not at any time pay that money to any person except in accordance with a court order or an authority signed by all the parties to the transaction.

Compare: 1976 No 9 s 57

124 Agent to furnish account to client

(1) As soon as an agent is asked by his or her client to do so, and in any case not later than 28 days after the agent receives any money in respect of the transaction in his or her capacity as an agent, the agent must render to the person lawfully entitled to the money an account in writing, setting out particulars of all such money, and its application.

(2) If an agent is in doubt on reasonable grounds as to the person who is lawfully entitled to any money, the agent must take all reasonable steps to ascertain as soon as practicable the person who is entitled and is not required to render an account under this section until the person lawfully entitled has been ascertained.

Compare: 1976 No 9 s 58

125 Agents' trust accounts to be audited

(1) Every general or separate trust account of an agent must be audited at the times and in the manner prescribed by regulations made under this Act.

(2) All information obtained by an auditor in the course of the audit of any trust account under this Act must be treated as confidential.

(3) Subsection (2) is subject to any rights of disclosure that may be prescribed for the purposes of the audit.

Compare: 1976 No 9 s 60

Agency agreements

126 No entitlement to commission or expenses without agency agreement

(1) An agent is not entitled to any commission or expenses from a client for or in connection with any real estate agency work carried out by the agent for the client unless—

(a) the work is performed under a written agency agreement signed by or on behalf of—

(i) the client; and

(ii) the agent; and

(b) the agency agreement complies with any applicable requirements of any regulations made under section 156; and

(c) a copy of the agency agreement signed by or on behalf of the agent was given by or on behalf of the agent to the client within 48 hours after the agreement was signed by or on behalf of the client.

(2) A court before which proceedings are taken by an agent for the recovery of any commission or expenses from a client may order that the commission or expenses concerned are wholly or partly recoverable despite a failure by the agent to give a copy of the relevant agency agreement to the client within 48 hours after it was signed by or on behalf of the client.

(3) A court may not make an order described in subsection (2) unless satisfied that—

(a) the failure to give a copy of the agreement within the required time was occasioned by inadvertence or other cause beyond the control of the agent; and

(b) the commission or expenses that will be recoverable if the order is made are fair and reasonable in all the circumstances; and

(c) failure to make the order would be unjust.

(4) This section overrides subpart 5 of Part 2 of the Contract and Commercial Law Act 2017.

Compare: Property, Stock and Business Agents Act 2002 s 55(1), (4), (5) (NSW)

Section 126(4): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

127 Approved guide to be provided before agency agreement for residential property signed

(1) An agent must not enter into an agency agreement with a person for the sale of residential property unless the agent or a licensee on the agent's behalf—

(a) has provided the person with a copy of the approved guide before the agreement is signed by or on behalf of the person; and

(b) has received a signed acknowledgment from the person that the person has been given the approved guide.

(2) In this section—

approved guide means a guide that—

(a) is about the sale of residential property:

(b) has been approved by the Authority for the purposes of this section

residential property does not include any property that—

(a) has been developed with other properties in a continuous area; and

(b) is proposed to be sold or otherwise disposed of by a vendor who also proposes to sell or otherwise dispose of, or who has sold or otherwise disposed of, some or all of those other properties.

(3) A contravention of this section does not affect the validity of the agency agreement.

Compare: Property, Stock and Business Agents Act 2002 s 56 (NSW)

128 Agency agreement must disclose rebates, discounts, and commissions

(1) An agent is not entitled to any expenses from a client for or in connection with any real estate agency work carried out by the agent for the client in connection with a transaction unless the agency agreement under which the agent performs that work contains a statement that—

(a) identifies the source of all rebates, discounts, or commissions that the agent will or is eligible to receive in respect of those expenses; and

(b) specifies the estimated amount of those rebates, discounts, or commissions (to the extent that the amount can reasonably be estimated).

(2) This section does not limit the liability of any person under the Secret Commissions Act 1910.

Compare: Property, Stock and Business Agents Act 2002 s 57(1) (NSW)

129 Regulations may make provisions in respect of agency agreements

Regulations under section 156 may provide for 1 or more of the following:

(a) 1 or more standard forms of agency agreement:

(b) the manner and form in which disclosure is to be made under section 128.

Compare: Property, Stock and Business Agents Act 2002 s 55(2) (NSW)

130 Client may cancel sole agency agreement by 5 pm next working day

(1) A client who is party to a sole agency agreement with an agent may, by 5 pm on the first working day after the day on which a copy of the agreement is given to the client under section 126(1)(c), cancel the agreement by written notice to the agent.

(2) A notice under subsection (1) may be served by fax or email.

(3) Subsection (1) has effect despite any provision to the contrary in any agreement.

(4) Even though a sole agency agreement has been cancelled, an agent may rely on that agreement if, before that cancellation,—

(a) the agent carries out any agency work in accordance with the agreement; and

(b) that agency work enables the conclusion of a contract that effects a transaction to which the agreement relates.

131 Parties may cancel sole agency agreements in respect of residential property 90 days after agreement is signed

(1) Any party to a sole agency agreement that relates to residential property and is for a term longer than 90 days may, at any time after the expiry of the period of 90 days after the agreement is signed, cancel the agreement by written notice to the other party or parties.

(2) If the parties to a sole agency agreement to which subsection (1) relates agree in writing to renew the sole agency agreement, the signing of the renewal agreement is, for the purposes of that subsection, taken to be the signing of a new sole agency agreement.

(3) For the purposes of subsection (1), a sole agency agreement is signed when it is signed by or on behalf of the client or, if there is more than 1 client, when the agreement is signed by the last client.

(4) A notice under subsection (1) may be served by fax or email.

(5) This section has effect despite any provision to the contrary in any agreement.

(6) In this section, **residential property** does not include any property that—

(a) has been developed with other properties in a continuous area; and

(b) is proposed to be sold or otherwise disposed of by a vendor who also proposes to sell or otherwise dispose of, or who has sold or otherwise disposed of, some or all of those other properties.

Disclosure of information as to transaction and conflicts of interest

132 Licensee to give copy of contractual document

As soon as practicable after a person signs a contractual document and gives that document to a licensee carrying out real estate agency work in connection with the document, the licensee must give the person an accurate copy of the document.

Compare: 1976 No 9 s 65

133 Approved guide to be provided when contractual document provided

(1) An agent must ensure that subsection (2) is complied with before a person signs a contractual document if the contractual document—

(a) relates to the proposed sale of a residential property in respect of which the agent is carrying out real estate work; and

(b) was provided to the person by the agent or by a licensee on behalf of the agent.

(2) The agent or a licensee on the agent's behalf must have—

(a) provided the person with a copy of the approved guide; and

(b) received a signed acknowledgment from the person that the person has been given the approved guide.

(3) In this section—

approved guide means a guide that—

(a) is about the sale of residential property:

(b) has been approved by the Authority for the purposes of this section.

(4) A contravention of this section does not affect the validity of any contract.

Section 133(2)(b): amended, on 5 December 2013, by section 9 of the Real Estate Agents Amendment Act 2013 (2013 No 129).

134 Contracts for acquisition by licensee or related person may be cancelled

(1) No licensee may, without the consent of the client for whom he or she carries out real estate agency work in respect of a transaction, directly or indirectly, whether by himself or herself or through any partner, sub-agent, or nominee, acquire the land or business to which the transaction relates or any legal or beneficial interest in that land or business.

(2) No licensee may, without the consent of the client, carry out or continue to carry out any agency work in respect of a transaction if the licensee knows or should know that the transaction will, or is likely to, result in a person related to the licensee acquiring the land or business to which the transaction relates or any legal or beneficial interest in that land or business.

(3) The client's consent is effective only if—

(a) given in the prescribed form; and

(b) the client is provided with a valuation in accordance with section 135.

(4) The client may cancel any contract—

(a) made in contravention of subsection (1); or

(b) brought about by agency work carried out in contravention of subsection (2).

(5) No commission is payable in respect of any contract of the kind described in subsection (4), regardless of whether the client cancels the contract.

(6) The client may recover any commission paid in respect of any contract of the kind described in subsection (4) as a debt.

(7) For the purposes of this section, a person who is the client of an agent in respect of a transaction is also the client of any branch manager or salesperson whose work enables the agent to carry out real estate agency work for that client.

(8) This section and section 135 have effect despite any provision to the contrary in any agreement.

135 Client to be provided with valuation

(1) For the purposes of section 134(3), the licensee must give the client a valuation made at the licensee's expense.

(2) The valuation must have been made by—

(a) an independent registered valuer; or

(b) in the case of a business, by an independent qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013).

(3) The licensee must give the client the valuation either—

(a) before seeking the consent of the client; or

(b) with the agreement of the client, within 14 days after obtaining that consent.

(4) Every consent given under section 134 without the valuation being supplied to the client in accordance with subsection (3) is ineffective.

(5) Any contract to which the client is a party and to which the consent relates is voidable at the option of the client if—

(a) the client gives his or her consent in accordance with subsection (3)(b); and

(b) the valuation, when supplied, is greater than the valuation specified in the prescribed form of consent as the provisional valuation.

Compare: 1976 No 9 s 64

Section 135(2)(b): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

136 Disclosure of other benefits that licensee stands to gain from transaction

(1) A licensee who carries out real estate agency work in respect of a transaction must disclose in writing to every prospective party to the transaction whether or not the licensee, or any person related to the licensee, may benefit financially from the transaction.

(2) Subsection (1) does not apply to any matter disclosed under section 128 or 134.

(3) The licensee must make the disclosure required by subsection (1) before or at the time that the licensee provides the prospective party with any contractual documents that relate to the transaction.

(4) For the purposes of this section, an agent does not benefit financially from a transaction merely because of any commission payable to the agent under an agency agreement in respect of the transaction.

(5) A contract entered into in contravention of this section may not be cancelled merely because of that contravention.

137 Meaning of licensee and person related to licensee in sections 134 to 136

(1) In sections 134 to 136, **licensee** includes, in the case of an agent that is a company, every officer and shareholder of the company.

(2) For the purposes of sections 134 to 136, a person is related to a licensee if the person is—

(a) a partner of the licensee under a partnership agreement:

(b) an employee of the licensee:

(c) a branch manager or salesperson engaged by the licensee:

(d) the licensee's spouse or civil union partner:

(e) the licensee's de facto partner:

(f) a child, grandchild, brother, sister, nephew, or niece of the licensee or of any person referred to in paragraphs (d) or (e):

(g) any other child who is being, or is to be, cared for on a continuous basis by the licensee or any person referred to in paragraph (d) or (e):

(h) a grandparent, parent, uncle, or aunt of the licensee or of any person referred to in paragraph (d) or (e):

(i) an entity that has an interest in the licensee or an entity in which the licensee has an interest (except where either interest is in quoted financial products within the meaning given for those terms in section 6(1) of the Financial Markets Conduct Act 2013).

Section 137(2)(h): replaced, on 12 December 2012, by section 7 of the Real Estate Agents Amendment Act 2012 (2012 No 112).

Section 137(2)(i): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Part 6
Miscellaneous provisions

Subpart 1—Offences and penalties

138 General penalty

Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $40,000; or

(b) in the case of a company, to a fine not exceeding $100,000.

Section 138: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

139 Forfeiture for certain offences

(1) In addition to any fine that may be imposed, a person who commits an offence under section 141 or 142 is liable to forfeit to the Crown all money received by him or her by way of commission, profit, or remuneration for any services or work performed by him or her as an unlicensed agent, branch manager, or salesperson.

(2) All money forfeited to the Crown under subsection (1) is recoverable at the suit of the Crown in any court of competent jurisdiction, or may be assessed by the court by which the defendant is convicted, and be recoverable as a fine.

Compare: 1976 No 9 s 16(2), (3)

140 Offences to be punishable on summary conviction

[Repealed]

Section 140: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Offences relating to requirement to be licensed

141 Offence to carry on business of agent, branch manager, or salesperson unless licensed or exempt

A person commits an offence if the person carries out any real estate agency work without—

(a) being licensed to do so under this Act; or

(b) being exempt from the requirement to be licensed.

142 Offence of holding out as agent, branch manager, or salesperson unless licensed or exempt

A person commits an offence who holds out that any person (including the person himself or herself) who is neither licensed under this Act or exempt from the requirement to be licensed, is an agent, branch manager, or salesperson.

143 Offence of employing or contracting unlicensed or non-exempt person as agent, branch manager, or salesperson

A person commits an offence who employs or contracts, or continues to employ or contract, as an agent, branch manager, or salesperson a person—

(a) who is not licensed or exempt from the requirement to be licensed under this Act; or

(b) whose licence has been suspended under this Act; or

(c) whose licence has been cancelled under this Act; or

(d) who is prohibited from working for an agent in a real estate business in accordance with an order made under section 110.

Offences relating to application for licence

144 Offence to provide false or misleading information

(1) A person commits an offence who, for the purposes of any application for a licence or for renewal of a licence under this Act, supplies to the Registrar any false or misleading information.

(2) It is a defence to a charge under subsection (1) that the person to whom the charge relates did not know that he or she was providing false or misleading information and had exercised all reasonable care and due diligence to ensure that the information provided was not false or misleading.

145 Offence to fail to notify change in circumstances

(1) A licensee or applicant for a licence commits an offence who, without reasonable excuse, fails to notify the Registrar of any change in circumstances as required by section 67.

(2) Every person who commits an offence against this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000; or

(b) in the case of a company, to a fine not exceeding $50,000.

Section 145(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Offences relating to Authority's powers of possession and inspection of documents

146 Offence to fail to comply with requirement to give possession of documents

A person commits an offence who, without reasonable excuse, fails to comply with a requirement to give the Authority possession of documents in accordance with a notice given under section 26.

147 Offence to fail to comply with requirement to produce financial records

A person commits an offence who, without reasonable excuse, fails to comply with a requirement stated in a notice given under section 30(2) to produce financial records and to permit a person authorised by the Authority to inspect and copy those records.

Offences relating to requirements for real estate transactions

148 Offence to fail to provide information or document

(1) A person commits an offence who, without reasonable excuse, fails to comply with a requirement to produce any papers, documents, records, or things in accordance with a notice given under section 85.

(2) Every person who commits an offence against this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000; or

(b) in the case of a company, to a fine not exceeding $50,000.

Section 148(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

149 Offence to fail to pay person lawfully entitled to money received

An agent commits an offence if that agent fails to pay a person lawfully entitled to money received in respect of any transaction in accordance with section 122 or otherwise contravenes that section.

150 Offence to fail to hold money

An agent commits an offence who fails to hold money required to be held by section 123 for the period required by that section.

151 Offence to fail to disclose conflict of interest

A person commits an offence who fails to disclose information in accordance with section 136.

152 Offence to render false accounts

(1) A person commits an offence who renders an account purporting to be an account for any money received by him or her in his or her capacity as a licensee, knowing the account to be false in a material particular.

(2) Every person who commits an offence against this section is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or a fine not exceeding $40,000, or both; or

(b) in the case of a company, to a fine not exceeding $100,000.

Section 152(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Offences relating to investigation

153 Offence to resist, obstruct, etc

A person commits an offence who, without reasonable excuse,—

(a) resists, obstructs, deceives, or attempts to deceive any person who is exercising or attempting to exercise any power or perform any function under this Act; or

(b) gives to any person who is exercising or attempting to exercise any power or perform any function under this Act any particulars knowing those particulars are false or misleading in any material respect.

Offences relating to witness summonses and contempt of Tribunal

Heading: inserted, on 14 November 2018, by section 251 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

153A Offence to fail to comply with summons

(1) A person commits an offence who, after being summoned to attend to give evidence before the Tribunal or to produce to it any document, information, or thing, without sufficient cause—

(a) fails to attend in accordance with the summons; or

(b) refuses to be sworn or to give evidence, or having been sworn refuses to answer any question that the person is lawfully required by the Tribunal or any member of it to answer; or

(c) fails to produce any such document, information, or thing.

(2) A person commits an offence who—

(a) wilfully obstructs or hinders the Tribunal or any member of it in any inspection or examination of any document, information, or thing; or

(b) without sufficient cause, fails to comply with any requirement of the Tribunal.

(3) A person who commits an offence against this section is liable on conviction to a fine not exceeding $1,000.

(4) No person summoned to attend the hearing may be convicted of an offence against subsection (1) unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required to attend, there was made to that person a payment or tender of the amount fixed in accordance with clause 7 of Schedule 1.

Section 153A: inserted, on 14 November 2018, by section 251 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

153B Contempt of Tribunal

(1) A person commits an offence who—

(a) wilfully insults or obstructs the Tribunal or any member of it, a witness, or an officer of the Tribunal during a sitting of the Tribunal or while a member, a witness, or an officer is going to, or returning from, a sitting of the Tribunal; or

(b) wilfully insults or obstructs any person in attendance at a sitting of the Tribunal; or

(c) wilfully interrupts, or otherwise misbehaves at, a sitting of the Tribunal; or

(d) wilfully and without lawful excuse disobeys any order or direction of the Tribunal in the course of the hearing of any proceedings.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $1,000.

(3) The Tribunal may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in the opinion of the Tribunal, constitutes an offence against subsection (1), whether or not the person is charged with the offence; and any officer of the Tribunal or constable may take any steps that are reasonably necessary to enforce the exclusion.

Section 153B: inserted, on 14 November 2018, by section 251 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Subpart 2—Service

154 Service of notice and documents

(1) Any notice or other document required or authorised by this Act to be given to or served on any person, is sufficiently given or served if—

(a) it is delivered to that person; or

(b) it is left at that person's usual or last known place of abode or business or at an address specified for that purpose in any document received from that person; or

(c) it is posted in a letter addressed to that person by name at that place of abode or business or address; or

(ca) it is transmitted to an electronic address or a fax number provided by the person; or

(d) it is sent in the prescribed manner (if any).

(2) Any notice or other document required or authorised by this Act to be given to or served on the Authority is sufficiently given or served if—

(a) it is delivered to the Registrar; or

(b) it is left at the office of the Authority; or

(c) it is posted in a letter addressed to the Authority at the office of the Authority; or

(d) it is sent in the prescribed manner (if any).

(3) Any notice or other document required or authorised by this Act to be given or served on a business partnership is taken to be given or served on the partnership if, in accordance with subsection (1), it is given or served on any one of the partners.

(4) If any notice or other document is sent by post, it is, unless the contrary is shown, treated to have been served 5 working days after it was posted, and, in proving service of the notice, it is sufficient to prove that the letter was properly addressed and posted.

(4A) If a notice or any other communication is served in electronic form under subsection (1)(ca), then, unless the contrary is shown,—

(a) the notice or any other communication is served at the time the electronic communication containing the notice or communication first enters an information system outside the control of its originator; and

(b) in proving service, it is sufficient to prove that the electronic communication was properly addressed and sent.

(4B) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.

(5) This section does not apply to notices or other documents served or given in any proceedings in any court.

Section 154(1)(ca): inserted, on 14 November 2018, by section 252(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 154(4): amended, on 14 November 2018, by section 252(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 154(4A): inserted, on 14 November 2018, by section 252(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 154(4B): inserted, on 14 November 2018, by section 252(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Subpart 3—Civil remedies

155 Civil remedies not affected

(1) Nothing in this Act affects any civil remedy that a person may have against an agent, branch manager, or salesperson.

(2) Subsection (1) is subject to section 110(3).

Compare: 1976 No 9 s 120

Subpart 4—Regulations

156 Regulations

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) exempting any person or class of persons from the requirement to be licensed under this Act and prescribing any terms and conditions of such an exemption:

(b) prescribing the qualifications necessary before a person is entitled to be licensed as an agent, a branch manager, or salesperson:

(c) prescribing the form, manner, or content of applications, notices, or any other documentation or information required under this Act:

(d) prescribing search criteria for the register:

(e) prescribing changes of circumstance that must be notified to the Registrar:

(f) prescribing the manner and form in which complaints may be made to the Authority about licensees or former licensees:

(g) prescribing any act or thing necessary to supplement or render more effectual the provisions of this Act as to the conduct of proceedings before the Disciplinary Tribunal, or prescribing any fees in relation to the functions of the Disciplinary Tribunal:

(h) prescribing for the appointment of auditors, auditing requirements, and conferring such powers, including the power of inspection of documents and records, as may be necessary or desirable for the purposes of carrying out an audit:

(i) prescribing the form in which a client's consent must be given for the purposes of section 134:

(j) *[Repealed]*

(k) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and setting the maximum penalty for each offence, which—

(i) in the case of an individual, may not exceed $25,000; or

(ii) in the case of a company, may not exceed $50,000:

(l) prescribing periods of time for the purposes of giving notice, making submissions, and other matters:

(m) prescribing the manner for giving notice or service under this Act:

(n) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

(2) Any regulations made under subsection (1)(a) exempting any person or class of persons from the requirement to be licensed under this Act may be made only on the recommendation of the Minister given in accordance with subsection (3).

(3) The Minister must not make a recommendation under subsection (2) unless the Minister—

(a) is satisfied that—

(i) there is no material consumer benefit to be gained by requiring the person or class of persons concerned to be licensed; and

(ii) there are sufficient processes in place to ensure competent and ethical conduct on the part of that person or those persons; and

(b) has consulted with representatives of organisations that, in the opinion of the Minister, have an interest in the proposed exemption.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 156(1)(g): amended: on 14 November 2018, by section 253 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 156(1)(j): repealed, on 7 July 2010, by section 5 of the Real Estate Agents Amendment Act 2010 (2010 No 82).

Section 156(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 5—Provisions relating to repeal of Real Estate Agents Act 1976

Repeal of Real Estate Agents Act 1976

157 Repeal of Real Estate Agents Act 1976

The Real Estate Agents Act 1976 (1976 No 9) is repealed.

158 Transfer of assets and liabilities

On the commencement of this section, the assets and liabilities of the Real Estate Agents Licensing Board constituted under section 4 of the Real Estate Agents Act 1976 vest in REINZ.

159 Membership of REINZ

A person who immediately before the commencement of section 157 is a member of REINZ continues to be a member of REINZ in accordance with the rules of REINZ until the person's membership is terminated in accordance with those rules or until the person resigns his or her membership.

Winding up of Fidelity Guarantee Fund

160 Continuation of certain provisions of Real Estate Agents Act 1976

(1) Despite the repeal of the Real Estate Agents Act 1976 by section 157, the following provisions of that Act continue to be in force until the date on which the Real Estate Agents Fidelity Guarantee Fund is wound up:

(a) sections 71 to 75(1):

(b) sections 79 to 87:

(c) the Schedule.

(2) For the purposes of subsection (1), section 79 of the Real Estate Agents Act 1976 has effect as if the references in that section to real estate agents were references to real estate agents within the meaning of this Act.

Compare: 2006 No 1 s 363

161 Claims in relation to Real Estate Agents Fidelity Guarantee Fund

(1) No person has any claim against the Real Estate Agents Fidelity Guarantee Fund in relation to any theft committed on or after the date on which the repeal of the Real Estate Agents Act 1976 takes effect.

(2) No person has any claim against the Real Estate Agents Fidelity Guarantee Fund in respect of any theft committed before the date on which the repeal of the Real Estate Agents Act 1976 takes effect unless that person has, on or before the last date for submitting claims, given notice of the claim in writing to the Council of REINZ or to the committee of management appointed under section 74(1) of the Real Estate Agents Act 1976.

(3) The last date for submitting a claim is the last day of the period of 12 months beginning with the date on which a report under section 163(1) is submitted by the Council of REINZ to the Minister.

Compare: 2006 No 1 s 365

162 Public notice of last day for making claims

(1) The Council of REINZ must give public notice of the last date for submitting any claim against the Real Estate Agents Fidelity Guarantee Fund in respect of any theft committed before the date on which the repeal of the Real Estate Agents Act 1976 takes effect.

(2) The public notice under subsection (1) must be given at least twice before that last date, the first such notice being given not less than 3 months before that date and the second being given not more than 1 month and not less than 14 days before that date.

Compare: 2006 No 1 s 366

163 Winding up of Real Estate Agents Fidelity Guarantee Fund

(1) If the Council of REINZ forms the opinion that all claims against the Real Estate Agents Fidelity Guarantee Fund that it is aware of have been received and fully dealt with, it must submit a report to the Minister stating that opinion and outlining the reasons for that opinion.

(2) If, in the period of 12 months beginning with the date on which the Council of REINZ submits a report under subsection (1), further claims against the Real Estate Agents Fidelity Guarantee Fund are submitted to the Council, it must receive, and deal with, those claims.

(3) After the expiry of the period of 12 months referred to in subsection (2), the Council of REINZ must decline to receive any further claims against the Real Estate Agents Fidelity Guarantee Fund.

(4) Subsection (5) applies if—

(a) no further claims against the Real Estate Agents Fidelity Guarantee Fund are received in the period referred to in subsection (2); or

(b) the Council of REINZ has fully dealt with any further claims against the Real Estate Agents Fidelity Guarantee Fund that were received in the period referred to in subsection (2).

(5) The Council of REINZ must report to the Minister on the application of this subsection and submit to the Minister its final report and final audited accounts in respect of the Real Estate Agents Fidelity Guarantee Fund.

(6) The Minister may, on receiving that report and those accounts, recommend to the Governor-General the making of an Order in Council under subsection (7).

(7) The Governor-General may, by Order in Council, declare that the Real Estate Agents Fidelity Guarantee Fund is wound up on a date specified in the order.

Compare: 2006 No 1 s 367

164 Application of Real Estate Agents Fidelity Guarantee Fund on winding up

On the date specified in the Order in Council made under section 163(7) on which the Real Estate Agents Fidelity Guarantee Fund is wound up, any

remaining assets of the fund continue to be the property of REINZ but cease to be held in trust for the purposes stated in section 81 of the Real Estate Agents Act 1976.

Transitional provisions

165 Continuation in office for purposes of transitional provisions

(1) For the purposes of sections 166 to 172, the Real Estate Agents Licensing Board constituted under section 4 of the Real Estate Agents Act 1976, the Registrar of Real Estate Agents appointed under section 35 of that Act, and every Regional Disciplinary Committee, and subcommittee of a Regional Disciplinary Committee, established pursuant to the rules of the Real Estate Institute under section 70 of that Act continue in office and continue to have all the powers necessary to fulfil those purposes.

(2) If there is a vacancy in any of the bodies or in the office of Registrar referred to in subsection (1), the Minister may appoint any person the Minister considers appropriate to fill the vacancy.

166 Agents licensed under Real Estate Agents Act 1976

(1) Every person is deemed to hold a licence as an agent under this Act who, immediately before the commencement of this section, holds a current agent's licence under the Real Estate Agents Act 1976.

(2) The licence that the person is deemed to hold under subsection (1) continues in force, until the expiration of the year in respect of which the licence was issued under the Real Estate Agents Act 1976 and may be renewed under this Act.

(3) Every person is deemed to hold a licence as an agent under this Act if, immediately before the commencement of this section, the person is entitled to apply for a renewal of his or her or its agent's licence under the Real Estate Agents Act 1976 and, on the commencement of this Act, the person's application for that renewal is pending before the Real Estate Agents Licensing Board.

(4) The licence that the person is deemed to hold under subsection (3) continues in force until the Authority has been notified by the Real Estate Agents Licensing Board under section 169(2) of the Board's determination and has taken any appropriate action on that advice.

(5) This section does not limit the provisions of this Act that authorise the cancellation of a licence or the suspension of a licensee.

167 Salespersons and branch managers approved under Real Estate Agents Act 1976

(1) Every person is deemed to hold a licence as a salesperson or as a branch manager under this Act who, on the commencement of this section, holds a current certificate of approval as a salesperson or as a branch manager under the Real Estate Agents Act 1976.

(2) The licence that the person is deemed to hold under subsection (1) continues in force until the expiry of the year in respect of which the licence was issued under the Real Estate Agents Act 1976 and may be renewed under this Act.

(3) Every person is deemed to hold a licence as a salesperson or as branch manager under this Act if, immediately before the commencement of this section, the person is entitled to apply for a renewal of his or her certificate of approval under the Real Estate Agents Act 1976 and, on the commencement of this section, the person's application for that renewal is pending before the Real Estate Agents Licensing Board.

(4) The licence that the person is deemed to hold under subsection (3) continues in force until the Authority has been notified by the Real Estate Agents Licensing Board under section 169(2) of the Board's determination and has taken any appropriate action on that advice.

(5) This section does not limit the provisions of this Act that authorise the cancellation of a licence or the suspension of a licensee.

(6) A person who, by this section, is deemed to hold a licence and who continues to be employed or engaged by the same agent retains the status that the person had before the commencement of this section, whether as employee or as independent contractor, until that status is altered by agreement of the parties.

168 Continuing effect of permits issued under Real Estate Agents Act 1976

(1) Every permit issued under section 34 of the Real Estate Agents Act 1976 that is in effect immediately before the commencement of this section continues in effect according to its tenor despite any provision of this Act (other than this section).

(2) The Authority has, and may exercise, the power conferred on the Real Estate Licensing Board by section 34(5) of the Real Estate Agents Act 1976.

(3) Every permit referred to in subsection (1), unless sooner expired or revoked, expires on the date that is 2 years after the commencement of this section.

169 Applications pending at commencement of this section to be dealt with under Real Estate Agents Act 1976

(1) Every application for a licence or a certificate of approval, or for a renewal of a licence or a certificate of approval, made under the Real Estate Agents Act 1976 that is, immediately before the commencement of this section, pending before the Real Estate Agents Licensing Board must be considered and determined as if this Act (other than this section) had not been enacted.

(2) After determining an application of the kind referred to in subsection (1), the Real Estate Agents Licensing Board must promptly advise the Authority of the determination.

(3) If the Authority receives advice under subsection (2) that the Real Estate Agents Licensing Board has issued an agent's licence to a person or granted an

application for the renewal of such a licence, the Authority must issue a licence as an agent to the person under this Act.

(4) If the Authority receives advice under subsection (2) that the Real Estate Agents Licensing Board has issued a certificate of approval as a salesperson or branch manager to a person or granted an application for the renewal of such a certificate, the Authority must issue a licence as a salesperson or as branch manager to the person under this Act.

(5) The Real Estate Agents Licensing Board and any person holding office as Registrar under the Real Estate Agents Act 1976 continue to have all the powers under that Act that are necessary for performing their duties under this section.

170 Continuing effect of agency agreements entered into before repeal of Real Estate Agents Act 1976

(1) The repeal by section 157 of the Real Estate Agents Act 1976 does not affect the continuation of any subsisting contracts of the kind described in section 62(b) of that Act, and any such contract continues to be governed by that Act.

(2) A contract of the kind described in subsection (1) may be renewed only by an agency agreement to which section 126 applies.

(3) Section 62 of the Real Estate Agents Act 1976 continues to apply to any service or work performed, before the commencement of section 157, by any person as a real estate agent under that Act.

171 Continuation of pending disciplinary proceedings

(1) All applications under any of sections 94, 95, and 99 of the Real Estate Agents Act 1976, every inquiry under section 97 of that Act, every complaint laid under section 102 of that Act with a Regional Disciplinary Committee, and every matter referred to a subcommittee of a Regional Disciplinary Committee in accordance with rules made under section 70 of that Act that have been commenced before the commencement of this section and that have not been completed before that commencement are to be continued and completed as if that Act had not been repealed.

(2) If the Real Estate Agents Licensing Board, in completing any application referred to in subsection (1), determines that the licence of a licensee is to be cancelled or that a licensee is to be suspended, the Board must promptly notify the Authority of that determination and the Authority must give effect to the determination by taking the appropriate action under this Act.

(3) Subsection (1) is subject to subsection (2).

172 Allegations about conduct before commencement of this section

(1) A Complaints Assessment Committee may consider a complaint, and the Tribunal may hear a charge, against a licensee or a former licensee in respect of

conduct alleged to have occurred before the commencement of this section but only if the Committee or the Tribunal is satisfied that,—

(a) at the time of the occurrence of the conduct, the licensee or former licensee was licensed or approved under the Real Estate Agents Act 1976 and could have been complained about or charged under that Act in respect of that conduct; and

(b) the licensee or former licensee has not been dealt with under the Real Estate Agents Act 1976 in respect of that conduct.

(2) If, after investigating a complaint or hearing a charge of the kind referred to in subsection (1), the Committee or Tribunal finds the licensee or former licensee guilty of unsatisfactory conduct or of misconduct in respect of conduct that occurred before the commencement of this section, the Committee or the Tribunal may not make, in respect of that person and in respect of that conduct, any order in the nature of a penalty that could not have been made against that person at the time when the conduct occurred.

173 Amendments to other enactments

The enactments listed in Schedule 2 are amended in the manner set out in that schedule.

Schedule 1
Provisions relating to Tribunal

s 104

1 Oath of office

Each member of the Tribunal must, before entering on the performance of his or her functions as a member of the Tribunal, swear or affirm before a Judge of the High Court that he or she will faithfully and impartially perform his or her duties as a member of the Tribunal.

2 Term of office

(1) Every member of the Tribunal is to be appointed for a term of up to 5 years.

(2) A member of the Tribunal is eligible for reappointment from time to time.

(3) Where the term of office of a member of the Tribunal has expired, that member, unless he or she sooner dies or vacates office under clause 3, continues to hold office, by virtue of the appointment for the term that has expired, until—

(a) that member is reappointed; or

(b) a successor to that member is appointed; or

(c) that member is informed in writing by the Minister that he or she is not to be reappointed and is not to hold office until a successor is appointed.

(4) A member of the Tribunal who continues in office for any period under subclause (3) may act as a member during that period for the purpose of—

(a) completing any proceedings partly or wholly heard by the Tribunal before the expiry of his or her term of office:

(b) hearing any other proceedings.

(5) A member of the Tribunal who has resigned, or whose successor is appointed or who will not be replaced (unless he or she was removed from office), may continue in office for the purpose of completing any proceedings that are partly or wholly heard.

Schedule 1 clause 2(1): amended, on 14 November 2018, by section 254(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 1 clause 2(4): inserted, on 14 November 2018, by section 254(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 1 clause 2(5): inserted, on 14 November 2018, by section 254(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

3 Vacation of office

(1) A member of the Tribunal may at any time be removed from office by the Governor-General for incapacity affecting performance of duty, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

(2) A member of the Tribunal is deemed to have vacated his or her office if he or she is adjudged bankrupt under the Insolvency Act 2006.

(3) A member of the Tribunal may at any time resign his or her office by giving notice in writing to the Minister.

3A Appointment of temporary acting chairperson, deputy chairperson, or member

(1) If the chairperson, the deputy chairperson, or a member of the Tribunal becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if the chairperson, the deputy chairperson, or a member considers it is not proper or not desirable that he or she should adjudicate on a specified matter, the Minister may appoint a suitable person as the acting chairperson, the acting deputy chairperson, or an acting member for the period or purpose stated in the appointment.

(2) No person may be appointed as the acting chairperson, the acting deputy chairperson, or an acting member unless he or she is eligible for appointment to the relevant position.

(3) The acting chairperson, the acting deputy chairperson, or an acting member is, while acting in that position, to be treated as the chairperson, the deputy chairperson, or a member of the Tribunal.

(4) No appointment of an acting chairperson, acting deputy chairperson, or acting member, no act done by an acting chairperson, acting deputy chairperson, or acting member, and no act done by the Tribunal may be questioned in any proceedings on the ground that the occasion for the appointment had not arisen or had ceased.

Schedule 1 clause 3A: inserted, on 14 November 2018, by section 254(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

4 Remuneration

The chairperson and other members of the Tribunal are to be paid, out of public money, remuneration by way of fees, salary, or allowances and travelling allowances in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly as if the chairperson or any other member were a member of a statutory board within the meaning of that Act.

Schedule 1 clause 4: amended, on 14 November 2018, by section 254(4) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

5 Members of Tribunal

No person holding office as a member of the Tribunal is deemed by reason of his or her holding of that office to be employed in the Government service for the purposes of the Government Superannuation Fund Act 1956 or in the State services for the purposes of the Public Service Act 2020.

Schedule 1 clause 5: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

6 Witness summons

(1) For the purposes of any matter before the Tribunal, the Tribunal may, of its own initiative or at the request of a party, issue a summons to any person requiring that person to attend before the Tribunal and give evidence.

(2) The summons must be in a form approved by the chief executive of the Ministry of Justice after consultation with the chairperson of the Tribunal, and may require the person to produce before the Tribunal any document, information, or thing in that person's possession or under that person's control in any way relating to the matter.

(3) The power to issue a witness summons may be exercised by the Tribunal, the chairperson, or the deputy chairperson, or by any officer of the Tribunal purporting to act by the direction or with the authority of the Tribunal, the chairperson, or the deputy chairperson.

Schedule 1 clause 6(1): amended, on 14 November 2018, by section 254(5) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 1 clause 6(2): amended, on 29 October 2019, by section 254(6) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 1 clause 6(2): amended, on 14 November 2018, by section 254(7) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 1 clause 6(3): replaced, on 14 November 2018, by section 254(8) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

7 Witnesses' expenses

(1) Every person attending the Tribunal on a summons, and every other person giving evidence before the Tribunal, is entitled, subject to subclause (2), to be paid, by the party calling that person, witnesses' fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations made under the Criminal Procedure Act 2011, and those regulations apply accordingly.

(2) The Tribunal may disallow the whole or any part of any sum payable under subclause (1).

Schedule 1 clause 7(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

8 Power to take evidence on oath

(1) The Tribunal may take evidence on oath and, for that purpose, the Tribunal or any other person acting under the express or implied direction of the Tribunal may administer the oath.

(2) On any charge of perjury it is sufficient to prove that the oath was administered in accordance with subclause (1).

Schedule 1 clause 8(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

9 Protection and privileges of witnesses

Every person has the same privileges and immunities as witnesses have in a court of law in relation to—

(a) the giving of information to the Tribunal; and

(b) the giving of evidence to, or the answering of questions put by, the Tribunal; and

(c) the production of any document, information, or thing to the Tribunal.

Schedule 1 clause 9(c): amended, on 14 November 2018, by section 254(9) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

10 Privileges and immunities of counsel

Every counsel appearing before the Tribunal has the same privileges and immunities as counsel in a court of law.

11 Tribunal and members, etc, not personally liable

(1) Neither the Tribunal, nor any member, officer, or agent of the Tribunal, is under any criminal or civil liability in respect of—

(a) any act done or omitted to be done in the course of performing any of their functions or duties, or exercising any powers under this Act; or

(b) any words spoken or written at, for the purposes of, the hearing or any inquiry or other proceedings under this Act; or

(c) anything contained in any notice given under this Act.

(2) Subclause (1) does not apply if the Tribunal or the person concerned has acted in bad faith.

12 Tribunal to have seal

The Tribunal must have a seal, which must be judicially noticed in all courts and for all purposes.

Schedule 2
Amendments to other enactments

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Auctioneers Act 1928 (1928 No 29)

Section 13: repeal.

Crown Entities Act 2004 (2004 No 115)

Part 1 of Schedule 1: insert in its appropriate alphabetical order: "Real Estate Agents Authority".

Employment Relations Act 2000 (2000 No 24)

Section 6(4): omit "Real Estate Agents Act 1976" and substitute "Real Estate Agents Act 2008".

Financial Transactions Reporting Act 1996 (1996 No 9)

The definition of **real estate agent** in section 2(1): repeal and substitute:

> **real estate agent** has the same meaning as the definition of **agent** in section 4 of the Real Estate Agents Act 2008.

Paragraph (b) of the definition of **real estate transaction** in section 2(1): omit "Real Estate Agents Act 1976" and substitute "Real Estate Agents Act 2008".

Lawyers and Conveyancers Act 2006 (2006 No 1)

Section 36(2): omit "real estate agent who holds a licence in force under the Real Estate Agents Act 1976" and substitute "person who holds a current licence under the Real Estate Agents Act 2008".

Section 36: insert the following subsection after subsection (2):

(2A) However, subsection (2) does not apply to a person who, under the Real Estate Agents Act 2008, holds a licence as a salesperson unless the person has had at least 6 months experience as such as a licensee.

Maori Trustee Act 1953 (1953 No 95)

Section 45A(1): omit "as a real estate agent under the Real Estate Agents Act 1976" and substitute "as an agent under the Real Estate Agents Act 2008".

Section 45A(7): omit "the Real Estate Agents Act 1976" and substitute "the Real Estate Agents Act 2008".

Privacy Act 1993 (1993 No 28)

Part 1 of Schedule 2: insert the following item in its appropriate alphabetical order:

"Real Estate Agents Act 2008	sections 63 to 70".

Summary Proceedings Act 1957 (1957 No 87)

Part 2 of Schedule 1: omit the item relating to the Real Estate Agents Act 1976.

Unclaimed Money Act 1971 (1971 No 28)

Section 5(1)(h): omit "any real estate agent within the meaning of the Real Estate Agents Act 1976" and substitute "any agent within the meaning of the Real Estate Agents Act 2008".

Notes

1 General

This is a consolidation of the Real Estate Agents Act 2008 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Regulatory Systems (Occupational Regulation) Amendment Act 2026 (2026 No 43): Part 3

Statutes Amendment Act 2025 (2025 No 74): Part 34

Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56): section 51

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Privacy Act 2020 (2020 No 31): section 217

Education (Vocational Education and Training Reform) Amendment Act 2020 (2020 No 1): section 78(1)

Statutes Amendment Act 2019 (2019 No 56): Part 34

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): Part 1 subpart 16

Statutes Amendment Act 2018 (2018 No 27): section 86

Land Transfer Act 2017 (2017 No 30): section 250

Contract and Commercial Law Act 2017 (2017 No 5): section 347

Financial Reporting Amendment Act 2014 (2014 No 64): section 17

Auctioneers Act 2013 (2013 No 148): section 28(3)

Fair Trading Amendment Act 2013 (2013 No 143): section 41(2)

Real Estate Agents Amendment Act 2013 (2013 No 129)

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Real Estate Agents Amendment Act 2012 (2012 No 112)

Criminal Procedure Act 2011 (2011 No 81): section 413

Real Estate Agents Amendment Act 2010 (2010 No 82)

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