

ISLE OF MAN OFFICE OF FAIR TRADING

Estate Agents Act 1975

ESTATE AGENTS RULES

This guidance should be read in conjunction with the Estate Agents Act 1975.

Citation and Commencement

1. These rules may be cited as the Estate Agents Rules 1978..... *(They were approved by Tynwald on 22nd March 1978 and came into operation on 30th March 1978.)*

Interpretation

2. In these rules –

“the Act” means the Estate Agents Act 1975;

“the registrar” means the registrar of estate agents appointed under section 1 of the Act;

“the Tribunal” means the Estate Agents Tribunal constituted under section 6(1) of the Act;

“the Register” means the Estate Agents Register established under section 2(1) of the Act;

All other expressions shall have the meanings ascribed to them in the Act.

Applications for registration

3.
 - (a) An application for registration in the Register or an application for the renewal of such an application shall be made before the 31st March in any given year.
 - (b) An application for registration in the Register shall be made on Form 1 as laid down in Schedule 1 to these rules and each application shall be accompanied by an application fee of £125.
4. A body corporate shall not be eligible for registration.

Contents of the Estate Agents Register

5. The Register shall contain the following particulars –
 - (a) the full name, qualifications (if any) and address of every applicant;

- (b) the names and addresses of at least two persons from whom character references have been obtained by the registrar;
- (c) the date when the application was received, the date when it was considered, the date and a note of the decision given and the date and a note of the decision of any appeal;
- (d) the date of any disciplinary hearing held by the Office or the Tribunal, or both, the date the decision was given and a note of such decision;
- (e) particulars of the guarantee bond or other security issued in favour of the Office as required by section 10(2) of the Act, the name of the person issuing or giving such security and the required limit thereof.

Fee for inspection of Register

- 6. The fee for the inspection of the Register of estate agents under section 2(1) of the Act shall be 10p.

Certificate of registration

- 7. Upon the approval of an application for registration, the registrar shall issue to the applicant a certificate of registration in the style of Form 2 laid down in Schedule 2 to these rules and an applicant shall be entitled to receive a certificate in respect of each of his places of business.

Provision of required information

- 8. Every applicant for registration and every registered estate agent shall provide such information as may be reasonably required by the registrar for the purpose of ensuring that the particulars entered against his name in the Register are correct or that he is not in contravention of any provision of the Act or these rules.

Changes in registered particulars

- 9. Registered estate agents shall inform the registrar of any change in the particulars required to be entered in the Register within 28 days of the date of any such change.

Annual registration fee

- 10. An annual fee of £30 shall be payable to maintain the retention of a name in the estate agents Register and if such fee shall not be paid within 28 days after the expiration of the previous period of registration the name shall be removed from the Register.

Failure to provide required information

- 11. The registrar shall serve written notice on any person failing to provide any required information indicating that unless such information is forthcoming within 28 days that person's name shall be removed from the Register.

Re-application for registration

12. Any person whose name has been removed from the Register under these rules or whose name has been ordered to be removed under the terms of section 7 or Schedule 1 of the Act shall not be permitted to make an application for re-registration without the consent of the Office which shall take into consideration all the circumstances of each case in arriving at its decision whether to grant or withhold such consent.

Conditions for registration

13. In addition to the requirements under section 3 of the Act as to the good character of an applicant for registration, the registrar shall also satisfy himself –
- (a) that –
- (i) the applicant is a fellow or associate of the Royal Institution of Chartered Surveyors and that the applicant's accredited degree or diploma included a pass in estate or land management, valuation of land, survey of land or land economics; or
 - (ii) the applicant is a fellow of the National Association of Estate Agents and has passed the examination for the Certificate of Practice in Estate Agency; or
 - (iii) the applicant has been awarded a degree in estate management by a University in the United Kingdom; **and**
- (b) by production of written evidence, that the applicant has attained a practical standard of competence in estate agency, in the Island or elsewhere in the British Isles, as is requisite to enable that person properly to carry on business as an estate agent in the Island.

Rules of Conduct

14. A registered estate agent shall comply with the following rules of conduct –
- (a) he shall, when acting for a client whose interests conflict or may conflict with his own or his firm's interest, disclose the relevant facts to the client;
 - (b) he shall ensure that neither he personally nor any firm or Company carrying on practice as estate agents of which he is a partner or director, acts for two or more parties whose interests may conflict without disclosing the relevant facts to every party;
 - (c) he shall not offer or provide whether to a prospective client or a third party any gift or favour whether in money or otherwise designed to secure instructions for work, but nothing herein contained shall prevent him sharing a commission with another registered estate agent;
 - (d) he shall not solicit instructions for work in any manner whatsoever;

- (e) he shall, if he is the sole principal of a practice or a partner in a firm or a director of a Company carrying on practice as estate agents, be responsible for any contravention of the terms of the Act or these rules committed by any other partner or by any member of the staff of such practice or firm, provided that if such sole principal or partner, as the case may be, shall show that he has prior to such contravention, taken all such steps as may be reasonable or possible to ensure that such contravention was not committed, he shall be absolved from responsibility of such contravention;
- (f) he shall, when accepting instructions to act for a vendor or lessor, notify in writing his client of the terms and conditions including conditions relating to his charges and the payment of expenses, on which he is to act;
- (g) he shall not, when offering property to a prospective purchaser or lessee on behalf of a client, stipulate that he shall be retained by the purchaser or lessee in any capacity;
- (h) he shall use his best endeavours to ensure that the form, content and method of publication and distribution of any advertisement, announcement, article, leaflet, brochure or other publicity material of any kind whatsoever published issued or authorised by him are not misleading to the public and do not contain –
 - (i) any inaccurate, false or reckless statement of fact;
 - (ii) an explicit solicitation of instructions;
 - (iii) any inaccurate description of the property concerned;
- (i) he shall use his best endeavours to ensure that every sale announcement shall be so worded and designed as to promote the interest of the client;
- (j) he shall ensure that every announcement published on behalf of a client seeking a property for that client shall state that it is so published and that no commission is sought from those who respond to it.

Keeping of distinct bank accounts

15. A registered estate agent shall forthwith pay into and keep in one or more bank accounts (which shall be styled "Client's Accounts") separate from his own, his firm's or his company's bank account, as the case may be, all monies paid to be held by or entrusted to him, his firm or his company as a deposit on the sale of landed property or by way of rental, or by way of premium on a lease, or for the purchase, in connection with a sale or letting of landed property, of chattels, fixtures or fittings.

Keeping of Client's accounts and statement

16. Up to date Client's accounts shall be kept containing particulars and information as to money received, held or paid for, or on account of clients and other persons and such accounts shall be made available at all reasonable times for inspection by the registrar and such other persons or categories of persons as may be approved in writing by the Office for such purpose.

Keeping of deposit accounts

17. Monies received by a registered estate agent for any of the purposes specified in Rule 15 hereof and held by him as stakeholder for a period of more than 28 days shall be kept on deposit in a separate account at a Joint Stock Bank in the Isle of Man and, notwithstanding that the registered estate agent holds such monies as a stakeholder, the interest accruing therefrom or a sum equivalent to the interest which would have accrued if the monies so held had been kept on deposit shall be paid by the registered estate agent to the person entitled thereto.

Certificates as to compliance with the Act and rules

18. At intervals of not less than 12 calendar months and not more than 18 calendar months registered estate agents shall deliver to the Office a certificate in Form 3 as laid down in Schedule 3 to these rules and given by a person in a category defined in rule 16 stating whether the rules relating to clients' accounts and statements have been complied with in the opinion of the person giving the certificate, provided that the Office may require the delivery of such a certificate at any time if it has reasonable grounds to believe that the terms of the Act or these rules are being contravened.

Purchase of property from clients

19. A registered estate agent shall not purchase a property from a client either directly or indirectly through a nominee being an individual or a company or an associated concern; provide always that, notwithstanding the terms of this rule, he may purchase a client's property if he shall first have notified the client in writing that the client should seek independent advice and the client shall then either have sought such independent advice or having notified the registered estate agent of his agreement to the purchase.

Allowances and expenses of the Estate Agents Tribunal

20. The following allowances shall be paid to the members of the Tribunal –
- (a) for each session of the Tribunal (within the meaning of the Payment of Members' Expenses Act 1975 –
 - (i) to the chairman of the Tribunal, the sum of £68.50;
 - (ii) to each other member of the Tribunal, the sum of £12.00;
 - (b) the like travelling allowances as are payable under section 8 of that Act to a person specified in that section.

NOTES

- This guidance provides an overview of trading standards law as it applies to estate agents. It should not be treated as a substitute for or a definitive interpretation of the law and should be read in conjunction with the law.
- The schedules referred to in the text above are not included in this document as the forms laid down in the schedules are available from the Registrar of Estate Agents.
- The Estate Agents Rules 1978 were amended in 1978, 1982, 1988, 1999, 2003 and 2011.

To obtain copies of the Estate Agents Act 1975, the Estate Agents Rules 1978 and the amending legislation you are advised to contact:

Tynwald Library
Legislative Buildings
Finch Road
Douglas
Isle of Man
IM1 3PW
Tel: (01624) 685520

- Contacting the OFT

Isle of Man Office of Fair Trading
Thie Slieau Whallian
Foxdale Road
St John's
Isle of Man
IM4 3AS
Tel: (01624) 686500
Fax: (01624) 686504
Email: iomfairtrading@gov.im
Website: www.gov.im/oft

All enquiries concerning registration should be directed to the **Registrar of Estate Agents**. General enquiries about the Act and the rules made under the Act should be directed to the **Chief Inspector of Trading Standards**.