# The Official Gazette

## (EXTRAORDINARY)

## OF GUYANA

Published by the Authority of the Government

**GEORGETOWN, WEDNESDAY 16TH AUGUST, 2023**


**TABLE OF CONTENTS** **PAGE**

**FIRST SUPPLEMENT**

**LEGAL SUPPLEMENT**


**A.** **ACTS —** Act No. 13 of 2023 – The Real Estate Agents and Brokers Act 2023.... .... .... .... .... .... 267

**B.** **SUBSIDIARY LEGISLATION — NIL**

**C.** **BILLS — NIL**



GEORGETOWN, Demerara – Printed and Published every Saturday and on such Extraordinary Days as may be directed by the Government by Guyana National Printers Limited, 1 Public Road, La Penitence, Greater Georgetown.

THE OFFICIAL GAZETTE 16TH AUGUST, 2023
LEGAL SUPPLEMENT — A

GUYANA

ACT NO. 13 OF 2023

# REAL ESTATE AGENTS AND BROKERS ACT 2023

I assent.

Mohamed Irfaan Ali,
President.
16th August, 2023

## ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.
4. Disapplication of Act.

## PART II

## PRACTICE OF REAL ESTATE BUSINESS

5. Real estate business.
6. Persons not regarded as engaging in real estate business.

7. Unlawful practice.

## PART III

## REAL ESTATE BUSINESS REGISTRANTS

8. Application for registration by real estate agents.
9. Qualification for registration as a real estate agent.
10. Disqualification for registration.
11. Objection to registration.
12. Determination of application for registration.
13. Registers.
14. Private Register.
15. Persons to register as brokers.
16. Custody and access to Register.
17. Notification of change in particulars.
18. Duration of registration.
19. Renewal of registration.
20. Surrender and cancellation of registration.

## PART IV

## THE GUYANA REAL ESTATE AGENTS AUTHORITY

21. Establishment of the Authority.
22. Composition of the Authority.
23. Disqualification of a member.
24. Functions of the Authority.
25. Tenure and remuneration of members.
26. Resignation of member.
27. Removal of member.
28. Filling of vacancy.
29. Meetings and quorum.
30. Declaration of interest.
31. Secretary and staff of the Authority.
32. Annual report.

## PART V

## LICENSING OF BROKERS AND REAL ESTATE AGENTS

33. Application for licence.
34. Objection to issue of licence.
35. Determination of application for licence.
36. Duration of licence.
37. Renewal of licence.
38. Display and production of licence.
39. Surrender and cancellation of licence.

## PART VI

## PROFESSIONAL MISCONDUCT

40. Professional misconduct.

## PART VII

## DUTIES AND OBLIGATIONS OF PERSONS INVOLVED IN REAL ESTATE BUSINESS

41. Keeping of records by sales associate.
42. Real estate agents and Brokers to supervise sales associate.
43. Keeping of records by real estate agents and broker.
44. Real Estate Agents and Brokers to keep client account.
45. Money held in trust.
46. Broker and real estate agents' obligation.

## PART VIII

## DISCIPLINARY COMMITTEE

47. Establishment of a Disciplinary Committee.
48. Functions of Disciplinary Committee.
49. Tenure and remuneration of members of Disciplinary Committee.
50. Resignation of member.
51. Removal of member.
52. Quorum.
53. Declaration of interest.
54. Rules of the Disciplinary Committee.

**PART IX**

**DISCIPLINARY PROCEEDINGS**

55. Complaint.
56. Hearings by Disciplinary Committee.
57. Powers and responsibility of Disciplinary Committee.
58. Grounds for cancellation or revocation.
59. Surrender of Certificate of Registration and licence pursuant to disciplinary proceedings.
60. Entry in register.
61. Publication of suspension, reinstatement or revocation of licence.
62. Duty of Disciplinary Committee to inform of offence.
63. Appeals from decision of the Disciplinary Committee.

**PART X**

**OFFENCES AND PENALTIES**

64. Time limit for prosecution of a summary offence under the Act.
65. Misrepresentation in application form.
66. Offence to employ non-registrant.
67. Offence to deal with client's money without licence.
68. Confidentiality.
69. General penalties.

**PART XI**

**MISCELLANEOUS**

70. Agreement to be in writing.
71. Regulations.
72. Rules.
73. Code of Ethics.
74. Amendment of the First Schedule.
75. Consequential amendments.
76. Transitional.
77. Savings.

**FIRST SCHEDULE**

**SECOND SCHEDULE**

**AN ACT** to provide for the registration and regulation of Real Estate Agents and Brokers in Guyana; to promote transparency, accountability and integrity in the Real Estate profession; to protect and assist persons engaged in transactions with Real Estate Agents and to assist in the detection and prevention of money laundering, terrorist financing and proliferation financing, and to provide for other related matters.

A.D. 2023 Enacted by the Parliament of Guyana:-

## PART I
## PRELIMINARY

Short title. 1. This Act may be cited as the Real Estate Agents and Brokers Act 2023.

Commencement 2. This Act comes into operation on such date as is fixed by the Minister by Order.

Interpretation. 3. In this Act-

"Authority" means the Guyana Real Estate Agents Authority established under section 21;

"broker" means a person involved in real estate business under section 5 (2) of this Act, who is the holder of a licence as a broker under Part V and includes, unless otherwise expressly provided, a brokerage;

"brokerage" means the agency or establishment of a broker conducting the business of a broker and means brokerage as construed under this Act;

"business of a broker" shall be construed in accordance with section 5(2);

"business of a sales associate" shall be construed in accordance with section 5(3);

"Certificate of Registration" means the Certificate of Registration issued under section 12(1)(c);

"Chairperson" means the Chairperson of the Authority appointed under section 22 ;

"client" means a person who employs a real estate agent to conduct real estate business;

"client account" means an account at a financial institution held by a broker in which money is deposited on behalf of a named client of the broker;

"client's money" means money paid by a client to a broker to facilitate the conduct of real estate business on their behalf and does not include a commission;

"Code of Ethics" means the Code of Ethics established under section 73;

"commission" means the payment earned by a real estate agent for the conduct of real estate business;

"complainant" means a person who makes a complaint under section 55;

"Deputy Chairperson" means the Deputy Chairperson of the Authority appointed under section 22;

"Disciplinary Committee" means the Disciplinary Committee established under section 47;

"financial institution" has the meaning assigned to it under the Financial Institutions Act;

Cap 85:03

"government controlled enterprise" means—

(a) a company incorporated under the laws of Guyana which is owned or controlled by the State; or

(b) a company incorporated under the laws of Guyana which is owned or controlled by a company referred to in paragraph (a);

(c) a body corporate or unincorporated entity which is supported, directly or indirectly, by public money and over which the State, a statutory body or a company referred to in paragraph (a) or (b) is in a position to exercise control directly or indirectly;

"IFRS" means International Financial Reporting Standards issued by the International Accounting Standards Board applicable to Guyana;

"licence" means a licence issued under section 33;

"member" means a member of the Authority or their alternate;

"Minister" means the Minister with responsibility for Commerce;

"non-financial nature of real estate business" means the carrying on of all aspects of real estate business with the exception of receiving or otherwise handling client's money;

Cap 89:02 "partnership" has the meaning assigned to it under the Partnership Act;

"prospect" means a person who is a potential client of a real estate agent;

Cap 73:02 "public money" means money that is assigned the meaning set out in the Fiscal Management and Accountability Act;

"real estate agent" means a person involved in real estate business under section 5 (2) and licenced in accordance with section 33;

"real estate business" shall be construed in accordance with section 5;

"real property" means—

(a) all land, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, or any estate or interest therein, together with all paths, passages, ways, water-courses, liberties and privileges;

(b) land covered with water; and

(c) all buildings, or any part of any building, and all structures, machinery, plant, pipelines, cables and fixtures erected or placed upon, in, over, under or affixed to land;

"respondent" means a real estate agent against whom a complaint is made under section 55;

"Rules" means the Rules made under section 72;

"sales associate" means a person under section 5 (3) who works under the supervision of a real estate agent or broker;

"Secretary" means the Secretary to the Authority provided for in section 31; and

"supervisory authority" means the authority appointed pursuant to section 22 (1) of the Anti-Money Laundering and Countering the Financing of Terrorism Act and as set out in column 2 of the Fourth Schedule of the

Cap 10:11 Anti-Money Laundering and Countering the Financing of Terrorism Act, who has compliance oversight over the reporting entities set out in column 1 of the Fourth Schedule of the Anti-Money Laundering and

Countering the Financing of Terrorism Act, as well as an Authority designated by the Minister with responsibility for Finance as a supervisory authority under the Anti-Money Laundering and Countering the Financing of Terrorism Act.

Disapplication of the Act.

4. This Act does not apply to a person employed by the State, a government-controlled enterprise or a public body who conducts real estate business, in the course of their employment.

## PART II

## PRACTICE OF REAL ESTATE BUSINESS

Real estate business.

5. (1) A person engages in real estate business if that person—

(a) auctions or negotiates the sale, exchange, purchase, lease or licensing of real property;

(b) advertises or holds themselves out as being engaged in the business of auctioning or negotiating the sale, exchange, purchase, lease or licensing of real property;

(c) takes part in the procuring of vendors, purchasers, lessors, lessees, landlords or tenants of real property; or

(d) directs or assists in the procuring of prospects, or the negotiation or closing of transactions which result in the sale, exchange, lease or licensing of real property.

(2) A person engages in the business of a real estate agent or broker where they—

(a) supervise a sales associate who represents a client;

(b) receive client's money;

(c) manage the financial aspects of real estate business; or

(d) perform any of the actions in section 5.

(3) A person engages in the business of a sales associate where they engage in the non-financial nature of real estate business.

(4) Nothing in this Act shall affect any obligation of a real estate agent or broker to comply with the Auctioneers Act.

Cap. 91:07

Persons not regarded as engaging in real estate business.

6. Notwithstanding section 5, a person shall not be regarded as engaging in real estate business by reason only of the fact that they—

(a) act for and on behalf of a principal under a power of attorney for the purpose of negotiating or executing a contract, transfer or conveyance in respect of real property, provided always that they do not engage in these transactions in breach of their fiduciary duties or for personal profit;

(b) furnish legal advice and services ancillary thereto in their capacity as an attorney-at-law;

(c) act as —

(i) an administrator, executor, receiver or trustee acting under or by virtue of an appointment by will or written instrument or by order of a court;

(ii) an assignee, custodian, liquidator, receiver, or trustee acting under any written law;

(iii) deal with real property of which he is an owner or a part owner;

(iv) only manage the financial, regulatory and compliance aspect of a real estate business;

(v) only provide supervisory and continuing education training to

real estate agents and sales associates; or

(vi) are employed as a salaried employee of a financial institution dealing with real estate transactions.

Unlawful practice.

7. A person shall not—

(a) practice as a real estate agent or broker;

(b) pass off as or willfully pretend to be a real estate agent or broker; or

(c) make use of any name, title or description implying that they are entitled to be recognised to act as a real estate agent or broker,

unless their name appears on the Register of Real Estate Agents.

## PART III

## REAL ESTATE BUSINESS REGISTRANTS

Application for registration by real estate agents.

8. (1) A person who wishes to engage in real estate business shall apply to be registered under this Part.

(2) An application for registration under subsection (1) shall be made on the prescribed form and submitted to the Authority together with—

(a) a completed AML/CFT/CPF risk assessment questionnaire; and

(b) the prescribed fee.

(3) The questionnaire referred to in subsection (2)(a) shall be in such form as may be prescribed.

(4) In this section "AML/CFT/CPF" means Antimoney Laundering/Countering the Financing of Terrorism/Countering the Financing of Proliferation of Weapons of Mass Destruction.

Qualification for registration as a real estate agent.

9.(1) Subject to section 10, an individual may be registered as a real estate agent, upon satisfying the Authority that they—

(a) are at least eighteen years of age; and

(b) hold the prescribed qualifications.

(2) Subject to section 10, a company or a partnership may be registered as a real estate agent, upon satisfying the Authority that at least one of its directors or partners, as the case may be, is registered under this Act.

Disqualification for registration.

10. An individual is disqualified from being registered as a real estate agent, sales associate or broker where they, either as an individual, a director of a company or a partner in a partnership, as the case may be—

(a) was convicted of an offence involving fraud, dishonesty or violence in the ten years immediately preceding the date of their application for registration, whether or not the conviction occurred in Guyana;

(b) was convicted of an offence under the Anti-Terrorism and Terrorist Related Activities Act, or the Anti-Money Laundering/Countering the Financing of Terrorism Act;

No. 15 of 2015
Cap 10:11

(c) is the subject of an order or notice of a judicial authority of a country, other than Guyana, which prohibits them from performing the functions of a real estate agent, or from being appointed as an attorney under a power of attorney;

(d) is the subject of extradition proceedings; or

(e) is the subject of a bankruptcy order.

Objection to registration.

11.(1) Upon receipt of an application under section 8, the Authority shall cause notice of the application to be published in the *Gazette* and in at least two newspapers in daily circulation in Guyana and such notice shall specify a date by which a person may object to the registration of an applicant.

(2) A person may object to the registration of an applicant by writing to the Authority, stating reasonable grounds for their objection.

(3) The date specified in subsection (1) shall not be fewer than ten days after the publication of the notice in the newspapers.

(4) Where the Authority receives an objection, they shall, within seven days of the receipt of the objection, give the applicant written notice of the objection and provide the applicant with an opportunity, of not less than seven days from the date of the notice, to respond to the objection.

(5) The Authority shall, within twenty-one days of receipt of an objection, decide on the merit of the objection and inform the person who made the objection, as well as the applicant for registration, of its decision, giving reasons in writing.

Determination of application for registration.

12. (1) Where the Authority approves an application for registration, it shall within twenty-one days of its decision—

(a) inform the applicant;

(b) enter the applicant's name on the relevant register; and

(c) issue a Certificate of Registration in the prescribed form.

(2) Where the Authority does not approve an application for registration, it shall inform the applicant of its decision and give reasons in writing, within twenty-one days of the date of their decision.

(3) An applicant who is aggrieved by a decision of the Authority under subsection (2) may apply for judicial review to the High Court, under the Judicial Review Act.

Cap. 3:06

Registers.

13. (1) The Authority shall establish and maintain a register to be known as the "Register of Real Estate Agents".

(2) The Register of Real Estate Agents shall be a public register and shall be divided into the following Parts-

(a) Part 1, which shall list in relation to each real estate agent and sales associate, the particulars referred to in subsection (3);

(b) Part 2, which shall list each broker, other than a brokerage, together with their licence number and the particulars referred to in subsection (3); and

(c) Part 3, which shall list each brokerage, together with its licence number and the particulars referred to in subsection (4).

(3) Parts 1 and 2 of the Register of Real Estate Agents shall contain the following particulars of each sales associate, real estate agent and broker, other than a brokerage-

(a) name;

(b) registration number and date of registration;

(c) date of issue of a licence, where applicable;

(d) qualifications;

(e) business address;

(f) business telephone number;

(g) date of renewal of registration and licence; and

(h) such other particulars as may be prescribed.

(4) Part 3 of the Register of Real Estate Agents shall contain the following particulars of each brokerage-

(a) name;

(b) registration number and date of registration;

(c) date of issue of licence;

(d) telephone number;

(e) registered address;

(f) name and address of each director or partner;

(g) name, licence number and date of issue of licence of each director or partner who is a broker;

(h) name and address of secretary;

(i) date of renewal of registration and licence; and

(j) such other particulars as may be prescribed.

Private Register.

14. The Authority shall also establish and maintain a private register containing any information submitted in an AML/CFT/CPF risk assessment questionnaire referred to in section 8 and any additional information to that referred to under section 13.

Licensing and registration of brokers.

15. Notwithstanding section 5, section 13 and Part V of this Act, the Authority shall not licence or register any person to operate as a broker on or before the 31st day of December 2025, or by such date fixed by order of the Minister.

Custody and access to register.

16. (1) The Authority shall have custody of the registers and all documents which relate to them.

(2) The Authority shall, upon payment of the prescribed fee, allow any person to inspect the public registers during normal business hours.

(3) The Authority shall, upon payment of the prescribed fee, provide a person with a certified copy of or an extract from the public registers.

(4) The Authority may, on its own motion, or when requested by a supervisory authority, provide a certified copy of or an extract from the registers to the supervisory authority.

(5) The Authority shall not disclose information provided in an application for registration or a licence or in an AML/CFT/CPF risk assessment questionnaire referred to in section 6 or 8, except—

(a) to a supervisory authority;

(b) for the purposes of law enforcement or court proceedings;

(c) pursuant to an order of the Court; or

(d) where required under any written law.

Notification of change to particulars.

17. (1) Where there is any change in the particulars of a registrant under this Act, the registrant shall, within one month of the change, notify the Authority of the change in the prescribed form and pay the prescribed fee.

(2) Where a registrant fails to notify the Authority of a change in particulars within the period specified in subsection (1), the Authority shall be entitled to collect from that registrant a penalty of twenty-five thousand dollars for every month that the registrant fails to notify the Authority of the change in particulars.

(3) Where the Authority is notified of a change under this section, the Authority shall cause the change to be reflected in the relevant register.

Duration of registration.

18. All registration under this Act shall be valid for three years from the date of registration, unless it is cancelled, suspended or revoked, and may be renewed in accordance with section 19.

Renewal of Registration.

19. (1) A registrant who wishes to renew their registration shall apply to the Authority no later than one month prior to the expiration of their registration.

(2) The Authority shall, within thirty days of the receipt of an application under subsection (1), make a determination regarding a renewal.

(3) An application for renewal under subsection (1) shall be in the prescribed form accompanied by the prescribed fee.

(4) An application for renewal under subsection (1) shall not be granted unless the Authority is satisfied that the applicant is of good character and is not disqualified under section 10.

(5) A person who is aggrieved by a decision of the Authority under subsection (2) may apply for judicial review to the High Court, under the Judicial Review Act.

Cap. 3:06

Surrender and cancellation of registration.

20. (1) The Authority shall cancel the Certificate of Registration of a real estate agent, sales associate or broker and remove their name from the Register of Real Estate Agents where—

(a) the real estate agent, sales associate or broker surrenders their Certificate of Registration to the Authority;

(b) the real estate agent, sales associate or broker dies;

(c) the real estate agent, sales associate or broker fails to register or renew registration with the supervisory authority;

(d) the Authority has given notification that a licence has been revoked; or

(e) the real estate agent, sales associate or broker no longer qualifies for registration under section 10.

(2) Where a broker surrenders their Certificate of Registration under subsection (1)(a), they shall also surrender their licence to the Authority, and the Authority shall cancel the licence.

(3) The Authority shall cause notice of the removal of the name of a real estate agent, sales associate or broker from the Register of Real Estate Agents and the cancellation of their Certificate of Registration and licence, where applicable, to be published in the *Gazette* and in at least two newspapers in daily circulation in Guyana.

## PART IV

## THE GUYANA REAL ESTATE AGENTS AUTHORITY

Establishment of the Authority.

21. (1) There is established an authority to be known as the Guyana Real Estate Agents Authority.

(2) The Authority shall be a body corporate having perpetual succession and a common seal and, subject to the provisions of this Act, shall have power to acquire, hold and dispose of movable and immovable property of whatever kind and to enter into contracts and do all things necessary for the attainment of its objectives.

(3) The Authority may sue and be sued in its corporate name and shall for all purposes be described by that name.

(4) The seal of the Authority shall be authenticated by, and may only be affixed to an instrument or other document in the presence of, the Chairperson or Deputy Chairperson of the Authority and one other member of the Authority specifically authorised to act for that purpose, and the seal thus affixed and authenticated shall be judicially and officially noticed.

Composition of the Authority.

22. (1) The Authority shall by appointed by the Minister and comprise of five members as follows-

(a) one person practicing as a real estate agent nominated by the recognised associations of practicing real estate agents in Guyana;

(b) one person nominated by the Ministry with responsibility for Commerce;

(c) one person nominated by the Consumer and Competition Affairs Commission as established under the Consumer and Competition Affairs Commission Act 2011;

(d) one person nominated by the Attorney General and Minister of Legal Affairs; and

(e) one person nominated by the Private Sector Commission.

(2) The Minister shall, by order, identify the recognised associations of real estate agents in Guyana.

(3) The Authority shall determine its Chairperson and Deputy Chairperson by majority vote.

(4) The appointment of a member of the Authority shall be made by instrument in writing and published in the *Gazette*.

Disqualification of a member.

23. No person is qualified to be appointed as a member of the Authority if that person—

(a) is an undischarged bankrupt;

(b) is infirm of the body or of unsound mind; or

(c) was convicted for an offence which carries a term of imprisonment of at least twelve months.

Functions of the Authority.

24. The Authority shall be responsible for—

(a) the determination of the qualifications for real estate agents and brokers;

(b) maintaining and updating the Register of Real Estate Agents;

(c) the issue, renewal, revocation or cancellation of licences;

(d) informing any supervisory authority of the issue, renewal, revocation or cancellation of a licence;

(e) issuing guidelines and codes of practice for real estate agents and brokers from time to time; and

(f) any other function as determined by the Authority to be necessary for the real estate sector.

Tenure and Remuneration of Members.

25.(1) A member of the Authority shall hold office for a term not exceeding three years and is eligible for reappointment.

(2) The members of the Authority shall be paid such remuneration and allowances as the Authority may determine.

(3) Notwithstanding the powers conferred on the Authority by subsection 2 above, the Authority shall not, without the prior approval of the Minister-

(a) assign to any post established by the Authority any salary in excess of such amount per annum as the Minister may determine and notify to the Commission in writing;

(b) appoint any person to a post established by the Authority to which a salary in excess of the amount determined by the Minister under paragraph (a) is assigned; or

(c) make provision for the payment of any pension, gratuities or similar benefit to the members of the Authority or its employees in respect of service to the Authority.

Resignation of Members.

26.(1) The Chairperson may resign their office by letter addressed to the Minister.

(2) A member of the Authority, other than the Chairperson, may resign their office by letter addressed to the Chairperson who shall immediately cause it to be forwarded to the Minister.

Removal of Member.

27. The appointment of a member of the Authority may be terminated—

(a) where the member—

(i) is declared bankrupt;

(ii) becomes of unsound mind;

(iii)is, for whatever reason, incapable of performing or unable to perform their duties as a member;

(iv)is convicted of an offence which carries a term of imprisonment of at least twelve months; or

(v) misbehaves in office or brings their office into disrepute;

(b) for any other reasonable cause.

Filling of Vacancy.

28. Where a member dies, resigns or has their appointment terminated, that vacancy shall be filled within sixty days, based on the criteria of which the former member was appointed under section 22.

Meetings and Quorum.

29. (1) The Authority shall meet at least once every month.

(2) A quorum for a meeting of the Authority is three members.

(3) The Chairperson, or in their absence, the Deputy Chairperson, shall preside at meetings of the Authority.

(4) In the absence of both the Chairperson and Deputy Chairperson, a quorum of members may decide to choose one member to preside over that meeting.

(5) The Authority shall make its decisions by a majority vote of the members present and voting, and the person presiding shall have a casting vote.

(6) Subject to the provisions of this Act, the Authority may make rules to regulate its own procedures.

Declaration of interest.

30. (1) A member of the Authority who has a direct or indirect interest in a matter under consideration by the Authority shall declare their interest at the earliest opportunity and shall not participate in the consideration of, or vote on, any question relating to the matter.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding three million dollars or to imprisonment for a maximum of five years or to both.

Secretary and staff of the Authority.

31. The Authority may employ a Secretary, staff and any other service as may be required for the efficient performance of its functions.

Annual Report.

32. (1) The Authority shall, not later than ninety days after the end of a financial year, submit to the Minister a report on the performance of its functions during that financial year.

(2) The Minister shall, within three months of receiving a report under subsection (1), cause the report to be laid in Parliament.

## PART V

## LICENSING OF BROKERS AND REAL ESTATE AGENTS

Application for licence.

33. (1) All brokers and real estate agents are required to be licenced under this Act.

(2) Where a real estate agent wishes to also operate as a broker, that real estate agent is required to apply to the Authority for a licence as a broker.

(3) An application for a licence shall be made on the prescribed form and submitted to the Authority together with the prescribed fee.

(4) Where an application for a licence as a broker is being made on behalf of a company or partnership, that application must be signed by one directors or one partner, as the case may be, one of whom must be the holder of a valid licence as an individual broker.

(5) The Authority may issue a licence as a broker where the Authority is satisfied that the applicant—

(a) in the case of an individual—

(i) is a real estate agent;

(ii) is a person of good character;

(iii) is fit and proper to engage in the business of a broker;

(iv) has satisfactorily completed such training in real estate business with an institution accredited by the National Accreditation Council or such course in real estate business recognised by the National Accreditation Council, as the Authority may approve;

(v) has satisfactorily completed such additional training with an institution accredited by the National Accreditation Council or such additional courses recognised by the National Accreditation Council, as the Minister may approve, after consultation with the Authority; and

(vi)has a policy of professional indemnity insurance for the prescribed amount;

(b) in the case of a company—

(i) is incorporated or registered under the Companies Act;

Cap 89:01

(ii) has at least one director who is a broker; and

(iii)has a policy of professional indemnity insurance for the prescribed amount; or

(c) in the case of a partnership—

(i) is registered under the Business Names (Registration) Act, whether or not the partnership is required to be registered under that Act;

Cap 90:05

(ii) has at least one partner who is a broker; and

(iii)has a policy of professional indemnity insurance for the prescribed amount.

(6) The Authority may consider the experience and practice of a person as a real estate agent or broker prior to the commencement of this Act, with regard to licensing such person to operate as a broker.

Objection to the issue of licence.

34. (1) Upon receipt of an application under section 33, the Authority shall cause notice of the application to be published in the *Gazette* and in at

least two newspapers in daily circulation in Guyana and such notice shall specify a date by which a person may object to the licensing of an applicant.

(2) A person may object to the licensing of an applicant by writing to the Authority, stating reasonable grounds for their objection.

(3) The date specified in subsection (1) shall not be fewer than ten days after the publication of the notice in the newspapers.

(4) Where the Authority receives an objection, it shall, within seven days of the receipt of the objection, give the applicant written notice of the objection and provide the applicant with an opportunity of not less than seven days from the date of the notice to respond to the objection.

(5) The Authority shall, within twenty-one days of the receipt of an objection, decide on the merit of the objection and inform the person who made the objection as well as the applicant for registration of its decision, giving reasons in writing.

Determination of application for licence.

35. (1) Where the Authority approves an application made under section 33, it shall—

(a) inform the applicant of the approval;

(b) issue a licence and assign a licence number to the applicant; and

(c) inform any supervisory authority of the issuance of the licence, within thirty days of the date of its decision.

(2) Where the Authority does not approve an application for registration, it shall inform the applicant of its decision and give reasons in writing, within twenty-one days of its decision.

(3) An applicant who is aggrieved by a decision of the Authority under subsection (2) may appeal to the High Court.

Duration of licence.

36. A licence issued under this Act shall be valid for three years from the date of issue, unless it is cancelled, suspended or revoked, and may be renewed in accordance with section 37.

Renewal of Licence.

37. (1) A broker or real estate agent who wishes to renew their licence shall apply to the Authority no later than two months before the expiration of their licence.

(2) An application for the renewal of a licence shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) An application for renewal of a licence shall not be granted unless the Authority is satisfied that the applicant—

(a) is registered with a supervisory authority, including the Real Estate Agents Authority;

(b) has completed the prescribed training programme; and

(c) is not disqualified under section 10.

(4) Where an applicant is aggrieved by a decision of the Authority made under this section, they may apply for judicial review to the High Court, under the Judicial Review Act.

Cap. 3:06

Display and production of licence.

38. (1) A broker or real estate agent shall prominently display their licence at their principal place of business and a copy thereof, issued by the Authority, shall be similarly displayed at any other location at which they conduct real estate business.

(2) A broker or real estate agent who contravenes this section commits an offence and is liable on summary conviction to a fine of three hundred thousand dollars and a further fine of ten thousand dollars per day in respect of each day during which the offence is continued.

Surrender and cancellation of licence.

39. (1) A broker or real estate agent may at any time surrender their licence to the Authority.

(2) Where the Authority receives a surrendered licence, the Authority shall—

(a) cancel the licence; and

(b) give notice of the cancellation to any relevant supervisory authority.

(3) Where a broker or real estate agent dies, their licence shall cease to have effect from the date of their death and the Authority shall cancel their licence and notify any other relevant supervisory authority.

(4) Where the Authority is notified that a licence is cancelled under this section, the Authority shall remove the name of the broker or real estate agent from Part 1, Part 2 or Part 3 of the Register of Real Estate Agents, as the case may be.

(5) The Authority shall cause notice of the cancellation of a licence and the removal of the name of the broker or real estate agent from Part 1, Part 2 or 3 of the Register of Real Estate Agents to be published in the *Gazette* and in at least two newspapers in daily circulation in Guyana.

## PART VI
## PROFESSIONAL MISCONDUCT

Professional misconduct.

40. (1) A real estate agent, broker or sales associate commits an act of professional misconduct if they —

(a) are dishonest or demonstrate gross incompetence in the performance of their professional duties;

(b) engage in conduct of grave impropriety or gross negligence in the performance of their duties as a real estate agent or broker;

(c) fail, without reasonable excuse, to produce any record or document when required by the Disciplinary Committee to do so, or to answer any question put to them by the Disciplinary Committee at its proceedings, unless that real estate agent reserves the right to remain silent;

(d) knowingly make a false or misleading statement or any material omission in or from an answer to any question put to them by the Disciplinary Committee at its proceedings;

(e) being a broker, engage in the business of a broker or any part of that business under more than one name or description with intent to deceive;

(f) advertise real property for appraisal, auction, sale, exchange, purchase, lease or licensing and fails to disclose their name and the fact that they are a real estate agent in a manner calculated to represent to the public that they are the owner of the real property;

(g) fail to display their certificate of registration in accordance with this Act, or displays an invalid certificate of registration;

(h) holds themself out as a real estate agent or broker having authority to conduct business in relation to real property on behalf of an owner without the owner's consent;

(i) accept a commission, rebate or profit on expenditures made while acting as a real estate agent in the management of real property without the owner's consent;

(j) acquire an interest in real property listed with them for auction, sale, exchange, purchase, lease or licensing, without disclosing complete details of their interest to the owner of the real property;

(k) induce a party to a contract for the purchase, sale, lease or licensing of real property to breach the contract for the purpose of entering into a contract with another person;

(l) act as a dual agent without the written consent of the parties involved in a transaction and without disclosing the nature and scope of the representation to their client in the transaction;

(m) assign a contract without providing full and frank disclosure to all parties involved in the transaction; or

(n) breach the Code of Ethics.

(2) For the purposes of subsection (1)(m)—

(a) a real estate agent or a sales associate acts as a dual agent where that person —

(i) represents more than one party to a transaction; or

(ii) is employed with a broker and represents one party to a transaction and another party to the transaction is represented by another sales associate or real estate agent employed with the same broker;

(b) a broker, other than a brokerage, acts as a dual agent where that broker —

(i) represents more than one party to a transaction; or

(ii) is employed with a brokerage and represents one party to a transaction and another party to the transaction is represented by a sales associate, real estate agent or broker employed with the same brokerage; and

(c) a brokerage acts as a dual agent where it represents more than one party to a transaction, whether through a sales associate, real estate agent or broker, employed by the brokerage.

(3) Where an act of professional misconduct under subsection (1) is established by the Disciplinary Committee to have been committed by a brokerage with the consent, connivance or acquiescence of a director, partner or officer concerned with the management of the brokerage, that director, partner or officer concerned with the management of the brokerage is deemed also to have committed an act of professional misconduct and is liable to the sanctions outlined under sections 57 and 58.

## PART VII

## DUTIES AND OBLIGATIONS OF PERSONS INVOLVED IN REAL ESTATE BUSINESS

Keeping of records by sales associates and real estate agents.

41. (1) A real estate agent or sales associate shall keep proper records of their transactions in relation to their real estate business, including a record of the following in respect of each transaction-

(a) the nature and particulars of the transaction including, where applicable—

(i) survey plans;

(ii) valuation reports;

(iii) certificate of title or transport information; and

(iv) any other particulars material to the transaction;

(b) a description of the real property involved, sufficient to identify it, and its value;

(c) the names and proof of identity of the parties to the transaction;

(d) the amount of commission paid to them by a real estate agent or broker and the name of the real estate agent or broker who paid it; and

(e) a copy of the relevant agreement or Deed.

(2) The records referred to in subsection (1) shall be retained by the sales associate for a period of seven years from the date of completion of the transaction.

Brokers and real estate agents to supervise sales associate.

42. (1) A broker shall supervise a sales associate or real estate agent in their employ to ensure that the sales associate or real estate agent performs their functions competently and in compliance with this Act.

(2) A real estate agent may supervise a sales associate in their employ to ensure that the sales associate performs their functions competently and in compliance with this Act.

Keeping of records by brokers and real estate agents.

43. (1) A broker or real estate agent shall keep proper books and accounts of their transactions in relation to their real estate business, including a record of the following in respect of each transaction-

(a) the nature and particulars of the transaction including, where applicable—

(i) survey plans;

(ii) valuation reports;

(iii) certificate of title or transport information; and

(iv) any other particulars material to the transaction;

(b) a description of the real property involved, sufficient to identify it;

(c) the names and proof of identity of the parties to the transaction;

(d) the consideration for the transaction;

(e) the amount of the deposit received and a detailed record of the client disbursement thereof; and

(f) the amount of remuneration paid, the name of the party paying it and to whom it was paid.

(2) The records referred to in subsection (1) shall be retained by the real estate agent or broker for a period of seven years from the date of completion of the transaction.

(3) For the purpose of this section, "remuneration" includes any commission, fee, gain, or reward which is received or to be received by the real estate agent or broker, whether directly or indirectly, in relation to the conduct of real estate business.

Real estate agents and brokers to keep client account.

44. (1) A real estate agent or a broker shall maintain a client account and where they receive client's money, they shall forthwith pay the money into the client account.

(2) A real estate agent or broker shall keep their client account separate from their personal account.

(3) A person who contravenes this section commits an offence and is liable on summary conviction, to a fine of five million dollars and to imprisonment for five years.

Money held in trust.

45. (1) Client's money is held in trust where such money—

(a) is held by a real estate agent or broker in trust for the person who is entitled to call for it to be paid over to that person or to be paid on the direction of that person, or to have it otherwise credited to such person; and

(b) is received by a real estate agent or broker as stakeholder and is held by them in trust for the person who may become so entitled on the occurrence of the event against which the money is held.

(2) Client's money shall not be available for payment of any debt or liability to any person other than the person for whom the real estate agent or broker holds the client's money in trust.

Real Estate Agent and Broker obligations.

46. (1) A real estate agent or broker shall, on an annual basis, submit to the Authority a declaration in the prescribed form stating–

(a) whether they kept proper books and accounts of their transactions in accordance

with the IFRS, in relation to their real estate business;

(b) whether an auditor examined the balances due to clients in trust, and found them in agreement with the accounting records of the broker;

(c) whether a financial institution has verified that they maintain a client account in accordance with section 44 (2);

(d) the amount of money that is in the client account;

(e) whether the auditor has done a sufficient review of the trust account transactions of the broker for the immediate calendar year, to satisfy themselves that the trust money held for clients are kept separate from money belonging to the real estate agent or broker; and

(f) whether, after due consideration, the auditor has formed an independent opinion as to the position of the trust money held for clients, and to the best of their information the trust money held for clients are maintained in a separate trust account and are not less than the amount of trust money received in respect of which there is an undischarged trust obligation.

(2) Where a real estate agent or broker knowingly submits false or misleading information in a declaration under subsection (1), that real estate agent or broker commits an offence and is liable to the penalties set out under this Act.

## PART VIII

## DISCIPLINARY COMMITTEE

Establishment of the Disciplinary Committee.

47. (1) There is established a Disciplinary Committee which shall consist of three members appointed by the Authority as follows-

(a) a Chairperson, being an attorney-at-law of at least ten years' standing, appointed on the advice of the Minister;

(b) one person with at least five years' experience in real estate business, appointed on the advice of a recognised real estate association in Guyana; and

(c) one real estate agent or broker with at least seven years' experience in real estate business, appointed on the advice of a recognised real estate association in Guyana.

(2) The appointment of a member of the Disciplinary Committee shall be made by instrument, in writing, and published in the *Gazette*.

Functions of the Disciplinary Committee.

48. (1) The functions of the Disciplinary Committee are to hear and determine complaints made against a real estate agent and any other matters related to professional misconduct by a real estate agent.

(2) In the performance of its functions, the Disciplinary Committee shall not be subject to the control or direction of any person.

Tenure and Remuneration of members of the Disciplinary Committee.

49. (1) A member of the Disciplinary Committee shall hold office for a term not exceeding three years and is eligible for reappointment.

(2) The members of the Disciplinary Committee shall be paid such remuneration and allowances as the Authority may determine.

Resignation of Member.

50. (1) The Chairperson of the Disciplinary Committee may resign their office by letter addressed to the Chairperson of the Authority.

(2) A member of the Disciplinary Committee, other than the Chairperson, may resign their office by letter addressed to the Chairperson of

the Disciplinary Committee, who shall immediately cause it to be forwarded to the Authority.

Termination of appointment.

51. The appointment of a member of the Disciplinary Committee may be terminated by the Authority acting in its own discretion—

(a) where the member—

(i) is declared bankrupt;

(ii) becomes of unsound mind;

(iii) is, for whatever reason, incapable of performing or unable to perform their duties as a member;

(iv) is convicted of an offence which carries a term of imprisonment of at least twelve months; or

(v) misbehaves in office or brings their office into disrepute;

(b) for any other reasonable cause.

Quorum.

52. A quorum for a meeting of the Disciplinary Committee is two members.

Declaration of interest.

53. (1) A member of the Disciplinary Committee who has a direct or indirect interest in a matter under consideration by the Disciplinary Committee shall declare their interest at the earliest opportunity and shall not participate in the consideration of, or vote on, any question relating to the matter.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of not more than five million dollars or to imprisonment for a maximum of five years, or to both.

Rules of the Disciplinary Committee.

54. Subject to the provisions of this Act, the Disciplinary Committee may make rules to regulate its procedure.

## PART IX

## DISCIPLINARY PROCEEDINGS

Complaint.

55. (1) A person who wishes to make a complaint against a real estate agent shall make the complaint in writing before the expiration of one year from the date on which the complainant became aware of the subject matter.

(2) A complainant shall submit any documents and other information in support of the complaint, to the Disciplinary Committee.

(3) Where the Disciplinary Committee receives a complaint under subsection (1), which it does not consider to be frivolous or vexatious, it shall, within thirty days of receiving the complaint, notify the respondent real estate agent in question, in writing, of the particulars of the complaint and inform them of their right to reply to the complaint.

(4) Where the respondent is desirous of replying to the complaint, they shall submit a written response to the Disciplinary Committee within twenty-one days of receipt of the notice of the complaint or such other timeframe in excess of that twenty-one day period, as the Committee may, in writing, grant.

Hearings by the Disciplinary Committee.

56. (1) In any case in which, in the opinion of the Disciplinary Committee, a prima facie case is established by the complainant, the Disciplinary Committee shall conduct a hearing in relation to a complaint and may require the respondent to produce documents and other information pertaining to the real estate business that is the subject of the complaint.

(2) A respondent who is required by the Disciplinary Committee to produce any record or document or to answer any question shall be entitled to the same rights and privileges as before a court of law.

(3) A complainant or respondent may appear before the Disciplinary Committee in person or through an attorney-at-law.

Powers and responsibility of the Disciplinary Committee.

57.(1) Upon the determination of a complaint, the Disciplinary Committee may, where it is satisfied that the respondent has committed an act of professional misconduct within the meaning of section 40—

(a) reprimand or censure the respondent;

(b) recommend to the Authority, that the Certificate of Registration of the

respondent be suspended for a period not exceeding two years; or

(c) recommend to the Authority, that the licence of the respondent be revoked.

(2) The Disciplinary Committee shall, in writing, forthwith notify the complainant, the respondent, the Authority and any other relevant supervisory authority, of its decision with reasons in writing.

Grounds for cancellation or revocation. First Schedule

58. Notwithstanding section 57(1), the Disciplinary Committee may also recommend cancellation of a Certificate of Registration or revocation of a licence on the ground that the broker was convicted of an offence under this Act or an offence of the laws listed in First Schedule.

Surrender of Certificate of Registration and licence pursuant to disciplinary proceedings.

59. (1) Where the Disciplinary Committee recommends the suspension of a Certificate of Registration, the respondent shall forthwith surrender that Certificate of Registration to the Authority.

(2) Where the Disciplinary Committee recommends the revocation of a licence, the respondent shall forthwith deliver that licence to the Authority.

Entry in register.

60. Where a Certificate of Registration or a licence is suspended, revoked or reinstated, the Authority shall cause such memorial to be entered in the Register of Real Estate Agents.

Publication of suspension, reinstatement or revocation of licence.

61. The Authority shall cause a notice of every suspension, revocation, reinstatement of a Certificate of Registration or a licence, as the case may be, to be published in the *Gazette* and at least two newspapers in daily circulation in Guyana.

Duty of Disciplinary Committee to inform of offence.

62. Where, during the course of its proceedings or on the conclusion of its examination, the Disciplinary Committee discovers that there is evidence of a criminal offence, it shall immediately refer the matter to the Commissioner of Police and the Director of Public Prosecutions and inform the Authority and any other relevant supervisory authority of same.

Appeals from decision of the Disciplinary Committee.

63. A person who is aggrieved by a decision of the Disciplinary Committee may appeal to the High Court.

## PART X
## OFFENCES AND PENALTIES

Time limit for prosecution of a summary offence under the Act.

64. The prosecution for a summary offence under this Act shall be instituted within two years from the date of discovery of the breach.

Misrepresentation in the application form.

65. A person who knowingly makes a false statement or provides false information in an application form under this Act commits an offence and is liable on summary conviction to a fine of one million dollars or imprisonment for six months or both.

Offence to employ non-registrant.

66. A person who employs a person, other than a real estate agent or broker to engage in real estate business under section 5 (2) of this Act, commits an offence and is liable to the penalties set out under this Act.

Offence to deal with client's money without licence.

67. (1) A person who engages in real estate business shall not knowingly receive or handle client's money unless they are a real estate agent or broker.

(2) A person who contravenes this section commits an offence and is liable to the penalties set out under this Act.

Confidentiality.

68. A person concerned with the administration of this Act shall keep confidential all documents and information they receive in the course of their duties and shall not disclose such documents and information except where such disclosure—

(a) is required for the exercise of their function; or

(b) is authorised by an order of the Court or any written law.

General penalties.

69. A person who commits an offence under this Act is liable—

(a) on summary conviction, in the case of—

(i) a body corporate, to a fine of ten million dollars;

(ii) a director or other officer of a body corporate, to a fine of ten million dollars or imprisonment for one year or to both; and

(iii) any other individual, to a fine of five million dollars or imprisonment for one year or to both;

(b) on conviction on indictment, in the case of—

(i) a body corporate, to a fine of twenty million dollars;

(ii) a director or other officer of a body corporate, to a fine of twenty million dollars or imprisonment for two years or to both; and

(iii) any other individual, to a fine of ten million dollars or imprisonment for two years or to both.

## PART XI

## MISCELLANEOUS

Agreements to be in writing.

70. (1) Any Agreement between a real estate agent or broker and a client shall be in writing.

(2) The Agreement shall include, but is not limited to-

(a) whether the listing is exclusive;

(b) the intended purchase price and any flexibility with regard to negotiation;

(c) the amount of remuneration or commission;

(d) an undertaking to act in the client's best interest;

(e) prompt disclosures of conflicts of interest; and

(f) any other matter as agreed upon by the parties.

Regulations.

71.(1) Subject to subsection (2) and section 75, the Minister may make Regulations governing such matters as may be necessary to bring the Act into effect.

(2) The Minister to whom responsibility for Finance is assigned, may make Regulations in relation to the supervisory authority in order to carry into effect the provisions of this Act.

(3) Regulations made under this section may prescribe that any contravention thereof shall constitute an offence punishable on summary conviction, in the case of—

(a) a body corporate, to a fine of five million dollars;

(b) a director or other officer of a body corporate, to a fine of five million dollars or imprisonment for one year or to both; and

(c) any other individual, to a fine of five million dollars or imprisonment for one year or to both.

(4) Regulations made under this section shall be subject to negative resolution of Parliament.

Rules.

72. (1) The Authority may, with the approval of the Minister, make Rules prescribing forms, fees and other matters relating to the registration under this Act.

(2) Rules made under this section may prescribe that any contravention thereof shall constitute an offence punishable on summary conviction, to a fine of five hundred thousand dollars.

Code of Ethics.

73. (1) The Minister may, by order, on the recommendation of the Authority and after consultation with the recognised body or bodies of real estate agents in Guyana, establish a Code of Ethics for real estate agents.

(2) An order made under this section shall be subject to negative resolution of Parliament.

Amendment to First Schedule.

74. The Minister may, by order, amend the First Schedule.

Consequential amendments to Second Schedule.

Second Schedule

75. The Act listed in the First Column of the Second Schedule is amended to the extent stated in the Second Column of that Schedule.

Transitional.

76.(1) Any person who prior to the commencement of this Act was carrying on an activity or operation as a real estate agent or broker shall–

(a) within one month of the commencement of this Act, notify the Authority in writing that it is carrying on such activity or operation; and

(b) within three months of the commencement of this Act, register with the Authority as a real estate agent.

(2) A person who engaged in the business of a sales associate immediately before the coming into force of this Act may continue to engage in the business of a sales associate, without being registered under Part III, for a period of twelve months from the date of commencement of this Act or such longer period as the Minister may, by order, determine.

Savings.

77. All persons recognised by the Authority as real estate agents, brokers and sales associates prior to the commencement of this Act shall be deemed for all purposes to be eligible for licensing and registration under this Act.

## FIRST SCHEDULE

(Section 58)

### LIST OF OFFENCES

1. Offences under the Anti-Money Laundering/Countering the Financing of Terrorism Act, Cap 10:11.
2. Offences under the Cybercrimes Act, No. 16 of 2018.
3. Offences under the Anti-Terrorism and Terrorist Related Activities Act, No. 15 of 2015.

## SECOND SCHEDULE

(Section 75)

## CONSEQUENTIAL AMENDMENTS

| First Column | Second Column |
|---|---|
| Anti-Money Laundering/Countering the Financing of Terrorism Act, Cap 10:11. | The Fourth Schedule is amended in relation to "Real Estate Agents, Brokers, Dealers, Valuers and Housing Developers", by including the following interpretation: " and includes any person registered or licensed under the Real Estate Agents and Brokers Act, 2023 to engage in real estate business.". |

*Passed by the National Assembly on the 3rd August, 2023.*

*S.E. Isaacs, A.A.,*
Clerk of the National Assembly.

**(BILL No. 11/2023)**