Real estate agents

Rules of conduct

Rules 1 - 5

1. Knowledge of Act and Regulations
An agent must have a knowledge and understanding of the Act and the regulations under the Act and other relevant laws, (including laws relating to tenancy, fair trading, trade practices, anti-discrimination and privacy) as may be necessary to enable the agent to exercise his or her functions as agent lawfully.

2. Fiduciary obligations
An agent must comply with the fiduciary obligations arising as an agent.

3. Honesty, fairness and professionalism
An agent must act honestly, fairly and professionally with all parties in a transaction. An agent must not mislead or deceive any parties in negotiations or a transaction.

4. Skill, care and diligence
An agent must exercise reasonable skill, care and diligence.

5. High pressure tactics, harassment or unconscionable conduct
An agent must not engage in high pressure tactics, harassment or harsh or unconscionable conduct.

Rules 6 - 9

6. To act in client’s best interests
An agent must act in the client’s best interest at all times unless it would be contrary to the Act or regulations under the Act or otherwise unlawful to do so.

7. Confidentiality
An agent must not, at any time, use or disclose any confidential information obtained while acting on behalf of a client or dealing with a customer, unless:
(a) the client or customer authorises disclosure, or
(b) the agent is permitted or compelled by law to disclose.

8. To act in accordance with client authority
An agent must not act as an agent or represent himself or herself as acting as an agent on behalf of a person without written authority.

9. To act in accordance with client’s instructions
An agent must act in accordance with a client’s instructions unless it would be contrary to this Act or regulations under the Act, or otherwise unlawful to do so.

Rules 10 - 13

10. Licensee must ensure employees comply with the Act and regulations
An agent who is the licensee-in-charge at a place of business must take reasonable steps to ensure other licensees or registered persons employed in the business conducted there comply with the Act and regulations under the Act.
11. Conflicts of interest

An agent must not accept an appointment to act, or continue to act, as an agent if doing so would place the agent’s interests in conflict with the client’s interests.

12. Referral to service provider

An agent who refers a principal or prospect to a service provider must not falsely represent to the principal or prospect that the service provider is independent of the agent.

A service provider is considered to be “independent” of an agent if:

a) the agent receives no rebate, discount, commission or benefit for referring a client or customer to the service provider, and

b) the agent does not have a personal or commercial relationship with the service provider.

The following are examples of a personal or commercial relationship:

(a) a family relationship,
(b) a business relationship,
(c) a fiduciary relationship,
(d) a relationship in which one person is accustomed, or obliged, to act in accordance with the directions, instructions or wishes of the other person.

If the service provider is not independent of the agent, the agent must disclose to the principal or prospect:

(a) the nature of any relationship, whether personal or commercial, the agent has with the service provider, and

(b) the nature and value of any rebate, discount, commission or benefit the agent may receive, or expects to receive, by referring the client or customer to the service provider.

13. Licensee not to recommend engagement of services of solicitor or licensed conveyancer acting for other party

An agent must not recommend that a principal or prospect engage the services of a solicitor or licensed conveyancer, or firm of solicitors or licensed conveyancers, if the agent knows that the solicitor or licensed conveyancer, or the firm of solicitors or licensed conveyancers, acts or will be acting for the other party to the agreement concerned.

Sub-clause (1) does not prevent an agent recommending that a principal or prospect engage the services of a solicitor or licensed conveyancer if no other solicitor or licensed conveyancer is available (for example, in a remote location).

If no other solicitor or licensed conveyancer is available, the agent must, in recommending their engagement, advise the principal or prospect that the solicitor or licensed conveyance is or will be acting for the other party.

Rules 14 - 19

14. Inducements

An agent must not offer to provide to any other person any gift, favour or benefit, whether monetary or otherwise, in order to induce any other person to engage the services of the agent as agent in respect of any matter.

15. Soliciting through false or misleading advertisements or communications

An agent must not solicit clients or customers through advertisements or other communications that the agent knows or should know are false or misleading.

16. Insertion of material particulars in documents

An agent must not submit or tender to any person for signature a document, or cause or permit any document to be submitted or tendered to any person for signature, unless at the time of submission or tendering of the document all material particulars have been inserted in the document.

17. Duty to provide copy of signed documents

An agent who submits or tenders a document to any person for signature, or who causes or permits a document to be submitted or tendered to any person for signature, must immediately after the person has signed the document give a copy of the document to the person.

18. Representations about the Act or regulations

An agent must not falsely represent to a person the nature or effect of a provision of the Act or any regulation under the Act.

An agent must not, either expressly or impliedly, falsely represent, whether in writing or otherwise, to a person that a particular form of agency agreement or any term of such an agreement is required by the Act or a regulation under the Act.

19. Agency agreements must comply with regulations
An agent must not enter into an agency agreement unless the agreement complies with any applicable requirements of the Property, Stock and Business Agents Regulation 2003, as required by section 55 of the Act.

Real estate agents and salespersons – sales: Rules 20 – 28
Real estate agents and salespersons – property management: Rules 29 – 31

Top of page