BRITISH COLUMBIA

Real Estate Services Act

REAL ESTATE SERVICES RULES

B.C. Reg. 209/2021

Deposited July 19, 2021 and effective August 1, 2021
Last amended February 1, 2024 by B.C. Reg. 260/2023

Consolidated Regulations of British Columbia

This is an unofficial consolidation.

Consolidation current to February 19, 2024

B.C. Reg. 209/2021 (O.C. 484/2021), deposited July 19, 2021 and effective August 1, 2021, is made under the *Real Estate Services Act*, S.B.C. 2004, c. 42, s. 89.2.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Real Estate Services Act

REAL ESTATE SERVICES RULES

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Real Estate Services Act

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PART 1 – GENERAL

Definitions

1 In these rules:

"accountant" means

(a) a person who is

(i) a member of, or is a partnership whose partners are members of, a provincial or territorial institute of chartered accountants within Canada,

(ii) a member of a provincial organization of chartered professional accountants within Canada who is authorized by that organization to perform an audit,

(iii) a professional accounting corporation, as defined in the *Chartered Professional Accountants Act*, that is authorized by the Chartered Professional Accountants of British Columbia to perform an audit, or

(iv) a registered firm, as defined in the *Chartered Professional Accountants Act*, that is authorized by the Chartered Professional Accountants of British Columbia to perform an audit, or

(b) in relation to a brokerage that is a reporting issuer within the meaning of the *Business Corporations Act*, a person referred to in paragraph (a) or a person who is authorized under the *Securities Act* to make an auditor's report;

"Act" means the *Real Estate Services Act*;

"annual financial reports" means the records required to be filed with the superintendent under section 75 *[annual financial statements, accountant's report and brokerage activity report]*;

"application for a licence" has the same meaning as in section 8 *[applications in relation to licences]* of the Act;

"branch office" means the premises that are identified in a brokerage's licence as the branch office from which the brokerage may provide real estate services under the licence;

"client", in relation to a licensee, means the principal who has engaged the licensee to provide real estate services to or on behalf of the principal;

"cooperating brokerage" means a brokerage that provides trading services to or on behalf of a buyer in respect of a trade in real estate;

"designated agent" means one or more licensees designated by the licensee's or licensees' related brokerage as the exclusive licensee or licensees, of all of the licensees related to that brokerage, to provide real estate services to a client of the brokerage in respect of a trade in real estate;

"dual agency" means the representation, in respect of a trade in real estate, by a brokerage of any of the following:

(a) both the seller and the buyer as clients;

(b) both the lessor and the lessee as clients;

(c) both the assignor and the assignee as clients;

(d) 2 or more buyers, lessees or assignees, as the case may be, as clients who have conflicting interests in respect of the trade in real estate;

"family partner" means a person who is living and cohabiting with a licensee in a marriage-like relationship, including a marriage-like relationship between persons of the same gender;

"head office" means the premises that are identified in a brokerage licence as the office from which the brokerage may provide real estate services under the licence, unless those premises are identified as a branch office;

"licensee name", in relation to a licensee, means the licensee name within the meaning of section 38 *[licensee names]*;

"listing brokerage" means a brokerage that provides trading services to or on behalf of a seller in respect of a trade in real estate;

"personal information" has the same meaning as in section 1 of the *Personal Information Protection Act*;

"pooled trust account" means a trust account in which money is held on behalf of more than one person;

"public trust money" means all money held or received by a brokerage and to which section 27 (1), (2) or (3) *[payment into trust account]* of the Act applies, except remuneration that has already been earned, as determined in accordance with these rules, by the brokerage at the time it is held or received by the brokerage;

"publish", in relation to real estate advertising, includes

(a) causing or permitting real estate advertising to be published, and

(b) displaying real estate advertising, or causing or permitting real estate advertising to be displayed;

"real estate advertising" means any form of identification, promotion, solicitation or representation, including a sign or other notice, relating to

(a) real estate,

(b) a trade in real estate, or

(c) the provision of real estate services;

"real estate team" means a group of two or more licensees that is registered as a real estate team under Division 4 of Part 4;

"related brokerage office", in relation to a licensee, means the brokerage head office or branch office that is identified in the licensee's licence;

"service agreement" means an agreement between a brokerage and a client under which a licensee provides real estate services to or on behalf of the client;

"strata lot owner" means an owner as defined in the *Strata Property Act*;

"trust account", in relation to a brokerage, means

(a) a brokerage trust account maintained under section 26 *[obligation to maintain trust account]* of the Act, or

(b) a commission trust account maintained under section 31 *[payment of licensee remuneration]* of the Act;

"trust account record" means the record referred to in section 80 (a) *[trust account and general account records]* as it applies to a trust account;

"trust ledger" means a trust ledger required under section 81 (a) *[pooled trust account records]*;

"unrepresented party", in respect of a trade in real estate, means a party to the trade in real estate who is not a client of a licensee for the trade in real estate.

[am. B.C. Regs. 193/2022, App., s. 1; 260/2023, s. 1.]

PART 2 – LICENSING

Division 1 – Licence Categories

Licence categories

2 For each of the levels set out in section 5 (1) *[licence levels and categories]* of the Act, the following categories of licences are established to permit the provision of the services referred to:

(a) trading services;

(b) rental property management services;

(c) strata management services;

(d) trading services and rental property management services;

(e) trading services and strata management services;

(f) rental property management services and strata management services;

(g) trading services, rental property management services and strata management services.

Division 2 – Brokerage Relationships and Offices

Brokerage must have a managing broker – exception

3 (1) Section 6 (1) (a) and (b) *[brokerage must have a managing broker]* of the Act does not apply to a brokerage if

(a) the brokerage ceases to have a managing broker licensed in relation to the brokerage because the licence of the managing broker

(i) has not been renewed,

(ii) is suspended or cancelled, or

(iii) has become inoperative for any reason, and

(b) the superintendent permits the brokerage to continue to provide the real estate services that were permitted by the licence of the managing broker.

(2) The exception under this section applies for the period specified by the superintendent in giving permission under subsection (1) (b).

(3) If the superintendent has given permission under subsection (1) (b), section 23 (3) *[effect on related licensees if licence becomes inoperative]* of the Act does not apply to the licences of the brokerage and its related licensees until the end of the period referred to in subsection (2) of this section.

Managing broker may be licensed in relation to a maximum of 4 affiliated brokerages

4 (1) For the purposes of section 7 (2) *[relationships between brokerages and other licensees]* of the Act, a managing broker may, subject to subsection (2) of this section,

(a) be licensed in relation to a maximum of 4 brokerages that are affiliated within the meaning of the *Business Corporations Act*, and

(b) provide real estate services in relation to the licence of each of those brokerages.

(2) The total of all brokerage licences in relation to which a managing broker is licensed under this section and section 5 must not exceed 4.

(3) For certainty, section 7 (4) of the Act applies to the managing broker in relation to the specific brokerage licence in relation to which the managing broker is acting at any particular time.

Related licensees of brokerages with branch offices

5 (1) If a brokerage holds one or more branch licences in addition to its head office licence, a managing broker, associate broker or representative who is a related licensee of the brokerage must be licensed in relation to a single licence of the brokerage.

(2) Despite subsection (1), a managing broker may, subject to section 4 (2),

(a) be licensed in relation to a maximum of 4 licences of a brokerage, and

(b) provide real estate services in relation to each of those brokerage licences.

Residential brokerage offices

6 (1) A brokerage may have a residential office as its head office or as a branch office if

(a) the office is located in the residence of a related managing broker,

(b) the office is a separate office within the residence, and

(c) the local government bylaws applicable to the residence permit the brokerage business to be conducted from the residence.

(2) In addition to the requirements of subsection (1), a brokerage may have a residential office as its head office if the managing broker referred to in subsection (1) (a) is,

(a) in the case of a brokerage that is a sole proprietor, the sole proprietor,

(b) in the case of a brokerage that is a partnership, a partner, or

(c) in the case of a brokerage that is a corporation, either

(i) a controlling shareholder of the corporation, or

(ii) one of only 2 shareholders of the corporation, the other of whom is the spouse or family partner of the managing broker.

(3) Subject to any further restrictions or conditions contained in any local government bylaws that regulate residential business activities, only 2 licensees may be licensed in relation to a residential head office or residential branch office.

Division 3 – Qualification Requirements

English language proficiency requirement

7 (1) In addition to any other requirements set out in section 10 *[qualifications for obtaining licence]* of the Act and established by these rules, an applicant for a new licence who is an individual must achieve a level 7 or higher on each of the parts applicable to reading, writing, speaking and listening, as tested by the Canadian English Language Proficiency Index Program – General Test.

(2) An applicant is deemed to have satisfied the requirement to demonstrate English language proficiency under subsection (1) if the applicant

(a) has graduated with a bachelor's degree or higher from a degree program at an accredited university, college or technical institute where English is the primary language of instruction, or

(b) has been licensed to engage in real estate services in another Canadian jurisdiction with an English language proficiency requirement after satisfying that jurisdiction's requirement for English language proficiency.

Educational requirements

8 (1) The courses referred to in this Division are the courses established by or on behalf of the superintendent for the purposes of licensee qualification.

(2) An applicant who fails an examination required under these rules must wait a minimum of 90 days before again attempting the examination.

(3) An applicant who fails an examination required under these rules twice in succession must retake and successfully complete the applicable licensing course before again attempting the examination.

(4) The superintendent may waive, on the basis of an applicant's previous knowledge or training, some or all of the requirements of this Division in relation to

(a) a course,

(b) a corresponding examination, or

(c) a course and its corresponding examination.

Educational requirements for new licensees

9 (1) In order to be issued a licence, an applicant for a new licence who is an individual must

(a) have taken the applicable licensing courses, specified by the superintendent, respecting the real estate services in relation to which the application is made,

(b) have successfully completed any assignments corresponding to those courses, no longer than 2 years before the date of writing any corresponding examinations, and

(c) have passed the examinations corresponding to those courses, no longer than one year before the date of the application.

(2) Subject to subsection (3), in order to be issued a licence, an applicant for a new licence who is an individual must have taken the applicable applied practice courses specified by the superintendent, if any, respecting the real estate services in relation to which the application is made, no longer than 2 years before the date of the application.

(3) An applicant who has not completed the applied practice courses referred to in subsection (2) may be issued a temporary licence under section 14 *[temporary licences]* of the Act that is conditional on taking those courses, or having them waived by the superintendent, within the period specified in the licence.

(4) In addition to the other requirements under this section, an applicant for a new licence as a managing broker or associate broker, who is an individual, must

(a) have taken the applicable managing broker courses specified by the superintendent, if any, respecting the real estate services in relation to which the application is made, and

(b) have passed the examinations, if any, corresponding to those courses, no longer than 5 years before the date of the application.

Education re-qualification on reinstatement

10 (1) This section applies to a representative licence that has

(a) become inoperative under section 22 (1) *[licence inoperative if licensee ceases to be engaged by brokerage]* of the Act,

(b) been suspended under section 116 (4) *[special compensation fund minimum capital requirement]* of the Act, or

(c) been voluntarily surrendered to the superintendent.

(2) In order to have the licence reinstated, an applicant who has less than 5 years of continuous licensing at any time before the licence became inoperative, was suspended or was surrendered must meet the requirements of section 9 (1) (c) and (2) of these rules.

(3) For the purposes of this section, an applicant is deemed to have continued to be licensed during any of the following periods for which the applicant ceased to be licensed:

(a) a period of 30 days or less;

(b) a period approved by the superintendent during which the applicant was on parental leave;

(c) a period during which the applicant was registered under the *Mortgage Brokers Act*.

Experience qualifications for managing brokers and associate brokers

11 (1) In order for an individual to be licensed for the first time as a managing broker or associate broker, the applicant must have been providing real estate services as a licensee for at least 2 years during the 5 years before the date of the application.

(2) The superintendent may waive the requirement of subsection (1) if satisfied that

(a) the applicant has had experience and training equivalent to that which the applicant would have obtained if the applicant had provided real estate services as a licensee as required by subsection (1), or

(b) in the case of an applicant for a managing broker licence, there is an immediate need for a managing broker in the location where the applicant proposes to carry on business.

(3) Without limiting subsection (2) (a), an applicant is considered to have the experience and training referred to in that subsection if the applicant

(a) previously provided real estate services in a capacity equivalent to one or more of a brokerage, managing broker and associate broker,

(b) provided the services referred to in paragraph (a), for a continuous period of at least 2 years during the 5 years before the date of the application, in

(i) another jurisdiction of Canada,

(ii) a jurisdiction of the United States, or

(iii) another jurisdiction acceptable to the superintendent, and

(c) was licensed, or otherwise authorized, under the laws of the other jurisdiction to provide the services referred to in paragraph (a).

(4) Without limiting subsection (2) (a), an applicant is considered to have the experience and training referred to in that subsection if the applicant

(a) previously provided real estate services in a capacity equivalent to a representative,

(b) provided the services referred to in paragraph (a) in a jurisdiction referred to in subsection (3) (b) for a continuous period of at least 2 years during the 5 years before the date of the application,

(c) was licensed, or otherwise authorized, under the laws of the other jurisdiction to provide the services referred to in paragraph (a), and

(d) provided real estate services as a licensee in British Columbia for a period of not less than one year during the 5 years before the date of the application.

[am. B.C. Reg. 221/2022, s. 1.]

Financial qualification for brokerages

12 In order to be licensed, an applicant for a new licence as a brokerage must satisfy the superintendent that the applicant is in sound financial circumstances.

Division 4 – Licences

Licence certificates

13 (1) A licence issued by the superintendent must be in the form of a paper or electronic licence certificate.

(2) A licence certificate must indicate the following:

(a) the level of licence as referred to in section 5 (1) *[licence levels and categories]* of the Act;

(b) the category of licence as referred to in section 2 *[licence categories]* of these rules;

(c) the effective date of the licence;

(d) in the case of a brokerage licence,

(i) the legal name of the brokerage,

(ii) the licensee name of the brokerage, if it is different from the legal name, and

(iii) the head office or branch office from which the licensee is authorized to provide real estate services under the licence;

(e) in the case of a managing broker, associate broker or representative licence,

(i) the legal name of the licensee,

(ii) the licensee name of the related brokerage, and

(iii) the related brokerage office in relation to which the individual is licensed.

Term of licence

14 (1) The term of a licence is

(a) 2 years beginning on the effective date of the licence and ending at the end of the day before the second anniversary of that date, or

(b) in the case of a temporary licence, as specified in the licence.

(2) For the purposes of section 12 (b) *[continuance of licence during renewal application process]* of the Act, a licensee must apply for licence renewal no later than 30 days before the end of the licensee's current licence term.

Partnership brokerage licence is specific to partnership

15 (1) A brokerage licence issued to a partnership is specific to the partnership as it exists at the time of application for the licence.

(2) If a partnership continues but with different partners, the brokerage licence is cancelled 14 days after the change or at the end of a longer period permitted by the superintendent.

Temporary licences for executors, administrators and committees of estates

16 (1) The superintendent may issue a temporary licence to

(a) the executor or administrator of the estate of a deceased individual who was licensed as a brokerage or managing broker, or

(b) the committee of the estate of an incapacitated individual who was licensed as a brokerage or managing broker.

(2) A licence under this section permits the executor, administrator or committee to carry on the real estate business formerly carried on by the deceased or incapacitated individual for the purpose of winding up the business or for the purpose of transferring or selling the business as a going concern.

(3) The maximum term for a licence under this section is 12 months.

(4) A licence under this section may be made subject to any conditions and restrictions that the superintendent considers appropriate in the circumstances.

Voluntary surrender

17 (1) A licensee may voluntarily surrender the licensee's licence to the superintendent.

(2) A licence surrendered under subsection (1) is inoperative unless the superintendent reinstates it before the end of its term.

Division 5 – Communications with Superintendent

Mailing address for delivery

18 (1) The mailing address for delivery to a licensee is the address of the brokerage office in relation to which the licensee is licensed unless a licensee provides the superintendent with a different mailing address for delivery.

(2) If, under subsection (1), a licensee provides the superintendent with a mailing address for delivery that is different from the address of the licensee's related

brokerage office, the licensee must promptly deliver a notice to the superintendent of any change to the licensee's mailing address for delivery.

Effective delivery to licensees

19 All notices required under the Act to be given to a licensee are effectively delivered to the licensee if mailed to the licensee at the licensee's latest mailing address for delivery.

Email address for licensees

20 If there is a change to the email address that a licensee provided to the superintendent, the licensee must promptly deliver a notice to the superintendent updating the licensee's email address.

Licensee must reply promptly to superintendent

21 (1) A licensee must respond promptly to any inquiry addressed to the licensee by the superintendent.

(2) The licensee's response

(a) must be in writing, unless the superintendent allows it to be provided otherwise, and

(b) if applicable, must be provided to the superintendent no later than the date set by the superintendent.

Brokerage must give immediate notice respecting insolvency

22 A brokerage must immediately notify the superintendent if it is not able to pay its debts as they become due.

Licensee must give notice of discipline, bankruptcy or criminal proceedings

23 (1) In this section, **"discipline sanction"** means a warning, reprimand, fine, educational requirement, imposed restriction or condition, suspension or cancellation, or any other sanction arising from a disciplinary matter.

(2) A licensee must promptly notify the superintendent, in writing, if any of the following circumstances apply:

(a) the licensee is subject to any disciplinary or regulatory proceedings in which the licensee may be or has been made subject to a discipline sanction under legislation in British Columbia or another jurisdiction regulating

(i) real estate, insurance or securities activities, or

(ii) mortgage brokers, accountants, notaries or lawyers;

(b) the licensee has any court order or judgment made against the licensee in relation to

(i) real estate services,

(ii) a dealing in insurance, mortgages or securities, or

(iii) misappropriation, fraud or breach of trust;

(c) any business that the licensee owns, or of which the licensee has been a director, officer or partner at any time during the past 2 years, has any court order or judgment made against the business in relation to

(i) real estate services,

(ii) a dealing in insurance, mortgages or securities, or

(iii) misappropriation, fraud or breach of trust;

(d) the licensee is charged with or convicted of an offence under a federal or provincial enactment or under a law of any foreign jurisdiction, other than

(i) highway traffic offences resulting only in monetary fines or demerit points, or both, and

(ii) contraventions in respect of which proceedings were commenced by means of a violation ticket under the *Offence Act* or a ticket under the *Contraventions Act* (Canada);

(e) the licensee is the subject of any bankruptcy, insolvency or receivership proceedings, including

(i) an application for a bankruptcy order filed against the licensee,

(ii) an assignment in bankruptcy made by the licensee,

(iii) a bankruptcy order made against the licensee,

(iv) a proposal made under Division I of Part III, or a consumer proposal made under Division II of Part III, of the *Bankruptcy and Insolvency Act* (Canada), or

(v) an insolvency proceeding, including a receivership or an arrangement under the *Companies' Creditors Arrangement Act* (Canada);

(f) any business that the licensee owns, or of which the licensee has been a director, officer or partner at any time during the past 2 years, is the subject of any bankruptcy, insolvency or receivership proceedings, including

(i) an application for a bankruptcy order filed against the business,

(ii) an assignment in bankruptcy made by the business,

(iii) a bankruptcy order made against the business,

(iv) a proposal made under Division I of Part III, or a consumer proposal made under Division II of Part III, of the *Bankruptcy and Insolvency Act* (Canada), or

(v) an insolvency proceeding, including a receivership or an arrangement under the *Companies' Creditors Arrangement Act* (Canada).

(3) In addition to providing a written notice, the licensee must provide particulars and any additional information or documentation as requested by the superintendent.

(4) In the case of notice required to be provided by an associate broker or representative, the licensee must give a copy of the notice under subsection (2) to the managing broker of the related brokerage.

Brokerage must give notice of business changes

24 (1) A brokerage must promptly notify the superintendent in writing of the following:

(a) a change in the telephone number, fax number or email address of a brokerage's head office or branch office;

(b) any related managing broker, associate broker or representative who ceases to be engaged by the brokerage and the reasons for that cessation;

(c) in the case of a brokerage that is a partnership,

(i) any change in the partners and whether, as a result of a licence cancellation under section 15 *[partnership brokerage licence is specific to partnership]*, an application for a new brokerage licence is intended to be made, or

(ii) any change in the nature of the partnership, such as registration as a limited liability partnership;

(d) in the case of a brokerage that is a corporation,

(i) any change in the directors or officers of the corporation, or

(ii) any fundamental change to the corporation, such as an amalgamation or continuation;

(e) a change in the end date of the brokerage's fiscal year;

(f) a change in the savings institutions, or branch location of a savings institution, at which the brokerage maintains accounts.

(2) If notice is required under subsection (1) (d) because a new director or officer is appointed or elected, the brokerage must, within 30 days after the appointment or election, submit to the superintendent the information and statements specified by the superintendent for each new director or officer.

Personal real estate corporation must give notice of business changes

25 A personal real estate corporation must promptly notify the superintendent in writing if it does not continue to maintain the attributes described in section 10.3 *[corporate qualifications]* of the Real Estate Services Regulation.

Division 6 – Discipline and Other Enforcement

Administrative penalties

26 (1) For the purposes of section 56 (1) *[designated contraventions and penalty amounts]* of the Act, contraventions of these rules listed in subsection (2) of this section are designated contraventions to which Division 5 *[Administrative*

Penalties] of Part 4 *[Discipline Proceedings and Other Regulatory Enforcement]* of the Act applies.

(2) Designated contraventions of these rules are divided into the following 4 categories for the purpose of determining the amount of the administrative penalty:

(a) Category A consists of the following:

(i) section 6 *[residential brokerage offices]*;

(ii) section 28 (3) *[managing broker responsibilities – records]*;

(iii) section 44 *[delivery of written agreements to clients]*;

(iv) section 47 *[acceptance of offer]*;

(v) section 75 *[annual financial statements, accountant's report and brokerage activity report]*;

(vi) section 83 *[general records]*;

(vii) section 84 *[trading records]*;

(viii) section 85 *[records related to referral fees received by a licensee]*;

(ix) section 86 *[records related to referral fees paid]*;

(x) section 87 *[rental property management records]*;

(xi) section 88 *[strata management records]*;

(xii) section 92 *[retention of records]*;

(xiii) section 93 *[brokerage obligations when winding up business]*;

(xiv) section 93.1 *[information provided to superintendent on request]*;

(b) Category B consists of the following:

(i) section 22 *[brokerage must give immediate notice respecting insolvency]*;

(ii) section 23 *[licensee must give notice of discipline, bankruptcy or criminal proceedings]*;

(iii) section 24 *[brokerage must give notice of business changes]*;

(iv) section 25 *[personal real estate corporation must give notice of business changes]*;

(v) section 28 (5) *[managing broker responsibilities – notice to parties respecting deposits]*;

(vi) section 29 (2) *[associate broker and representative responsibilities – keeping managing broker informed]*;

(vii) section 29 (4) *[associate broker and representative responsibilities – supervision of employees]*;

(viii) section 29 (5) *[associate broker and representative responsibilities – knowledge of improper conduct]*;

(ix) section 32 *[designated agency]*;

(c) Category C consists of the following:

(i) section 30 (a) *[act in the best interests of the client]*;

(ii) section 30 (b) *[act in accordance with the lawful instructions of the client]*;

(iii) section 30 (c) *[act only within the scope of the authority given by the client]*;

(iv) section 30 (d) *[advise the client to seek independent professional advice on matters outside of the licensee's expertise]*;

(v) section 30 (e) *[maintain the confidentiality of information respecting the client]*;

(vi) section 30 (f) *[disclose to the client all known material information respecting the real estate services, and the real estate and the trade in real estate to which the services relate]*;

(vii) section 30 (g) *[communicate all offers to the client in a timely, objective and unbiased manner]*;

(viii) section 30 (h) *[use reasonable efforts to discover relevant facts respecting any real estate that the client is considering acquiring]*;

(ix) section 30 (i) *[take reasonable steps to avoid any conflict of interest]*;

(x) section 30 (j) *[promptly and fully disclose any conflict of interest to the client]*;

(xi) section 34 *[duty to act with reasonable care and skill]*;

(xii) section 42.4 (1) *[real estate team – member of only one team]*;

(xiii) section 42.4 (2) *[real estate team – members' trading services provided through team only]*;

(xiv) section 42.4 (3) *[real estate team – team's trading services provided by members only]*;

(xv) section 42.4 (4) *[real estate team – members related to same brokerage]*;

(xvi) section 42.4 (5) *[real estate team – designated agency]*;

(d) Category D consists of the following:

(i) section 18 *[mailing address for delivery]*;

(ii) section 20 *[email address for licensees]*;

(iii) section 21 *[licensee must reply promptly to superintendent]*;

(iv) section 29 (1) *[associate broker and representative responsibilities – records]*;

(v) section 29 (3) *[associate broker and representative responsibilities – prompt response to managing broker inquiry]*;

(vi) section 35 *[display and keeping of licences]*;

(vii) section 36 *[business signs required]*;

(viii) section 37 *[restrictions relating to home and other personal offices]*;

(ix) section 39 *[licensee names must be indicated]*;

(x) section 40 *[advertising restrictions and requirements]*;

(xi) section 41 *[false or misleading advertising prohibited]*;

(xii) section 42 *[advertising in relation to specific real estate]*;

(xii.1) section 42.2 (1) *[real estate team – registration requirement]*;

(xii.2) section 42.3 (2) *[real estate team – notification of change]*;

(xii.3) section 42.4 (6) *[real estate team – clear indication of name]*;

(xii.4) section 75.1 *[periodic brokerage activity report]*;

(xiii) section 79 *[financial records]*;

(xiv) section 80 *[trust account and general account records]*;

(xv) section 81 *[pooled trust account records]*;

(xvi) section 82 *[preparation of records after termination]*;

(xvii) section 90 *[records must be kept up to date]*;

(xviii) section 91 *[electronic records]*;

(xix) section 93.2 *[information provided to superintendent after specified event]*.

[am. B.C. Regs. 193/2022, App., s. 2; 260/2023, s. 2.]

Amount of administrative penalty

27 (1) For each contravention of a rule listed in Category A in section 26 (2) (a), the amount of the administrative penalty is as follows:

(a) $1 000 for a first contravention;

(b) $2 000 for a subsequent contravention.

(2) For each contravention of a rule listed in Category B in section 26 (2) (b), the amount of the administrative penalty is as follows:

(a) $2 500 for a first contravention;

(b) $5 000 for a subsequent contravention.

(3) For each contravention of a rule listed in Category C in section 26 (2) (c), the amount of the administrative penalty is as follows:

(a) $5 000 for a first contravention;

(b) $10 000 for a subsequent contravention.

(4) For each contravention of a rule listed in Category D in section 26 (2) (d), the amount of the administrative penalty is as follows:

(a) a base penalty amount as follows:

(i) $1 000 for a first contravention;

(ii) $2 000 for a subsequent contravention;

(b) an additional $250 for each day or part of a day on which the contravention of the specified rule continues up to the maximum amount under section 56 *[designated contraventions and penalty amounts]* of the Act.

PART 3 – GENERAL RESPONSIBILITIES OF LICENSEES

Managing broker responsibilities

28 (1) A managing broker must

(a) be actively engaged in the management of the managing broker's related brokerage,

(b) ensure that the business of the brokerage is carried out competently and in accordance with the Act, the regulations and these rules, and

(c) ensure that there is an adequate level of supervision for related associate brokers and representatives and for employees and others who perform duties on behalf of the brokerage.

(2) A managing broker must take reasonable steps to deal with any matter in which the managing broker has knowledge of conduct that the managing broker considers

(a) may constitute professional misconduct, or conduct unbecoming a licensee, on the part of a related licensee, or

(b) may be improper or negligent conduct, in relation to the provision of real estate services, on the part of

(i) a related licensee, or

(ii) an employee of the brokerage or any other person associated with the brokerage.

(3) A managing broker must

(a) ensure that the records of the brokerage are maintained in accordance with the Act, the regulations and these rules, and

(b) ensure proper management and control of documents and other records related to licensing and regulatory requirements.

(4) A managing broker must ensure that the trust accounts of the brokerage are maintained in accordance with the Act, the regulations and these rules.

(5) A managing broker must ensure that all parties to an agreement giving effect to a trade in real estate are immediately notified if

(a) a deposit contemplated by the agreement that, if received, would be held by the related brokerage as a stakeholder under section 28 *[circumstances in which brokerage holds money as stakeholder]* of the Act has not been received, or

(b) a deposit cheque or other negotiable instrument that the brokerage received in respect of a deposit referred to in paragraph (a) has not been honoured.

(6) Notice under subsection (5) must be given in writing or confirmed in writing.

Associate broker and representative responsibilities

29 (1) An associate broker or representative must promptly provide to the managing broker the original or a copy of all records referred to in any of the following sections that are in the possession of the associate broker or representative and that were prepared by or on behalf of the associate broker or representative, or received from or on behalf of a principal:

(a) section 83 *[general records]*;

(b) section 84 *[trading records]*;

(c) section 87 *[rental property management records]*;

(d) section 88 *[strata management records]*.

(2) An associate broker or representative must

(a) keep the managing broker informed of the real estate services being provided, and other activities being performed, by the associate broker or representative on behalf of the brokerage, and

(b) immediately notify the managing broker if a deposit referred to in section 28 (5) (a) has not been received.

(3) An associate broker or representative must promptly respond to any inquiry that is addressed to the licensee by the managing broker.

(4) An associate broker or representative must ensure that there is an adequate level of supervision for the licensee's employees and others who perform duties on the licensee's behalf.

(5) An associate broker or representative must promptly notify the managing broker on learning of conduct that the associate broker or representative considers may be conduct referred to in section 28 (2), whether that conduct is

(a) the licensee's own conduct,

(b) the conduct of an employee of the licensee or of another person who performs duties on the licensee's behalf, or

(c) the conduct of any other person in relation to which the managing broker has responsibility under section 28 (2).

Duties to clients

30 Subject to sections 31 *[modification of duties]* and 32 *[designated agency]*, if a client engages a brokerage to provide real estate services to or on behalf of the client, the brokerage and its related licensees must do all of the following:

(a) act in the best interests of the client;

(b) act in accordance with the lawful instructions of the client;

(c) act only within the scope of the authority given by the client;

(d) advise the client to seek independent professional advice on matters outside of the expertise of the licensee;

(e) maintain the confidentiality of information respecting the client;

(f) without limiting the requirements of Division 2 *[Disclosures]* of Part 5 *[Relationships with Principals and Parties]*, disclose to the client all known material information respecting the real estate services, and the real estate and the trade in real estate to which those services relate;

(g) communicate all offers to the client in a timely, objective and unbiased manner;

(h) use reasonable efforts to discover relevant facts respecting any real estate that the client is considering acquiring;

(i) take reasonable steps to avoid any conflict of interest;

(j) without limiting the requirements of Division 2 *[Disclosures]* of Part 5 *[Relationships with Principals and Parties]*, if a conflict of interest does exist, promptly and fully disclose the conflict to the client

(i) in writing, and

(ii) separately from a service agreement or any other agreement under which real estate services are provided and separately from any agreement giving effect to a trade in real estate.

[am. B.C. Reg. 260/2023, s. 3.]

Modification of duties

31 (1) By agreement between the brokerage and the client, one or more of the duties under section 30 may be modified or made inapplicable.

(2) An agreement under subsection (1) must be

(a) in a written service agreement, or

(b) if there is no written service agreement, preceded by written disclosure made under section 54 (1) *[disclosure of representation in trading services]*.

(3) The written document referred to in subsection (2) (a) or (b) must clearly indicate the duties of the brokerage and its related licensees

(a) that have been modified and how they have been modified, and

(b) that have been made inapplicable.

(4) Despite an agreement under subsection (1), the brokerage must

(a) supervise its related licensees to ensure that they fulfill their duties under section 30, and

(b) not disclose any confidential information respecting a client to any other person unless

(i) authorized by that client, or

(ii) required by law.

Designated agency

32 (1) By agreement between the brokerage and the client, the brokerage may designate one or more licensees to provide real estate services to or on behalf of a client as a designated agent, and in such a case, the duties referred to in section 30

(a) do not apply to any of the related licensees of the brokerage other than the designated agent or agents, and

(b) subject to subsection (4), do not apply to the brokerage unless the brokerage and client have agreed they will continue to apply.

(2) An agreement under subsection (1) must be

(a) in a written service agreement, or

(b) if there is no written service agreement, preceded by written disclosure made under section 54 (1) *[disclosure of representation in trading services]*.

(3) The written document referred to in subsection (2) (a) or (b) must clearly indicate that none of the related licensees of the brokerage, other than the designated agent or agents, owes duties to the client under section 30.

(4) Despite an agreement under subsection (1), the brokerage must

(a) supervise the designated agent or agents to ensure that they fulfill their duties under section 30,

(b) not disclose any confidential information respecting a client to any other person unless

(i) authorized by that client, or

(ii) required by law, and

(c) treat the interests of all clients in an even-handed, objective and impartial manner.

Duty to act honestly

33 When providing real estate services, a licensee must act honestly.

Duty to act with reasonable care and skill

34 When providing real estate services, a licensee must act with reasonable care and skill.

PART 4 – BUSINESS PRACTICES

Division 1 – General

Display and keeping of licences

35 A brokerage must

(a) keep the brokerage licence for its head office prominently displayed in the head office,

(b) if applicable, keep any branch office licence prominently displayed in the branch office, and

(c) keep the licences of all related licensees available for public inspection at the related brokerage office.

Business signs required

36 A brokerage must

(a) display, on or near the door of its head office and any branch offices, a sign that clearly shows the brokerage's licensee name, and

(b) have its licensee name listed in the building directory, if any, for the places where the offices are located.

Restrictions relating to home and other personal offices

37 (1) In this section, **"personal office"**, in relation to a licensee, means an office, other than a related brokerage office, from which the licensee provides real estate services, including an office that is in the residence of the licensee or any other person.

(2) The following rules apply if a licensee maintains a personal office:

(a) no sign indicating that real estate services are provided from the office may be placed

(i) outside the office or the building in which the office is located, or

(ii) where it is visible from outside the office or building;

(b) the phone for the office must not be answered in the name of the related brokerage of the licensee;

(c) the licensee must not indicate the office address on any real estate advertising or on any other records relating to the provision of real estate services.

Division 2 – Licensee Names

Licensee names

38 (1) The licensee name of a brokerage is either of the following:

(a) the legal name of the brokerage, unless another name is indicated on the brokerage licence under paragraph (b);

(b) the trade name of the brokerage, if that name has been approved by the superintendent, has been registered with the Registrar of Companies and is indicated on the brokerage licence.

(2) The licensee name of a managing broker, associate broker or representative who is an individual is either of the following:

(a) the individual's legal name or a recognizable short form of the individual's legal name, unless another name is approved under paragraph (b);

(b) the name that is approved by the superintendent.

(3) The licensee name of a personal real estate corporation is the legal name of the corporation.

Licensee names must be indicated

39 (1) A licensee must ensure that the licensee name is clearly indicated in the course of providing real estate services.

(2) A managing broker, associate broker or representative must also clearly indicate the licensee name of the related brokerage in the course of providing real estate services.

Division 3 – Advertising

Restrictions and requirements

40 (1) A licensee must not publish real estate advertising unless the advertising complies with this section.

(2) In all cases, the licensee name of the brokerage must be displayed in a prominent and easily readable way.

(3) Real estate advertising that identifies a managing broker, associate broker or representative must do so,

(a) if that person is an individual, by using the licensee name of the individual, or

(b) if that person is a personal real estate corporation or a controlling individual of a personal real estate corporation, by using the licensee name of the personal real estate corporation only.

(4) If real estate advertising includes an office address for the licensee, that address must be the address of the related brokerage office.

(5) Real estate advertising published by a real estate team must identify the team's name.

(6) Subject to subsection (7), if a member of a real estate team publishes real estate advertising with respect to trading services, the advertising must identify the team's name.

(7) Subsection (6) does not apply to real estate advertising with respect to rental property management services that are trading services in relation to the rental of real estate.

[am. B.C. Reg. 193/2022, App., s. 3.]

False or misleading advertising prohibited

41 A licensee must not publish real estate advertising that the licensee knows, or reasonably ought to know, contains a false or misleading statement or misrepresen-

tation concerning real estate, a trade in real estate or the provision of real estate services.

Advertising in relation to specific real estate

42 A licensee must not publish real estate advertising indicating that specific real estate is being offered for sale or other disposition unless the owner of the real estate, or an authorized agent of the owner, has consented to the advertising.

Division 4 – Real Estate Teams

Definition

42.1 In this Division, **"trading services"** does not include rental property management services that are trading services in relation to the rental of real estate.

[en. B.C. Reg. 193/2022, App., s. 4.]

Requirement to register

42.2 (1) A group of two or more licensees must register with the superintendent as a real estate team if the licensees in the group do any of the following in the course of providing trading services:

(a) subject to subsection (2), represent themselves to the public as a single entity;

(b) are regularly engaged as designated agents of the same client;

(c) regularly work together in a manner that is consistent with the licensees being implied agents of the same party.

(2) Subsection (1) (a) does not apply if the single entity is a brokerage.

[en. B.C. Reg. 193/2022, App., s. 4.]

Registration

42.3 (1) In order to register as a real estate team, as required under section 42.2, a group of two or more licensees must submit to the superintendent an application in a form approved by the superintendent that contains the information required by the superintendent.

(2) In order to change the name or membership of a real estate team, a licensee must submit to the superintendent an application in a form approved by the superintendent that contains the information required by the superintendent.

[en. B.C. Reg. 193/2022, App., s. 4.]

Restrictions and requirements

42.4 (1) A licensee may be a member of only one real estate team at any time.

(2) A member of a real estate team must provide trading services through the team only.

(3) A licensee must not provide trading services through a real estate team unless the licensee is a member of the team.

(4) All members of a real estate team must be related to the same brokerage.

(5) The related brokerage of the members of a real estate team must, under section 32 *[designated agency]*, designate all members of the real estate team to provide, as designated agents, trading services to or on behalf of any client of any member of the team.

(6) A real estate team must ensure that the team's name is clearly indicated in the course of providing trading services.

[en. B.C. Reg. 193/2022, App., s. 4.]

PART 5 – RELATIONSHIPS WITH PRINCIPALS AND PARTIES

Division 1 – Contractual Matters

Written service agreements required in some cases

43 (1) Unless waived by the prospective client, a brokerage must have a written service agreement in accordance with this section if

(a) the brokerage is to provide trading services to an owner of real estate in relation to the offering of that real estate for sale or other disposition,

(b) the brokerage is to provide rental property management services to an owner of rental real estate, or

(c) the brokerage is to provide strata management services to a strata corporation.

(2) A service agreement required under subsection (1) must be entered into as follows:

(a) in relation to trading services referred to in subsection (1) (a), before the brokerage represents the client in offering the real estate for sale or other disposition;

(b) in relation to rental property management services referred to in subsection (1) (b), before providing any of those services;

(c) in relation to strata management services referred to in subsection (1) (c), before providing any of those services.

(3) A service agreement required under subsection (1) must

(a) be signed by the client and an authorized signatory of the brokerage, and

(b) clearly state all terms and conditions of the agreement, including the matters required by this section.

(4) A service agreement required under subsection (1) must include the following:

(a) the name of the client and the licensee name of the brokerage;

(b) the address of the real estate in relation to which services are provided under the agreement;

(c) the date on which the agreement is effective;

(d) in the case of a service agreement for trading services, the date on which the agreement expires and, in any other case, the duration of the agreement;

(e) a general description of services to be provided by the brokerage;

(f) the remuneration to be paid under the agreement and the circumstances in which it will be payable;

(g) in the case of a service agreement for trading services that provides for a portion of remuneration to be paid by a listing brokerage to a cooperating brokerage, the following information:

(i) if there is a cooperating brokerage,

(A) the remuneration to be paid by the seller to the listing brokerage,

(B) the remuneration to be paid by the listing brokerage to the cooperating brokerage, and

(C) the remuneration to be retained by the listing brokerage;

(ii) if there is no cooperating brokerage, the remuneration to be paid by the seller to the listing brokerage;

(h) provisions respecting the use and disclosure of personal information.

(5) In the case of a service agreement required under subsection (1) respecting the provision of rental property management services, the service agreement must also include the following:

(a) the circumstances in which the agreement may be terminated by either or both of the client and the brokerage;

(b) the scope of the authority of the brokerage, or a related licensee, when acting on behalf of the owner, including any authority to

(i) sign cheques or make disbursements on behalf of the owner, and

(ii) enter into contracts on behalf of the owner;

(c) the timing, frequency and nature of accounting statements and other records to be provided by the brokerage to the owner;

(d) a statement of how security deposits, pet damage deposits and other deposits are to be dealt with;

(e) a description of the records to be kept by the brokerage on behalf of the owner.

(6) In the case of a service agreement required under subsection (1) respecting the provision of strata management services, the service agreement must also include the following:

(a) an indication of whether the brokerage will be holding on behalf of the strata corporation one or more of the following:

(i) contingency reserve fund money;

(ii) operating fund money;

(iii) special levy money;

(iv) other amounts;

(b) the circumstances, in addition to those set out in sections 24 (1) *[strata management contracts]* and 39 *[cancellation of strata management contracts]* of the *Strata Property Act*, in which the agreement may be terminated by either or both of the client and the brokerage;

(c) any authority under section 30 (1) (g) *[withdrawals from trust account]* of the Act for the brokerage to transfer amounts

(i) between brokerage trust accounts maintained under section 77 (2) *[additional rules for strata management trust accounts and investments]* of these rules for the strata corporation, or

(ii) from a separate brokerage trust account maintained under section 77 (2) (a) of these rules for the strata corporation to a pooled trust account for one or more strata corporations;

(d) the scope of the authority of the brokerage, or a related licensee, when acting on behalf of the strata corporation, including any authority to

(i) sign cheques or make disbursements on behalf of the strata corporation,

(ii) enter into contracts on behalf of the strata corporation, and

(iii) invest money held by the brokerage on behalf of the strata corporation;

(e) the timing, frequency and nature of accounting statements and other records to be provided by the brokerage to the strata corporation, in addition to those required to be provided under section 77 (8) of these rules;

(f) a description of the records that are to be kept by the brokerage on behalf of the strata corporation, including an indication of which, if any, of the records required under section 35 *[strata corporation records]* of the *Strata Property Act* the brokerage will retain on behalf of the strata corporation;

(g) provisions respecting the use and disclosure of information respecting the strata corporation, including the use and disclosure of personal information respecting owners who are the members of the strata corporation.

(7) Any amendment of or addition to the terms of a service agreement required under subsection (1) must be in writing and be signed by the client and an authorized signatory of the brokerage.

(8) For the purposes of this section, an authorized signatory of a brokerage must be

(a) a related licensee of the brokerage,

(b) in the case of a brokerage that is a sole proprietorship, the sole proprietor, or

(c) in the case of a brokerage that is a corporation or partnership, a director, officer or partner of the brokerage.

Delivery of written agreements to clients

44 If a brokerage provides real estate services under a written agreement, whether or not the agreement is required by section 43, the brokerage must deliver a copy to the client immediately on execution of the agreement.

Signing agreements on behalf of clients

45 (1) Before signing a contract on behalf of a client, a licensee must obtain from the client, or an authorized agent of the client, written authorization to do so.

(2) The authorization required by subsection (1) may be provided in a service agreement or a separate record.

Presentation of offers

46 Unless otherwise instructed by the licensee's client, a licensee who receives a signed offer to acquire or dispose of real estate must promptly communicate the offer to the relevant party to the trade in real estate.

Acceptance of offer

47 A licensee who has obtained a signed acceptance of an offer to acquire or dispose of real estate must promptly deliver a copy of the signed acceptance to

(a) each of the parties to the trade in real estate, and

(b) the related brokerage of the licensee.

Inducing breach of contract prohibited

48 A licensee must not induce any party to an agreement for a trade in real estate to break the agreement for the purpose of entering into an agreement with another party.

Representations as to sale, resale, purchase, etc.

49 (1) In this section, **"inducement representation"** means a representation or promise made by a licensee to a party to a trade in real estate, as an inducement for the party to acquire or dispose of real estate, that the licensee or any other person will

(a) acquire, resell or otherwise dispose of the real estate or any other real estate,

(b) procure a lease or an extension of a lease,

(c) procure financing or an extension of financing, or

(d) purchase or sell rights under financing.

(2) A licensee must not make an inducement representation unless, at the time of making the inducement representation, the licensee delivers to the person to whom the representation is made a statement that clearly sets out all the details of the inducement representation and that is signed by

(a) the licensee, and

(b) if applicable, any other person involved in the inducement representation.

Representations as to service agreements

50 (1) In this section, **"inducement representation"** means a representation or promise made by a licensee, in communication directly addressed to a party or potential party to a service agreement, that the licensee will do or cause to be done any act or service for the direct or indirect benefit of the party or potential party in order to induce the party to continue with, or the potential party to enter into, the service agreement.

(2) A licensee must not make an inducement representation unless, at the time of making the inducement representation, the licensee delivers to the person to whom the inducement representation is made a statement that clearly sets out all the details of the inducement representation and that is signed by

(a) the licensee, and

(b) if applicable, any other person involved in the inducement representation.

(3) If a service agreement is entered into or continued after an inducement representation is made, the service agreement must include the statement referred to in subsection (2).

Division 2 – Disclosures

Definitions

51 In this Division:

"associate", in relation to a licensee, means a person who is any of the following:

(a) in the case of licensee who is an individual,

(i) a spouse or family partner of the licensee,

(ii) a trust or estate in which the licensee, or a spouse or family partner of the licensee, has a substantial beneficial interest or for which the licensee, spouse or family partner serves as trustee or in a similar capacity, or

(iii) a corporation, partnership, association, syndicate or unincorporated organization in respect of which the licensee, or a spouse or family partner of the licensee, holds not less than 5% of its capital or is entitled to receive not less than 5% of its profits;

(b) in the case of a brokerage that is a corporation or partnership,

(i) a director, officer or partner of the brokerage,

(ii) a shareholder of the brokerage who holds more than 10% of the voting shares of the brokerage,

(iii) a trust or estate

(A) in which the brokerage, or a director, officer or partner of the brokerage, has a substantial beneficial interest, or

(B) for which the brokerage, or a director, officer or partner of the brokerage, serves as trustee or in a similar capacity, or

(iv) a corporation, partnership, association, syndicate or unincorporated organization in respect of which the brokerage, or a director, officer or partner of the brokerage, holds not less than 5% of its capital or is entitled to receive not less than 5% of its profits;

"principal", in relation to the prospective provision of real estate services, includes a potential principal.

Disclosures under this Division

52 (1) Disclosures under this Division must

(a) be in writing, and

(b) subject to subsections (2) and (2.1), be separate from a service agreement or any other agreement under which real estate services are provided and separate from any agreement giving effect to a trade in real estate.

(2) The disclosure of remuneration that is required under section 56 (2) *[disclosure of remuneration]* in respect of real estate services referred to in section 56 (1) (a) may be made in either or both of

(a) a service agreement, and

(b) a record, other than an agreement giving effect to a trade in real estate, that is separate from the service agreement.

(2.1) The disclosure that is required under section 57.1 *[disclosure to certain clients of right of rescission]* may be made in either or both of

(a) an agreement giving effect to a trade in real estate, and

(b) a record that is separate from an agreement referred to in paragraph (a).

(3) If, during the course of providing real estate services, there is any substantive change in the information that the licensee is required to disclose to a person under this Division, the licensee must promptly disclose the change to the person in accordance with subsection (1).

[am. B.C. Reg. 221/2022, s. 2.]

Disclosure of interest in trade

53 (1) A licensee must make a disclosure in accordance with this section to the owner of real estate if, under a trade in real estate,

(a) the licensee is to directly or indirectly acquire the real estate, or

(b) an associate of the licensee is to directly or indirectly acquire the real estate and the licensee is providing real estate services to the associate.

(2) An individual who is a licensee is not required to make a disclosure under subsection (1) if

(a) the real estate is rental real estate that is being acquired by the licensee, or a spouse or family partner of the licensee, with the intention that the licensee, spouse or family partner will use the real estate for personal residential purposes during the term of the lease,

(b) the lease or agreement to lease the real estate is for a term not exceeding one year,

(c) the lease or agreement does not contain an option to purchase or a right of first refusal, and

(d) any option to renew or any other provision for renewal, whether or not it is included in the lease or agreement, does not extend the total lease period, including any renewal period, beyond one year.

(3) A licensee must make a disclosure in accordance with this section to a person acquiring real estate if, under a trade in real estate,

(a) the licensee is to dispose of the real estate, or

(b) an associate of the licensee is to dispose of the real estate and the licensee is providing trading services to the associate.

(4) Disclosure under this section must

(a) be made promptly and before any agreement for the acquisition or disposition of the real estate is entered into, and

(b) be in a form approved by the superintendent.

(5) The disclosure must contain the following information:

(a) the name of the person to whom disclosure is being made;

(b) the legal description and street address of the real estate in relation to which disclosure is being made;

(c) an indication that the licensee is licensed under the Act and, as applicable, that the licensee, or an associate of the licensee to whom the licensee is providing trading services, is acquiring or disposing of the real estate;

(d) in the case of an acquisition or disposition by an associate of the licensee, the name of the associate and a description of the licensee's relationship to the associate;

(e) in the case of an acquisition by a licensee or associate, the information required under subsection (6);

(f) in the case of a disposition by a licensee or associate, an indication of whether the licensee or associate is disposing of the real estate as an owner or as a tenant of the real estate;

(g) the signature of the licensee and a witness other than a person to whom disclosure is to be made, and the date and place of signing.

(6) In the case of an acquisition by a licensee or associate, the disclosure must include the following:

(a) the amount of remuneration or other money that is anticipated to be received by any of the following:

(i) the licensee;

(ii) the associate or another associate of the licensee;

(iii) another buyer or tenant;

(b) if the acquisition is as other than a tenant,

(i) an indication as to whether the real estate is to be

(A) held for personal, rental or other use, or

(B) resold, and

(ii) if the real estate is to be resold and the licensee or associate is negotiating or has negotiated the resale of the real estate, the terms of that resale;

(c) if the acquisition is as a tenant,

(i) an indication as to whether the real estate is to be

(A) held for personal or other use, or

(B) sublet, and

(ii) if the real estate is to be sublet and the licensee or associate is negotiating or has negotiated the sublease, the terms of that sublease.

(7) The indication referred to in subsection (6) (b) (i) or (c) (i) must be based,

(a) in the case of an acquisition by the licensee, on the licensee's intention at the time of making the disclosure, and

(b) in the case of an acquisition by an associate of the licensee, on the licensee's reasonable belief, at the time of making the disclosure, about the intention of the associate at that time.

Disclosure of representation in trading services

54 (1) Before providing trading services to or on behalf of a party to a trade in real estate, a licensee must disclose to the party whether or not the licensee will represent the party as a client.

(2) A disclosure made under subsection (1) must be in a form approved by the superintendent and include the following information:

(a) the duties and responsibilities of licensees to clients and unrepresented parties;

(b) how to file a complaint about a licensee's conduct;

(c) information about the right of rescission under section 42 of the *Property Law Act*.

(3) Unless a licensee solicits or receives information from a party about the party's motivation, financial qualifications or needs in respect of real estate, a disclosure to the party is not required under subsection (1) when the licensee is only

(a) hosting an advertised open house, or

(b) providing factual responses to general questions from the party.

[am. B.C. Reg. 176/2022, s. 1.]

Disclosure of risks to unrepresented parties

55 If a licensee makes a disclosure under section 54 (1) to an unrepresented party in respect of a trade in real estate while representing a client to that trade in real estate, the licensee must also disclose, in a form approved by the superintendent,

(a) the risks to an unrepresented party of receiving assistance from the licensee due to the licensee's duties and responsibilities to the client of the licensee,

(b) the limited assistance that the licensee may provide to the unrepresented party, and

(c) a recommendation that the unrepresented party seek independent professional advice in respect of the trade in real estate.

Disclosure of remuneration

56 (1) This section applies if a licensee receives or anticipates receiving, directly or indirectly, remuneration, other than remuneration paid directly by a client, as a result of the licensee

(a) providing real estate services to or on behalf of the client,

(b) recommending to the client

(i) a home inspector, mortgage broker, notary public, lawyer or savings institution, or

(ii) any other person providing products or services related to real estate, or

(c) referring the client to a person referred to in paragraph (b) (i) or (ii).

(2) Subject to subsection (3), the licensee must promptly disclose to the client all remuneration paid or payable to the licensee's related brokerage in relation to the real estate services provided, and the disclosure must include the following information:

(a) the source of the remuneration;

(b) the amount of the remuneration or, if the amount of the remuneration is unknown, the likely amount of the remuneration or the method of calculating the remuneration;

(c) any other relevant facts relating to the remuneration.

(3) If trading services are provided by a licensee who has been designated to provide those services as a designated agent to or on behalf of only one party to a trade in real estate,

(a) the only remuneration that must be disclosed is the remuneration paid or payable to the licensee's related brokerage in relation to the services provided by that licensee to or on behalf of that party, and

(b) the disclosure must be made in accordance with subsection (2).

Disclosure to sellers of expected remuneration

57 (1) When a licensee who is providing trading services to or on behalf of a seller presents to the seller an offer to acquire real estate, the licensee must make a disclosure to the seller in accordance with this section.

(2) The disclosure under subsection (1) must be in a form approved by the superintendent and include the following information:

(a) the remuneration to be paid by the seller to the listing brokerage;

(b) the remuneration to be paid by the listing brokerage to the cooperating brokerage, if applicable;

(c) the remuneration to be retained by the listing brokerage;

(d) any remuneration a licensee receives or anticipates receiving as referred to in section 56 (1) (a).

(3) If the remuneration referred to in subsection (2) is to be received as money, the remuneration must be expressed as a dollar amount.

Disclosure to certain clients of right of rescission

57.1 (1) In this section, **"residential real property"** has the same meaning as in section 2 of the Home Buyer Rescission Period Regulation.

(2) When a licensee who is providing trading services to or on behalf of a buyer prepares an offer to acquire residential real property, the licensee must make a disclosure to the buyer in accordance with this section.

(3) When a licensee who is providing trading services to or on behalf of a seller presents to the seller an offer to acquire residential real property, the licensee must make a disclosure to the seller in accordance with this section.

(4) A disclosure under subsection (2) or (3) must be in a form approved by the superintendent and include information about the right of rescission under section 42 of the *Property Law Act* and the following details about that right:

(a) the fact that the right of rescission cannot be waived;

(b) the period during which the right of rescission may be exercised;

(c) the calculation of the dollar amount that the buyer must pay to the seller for exercising the right of rescission and when and how that amount must be paid;

(d) the requirement to return to the buyer any remainder of a deposit after the amount referred to in paragraph (c) is paid to the seller from the deposit;

(e) the exemptions to the right of rescission.

[en. B.C. Reg. 176/2022, s. 2.]

Benefits in relation to rental property management services and strata management services

58 (1) This section applies if a licensee

(a) anticipates receiving, directly or indirectly, a benefit from expenditures made by or on behalf of a principal to or on behalf of whom rental property management services or strata management services are or may be provided, or

(b) anticipates that an associate of the licensee will receive, directly or indirectly, such a benefit.

(2) In addition to the requirements of section 56 *[disclosure of remuneration]*, the licensee must disclose to the principal, and to the licensee's related brokerage, the nature and extent of the benefit referred to in subsection (1) of this section before the benefit is accepted.

Disclosure of material latent defects

59 (1) In this section, **"material latent defect"** means a material defect that cannot be discerned through a reasonable inspection of the property, including any of the following:

(a) a defect that renders the real estate

(i) dangerous or potentially dangerous to the occupants,

(ii) unfit for habitation, or

(iii) unfit for the purpose for which a party is acquiring it, if

(A) the party has made that purpose known to the licensee, or

(B) the licensee has otherwise become aware of that purpose;

(b) a defect that would involve great expense to remedy;

(c) a circumstance that affects the real estate in respect of which a local government or other local authority has given a notice to the client or the licensee, indicating that the circumstance must or should be remedied;

(d) a lack of appropriate municipal building and other permits respecting the real estate.

(2) A licensee who is providing trading services to a client who is disposing of real estate must disclose to all other parties to the trade, promptly and before any agreement for the acquisition or disposition of the real estate is entered into, any material latent defect in the real estate that is known to the licensee.

(3) If a client instructs a licensee to withhold a disclosure required under subsection (2), the licensee must refuse to provide further trading services to or on behalf of that client in respect of the trade in real estate.

(4) Disclosure to a party is not required under subsection (2) if the party has already received written disclosure of the material latent defect from the client who is disposing of the real estate.

Division 3 – Commissions and Other Remuneration

Remuneration restriction in relation to trades in real estate

60 (1) A licensee must not request or enter into an agreement for payment of remuneration that is based on the difference between

(a) the price at which real estate is listed for sale, lease or other disposition, and

(b) the actual price for which it is sold, leased or otherwise disposed of.

(2) A licensee is not entitled to and must not retain any remuneration that is calculated on a basis prohibited by subsection (1).

When licensee remuneration may be paid out of trust account

61 (1) Money in a brokerage trust account that is intended as remuneration for a licensee is to be considered earned, for the purpose of authorizing withdrawal under section 31 (1) *[payment of licensee remuneration]* of the Act, in the circumstances described in this section.

(2) Subject to subsection (3), money held by the brokerage as a stakeholder under section 28 *[circumstances in which brokerage holds money as stakeholder]* of the Act may be withdrawn as follows:

(a) in the case in which the money is held in respect of a transaction for the leasing of real estate, on the earliest of

(i) the date the lease or assignment of lease is submitted to the land title office for registration,

(ii) the date the tenant has the right to take possession of the real estate, and

(iii) the date the tenant lawfully occupies the real estate;

(b) in the case of a transfer that is not registrable in the land title office, other than a transfer related to a transaction referred to in paragraph (a), on the date the real estate is transferred;

(c) in any other case, on the date the documents effecting the transfer are submitted to the land title office for registration.

(3) The held money referred to in subsection (2) may be withdrawn at the time established by the service agreement if, in relation to that money,

(a) the service agreement establishes the time at which remuneration is earned by the licensee, and

(b) that time is later than the time that would otherwise apply under subsection (2).

(4) Money held by the brokerage, other than as a stakeholder, may be withdrawn

(a) subject to paragraph (b), in accordance with the service agreement or other agreement under which the applicable real estate services are provided, or

(b) at a time otherwise agreed to in writing by the client.

Some remuneration not required to be paid into brokerage trust account

62 (1) Money received by a brokerage on account of remuneration for real estate services is to be considered earned for the purposes of section 27 (4.1) *[payment into trust account]* of the Act in the circumstances described in this section.

(2) Money received by a brokerage from a person other than a principal, on account of remuneration for real estate services, may be paid in accordance with section 27 (4.1) (a) or (b) of the Act as follows:

(a) in the case of money received on account of remuneration for trading services, in accordance with the circumstances described in section 61 (2) of these rules;

(b) in the case of money received on account of remuneration for rental property management services or strata management services,

(i) after the services for which the money was received by the brokerage have been provided, or

(ii) at a time or on the occurrence of an event otherwise agreed to in writing by the person paying the money to the brokerage.

Division 4 – Dual Agency

Restriction on dual agency in trading services

63 (1) A brokerage must not engage in dual agency.

(2) The designation of one or more licensees as a designated agent does not constitute dual agency under this section unless the licensee designated as the designated agent represents the parties referred to in paragraph (a), (b), (c) or (d) of the definition of "dual agency" as clients in respect of a trade in real estate.

Dual agency in under-served remote location

64 (1) Despite section 63, a brokerage may engage in dual agency in respect of a trade in real estate if the real estate is in a remote location that is under-served by licensees and where it is impracticable for the parties to be provided trading services by different licensees.

(2) Before providing any trading services that constitute dual agency, a licensee must

(a) make a disclosure to each party, in a form approved by the superintendent, that includes

(i) a statement of the brokerage, signed by the managing broker, clearly setting out the reasons why subsection (1) applies, and

(ii) the following terms and information:

(A) the duties and responsibilities of the licensee to the clients of the licensee in a dual agency relationship;

(B) the risks associated with a dual agency relationship, and

(b) enter into a written agreement of dual agency with each party under section 31 *[modification of duties]* after making a disclosure under paragraph (a) of this subsection.

(3) A brokerage must provide the superintendent with the disclosure made under subsection (2) (a) promptly after entering into a written agreement of dual agency under subsection (2) (b).

Addressing conflicts of interest when acting for multiple clients

65 (1) If the provision of trading services by a licensee to or on behalf of multiple clients in respect of a trade in real estate would constitute dual agency, other than under section 64, the licensee must either

(a) not provide trading services to any client in respect of that trade in real estate, or

(b) represent only one of the clients, as a client, in respect of that trade in real estate.

(2) A licensee must not represent a client under subsection (1) (b) unless the licensee has obtained written agreement from all clients in respect of the trade in real estate that meets the requirements of subsection (3).

(3) The written agreement referred to in subsection (2) must be in a form approved by the superintendent and must include the following information:

(a) a description of the conflict of interest;

(b) a description of the duties and responsibilities that the licensee will no longer have to the client with whom the licensee is terminating client representation;

(c) a statement that the licensee may have confidential information about the client with whom the licensee is terminating client representation, and that the licensee is prohibited from disclosing any of that information;

(d) a statement that the advice and information that the licensee may provide to the client whom the licensee will continue to represent may be limited due to the licensee's ongoing duty to maintain the confidentiality of the information of the client with whom the licensee is terminating client representation;

(e) a recommendation that the clients seek independent professional advice in respect of the trade in real estate.

PART 6 – DEALING WITH OTHER LICENSEES AND UNLICENSED PERSONS

Payment to unlicensed persons prohibited

66 (1) A licensee must not pay, offer to pay or agree or allow to be paid remuneration to a person in relation to real estate services if the person is required to be licensed in relation to those services but is not licensed.

(2) Subsection (1) does not prohibit a brokerage from paying remuneration to a person who is licensed or otherwise authorized, under the laws of a jurisdiction other than British Columbia, to provide equivalent real estate services in the other jurisdiction.

Acting for unlicensed persons prohibited

67 A brokerage must not provide real estate services to or on behalf of any person who is not a principal in relation to the real estate services unless the person is

(a) licensed in relation to those services,

(b) exempt from the requirement to be licensed in relation to those services, or

(c) licensed or otherwise authorized, under the laws of a jurisdiction other than British Columbia, to provide equivalent real estate services in the other jurisdiction.

PART 7 – BROKERAGE ACCOUNTS AND FINANCIAL REQUIREMENTS

Agreement to pay other than into brokerage trust account

68 Section 27 (1) and (2) *[payment into trust account]* of the Act does not apply to money held or received by a licensee if

(a) the requirements set out in section 27 (4) (a) of the Act are met, and

(b) the licensee or brokerage, as applicable, ensures that the money is paid to, or is made payable to and immediately delivered to, the person to whom the principals agreed that the money is to be paid or made payable.

Use of holding brokerage trust account

69 (1) In this section:

"holding brokerage" means a brokerage that, on behalf of another brokerage, receives or holds money relating to real estate services provided by the other brokerage;

"service brokerage" means a brokerage that, in relation to real estate services provided by the brokerage, arranges with another brokerage for the other brokerage to act as a holding brokerage in relation to those services.

(2) If, by an agreement under section 27 (4) *[payment into trust account]* of the Act, the principals agree that money referred to in section 27 (1) or (2) of the Act that is held or received by a licensee is to be paid or made payable to a holding brokerage, the following rules apply:

(a) the holding brokerage must deposit the money into a separate brokerage trust account maintained in the name of the service brokerage;

(b) money withdrawn from that brokerage trust account under section 31 (1) *[payment of licensee remuneration]* of the Act must be paid as follows:

(i) if the service brokerage has no related licensees other than a managing broker, in accordance with the instructions of the service brokerage;

(ii) in any other case, at the option of the service brokerage,

(A) into a brokerage trust account maintained by the service brokerage, or

(B) into a commission trust account maintained by the service brokerage.

Commission trust accounts

70 For the purposes of section 31 (2) *[payment of licensee remuneration]* of the Act, a brokerage may maintain one or more commission trust accounts in accordance with the following rules:

(a) a commission trust account must be designated as a trust account both in the brokerage's records and in the records of the savings institution holding the account;

(b) the only money that may be paid into the account is money that

(i) is intended as remuneration for the brokerage or for a licensee engaged by the brokerage, and

(ii) may be paid out of the trust account in accordance with section 61 *[when licensee remuneration can be paid out of trust account]* of these rules.

71 Repealed. [B.C. Reg. 193/2022, s. (a).]

Other trust account requirements

72 (1) At least one related managing broker must be a signing authority on each trust account maintained by a brokerage.

(2) For each trust account of a brokerage, the monthly reconciliation under section 80 (b) *[trust account and general account records]* and the monthly trust liability and asset reconciliation under section 81 (b) *[pooled trust account records]* must be reviewed, dated, and initialled by a related managing broker or a person designated by a related managing broker.

(3) A brokerage must arrange for all banking documents, including cheques, statements and deposit slips, relating to a trust account to include an indication that they relate to a trust account.

Negative balances in trust accounts and trust records

73 (1) A brokerage must not make any payment out of a trust account if

(a) the payment would reduce the amount currently recorded in a trust account record or a trust ledger for the account to a negative balance, or

(b) the trust account record or trust ledger to which the payment relates already has a negative balance.

(2) If at any time there is a negative balance referred to in subsection (1), the brokerage must take immediate steps to eliminate the negative balance.

(3) A brokerage must notify the superintendent of a negative balance referred to in subsection (1) as follows:

(a) immediately, if a related managing broker considers that the negative balance may result in a person having a claim for a compensable loss in relation to the brokerage;

(b) in any other case, no later than 10 days after the day on which the negative balance arose, unless the brokerage is able to eliminate the negative balance in that time.

Superintendent review of accounts and other records

74 (1) A brokerage must allow the superintendent to review the brokerage's accounts, financial records and any other records relating to the dealings of the brokerage as a licensee or to the dealings of its related licensees as licensees.

(2) The authority to review under this section includes the authority to inspect and the authority to audit.

(3) If a review under this section shows that a brokerage's books or other records are not in proper order or are not kept up to date, the superintendent may require the brokerage to pay all or part of the costs of the review, subject to the same limits that apply under section 44 (2) *[enforcement expenses]* of the Act.

Annual financial statements, accountant's report and brokerage activity report

75 (1) A brokerage must, within 120 days after the end of each fiscal year of the brokerage, file with the superintendent

(a) financial statements for that fiscal year,

(b) an accountant's report respecting that fiscal year, completed in accordance with any requirements specified by the superintendent, and

(c) a brokerage activity report respecting that fiscal year, completed in accordance with any requirements specified by the superintendent.

(2) The financial statements referred to in subsection (1) (a) must

(a) be audited by an accountant, in the case of a brokerage that is a public company as defined in the *Business Corporations Act*, or

(b) in any other case, have been subject, at a minimum, to

(i) a review engagement by an accountant, or

(ii) if authorized under subsection (3), a compilation engagement report prepared by an accountant.

(3) The superintendent may authorize a brokerage to file financial statements that have been subject to a compilation engagement report prepared by an accountant if all of the following conditions are met:

(a) for a minimum of 3 consecutive fiscal years immediately preceding the date of authorization, the brokerage has filed financial statements that comply with subsection (2) (a) or (b) (i) and has satisfied the other requirements of this section;

(b) during those 3 fiscal years there have been no significant trust account or general books and records exceptions

(i) reported in relation to the brokerage, as required by the superintendent, or

(ii) discovered in relation to the brokerage in any review under section 74;

(c) the superintendent is satisfied that at the end of each of those 3 fiscal years the brokerage's current assets exceeded its current liabilities.

(4) An accountant who, under subsection (2), audits or reviews the financial statements or prepares a compilation engagement report in relation to the financial statements, or who completes the accountant's report referred to in subsection (1) (b), must be independent of the brokerage and of any director, officer or partner of the brokerage or a related licensee of the brokerage.

(5) A brokerage must

(a) disclose to an accountant referred to in subsection (4) every savings institution account that was opened, closed or maintained by the brokerage during the fiscal year,

(b) provide the accountant with access to all financial and other records of the brokerage for the fiscal year, and

(c) provide the accountant with any other information the accountant considers necessary to enable the accountant to conduct the audit, review the financial statements, prepare the compilation engagement report or complete the accountant's report, as required by this section.

(6) The superintendent may withdraw an authorization given to a brokerage under subsection (3) if

(a) the brokerage does not file financial statements that comply with this section,

(b) a trust account or general books and records exception has been reported or discovered as described in subsection (3) (b) in relation to the brokerage, or

(c) the superintendent is not satisfied that the brokerage's current assets exceed its current liabilities at the end of any fiscal year.

(7) Before withdrawing an authorization given to a brokerage under subsection (3), the superintendent must give the brokerage notice of the superintendent's intention to do so and the reasons.

(8) As an alternative to filing an accountant's report under subsection (1) (b), a brokerage that did not hold or receive any public trust money during the fiscal year to which the financial statements relate may file with the superintendent a solemn declaration, completed in accordance with any requirements specified by the superintendent, respecting

(a) that fiscal year, or

(b) if the brokerage carried on business for only part of the fiscal year, that part of the fiscal year for which the brokerage carried on business.

[am. B.C. Reg. 260/2023, s. 4.]

Periodic brokerage activity report

75.1 A brokerage must, at intervals specified by the superintendent, file with the superintendent a brokerage activity report, completed in accordance with any requirements specified by the superintendent.

[en. B.C. Reg. 260/2023, s. 5.]

Requirement to ensure solvency and cover negative balances

76 (1) This section applies in any of the following circumstances:

(a) a brokerage notifies the superintendent under section 22 *[notice respecting insolvency]* that it is not able to pay its debts as they become due;

(b) a brokerage notifies the superintendent under section 73 (3) *[negative balances in trust accounts and trust records]* that there is a negative balance in a trust account record or trust ledger;

(c) the annual financial reports under section 75 *[annual financial statements, accountant's report and brokerage activity report]* disclose that, at the end of the brokerage's fiscal year,

(i) the brokerage's current liabilities exceed its current assets, or

(ii) the brokerage's total liabilities exceed its total assets;

(d) a review under section 74 *[superintendent review of accounts and other records]* indicates

(i) a circumstance for which notice referred to in paragraph (a) or (b) of this subsection is required, or

(ii) either of the circumstances referred to in paragraph (c) of this subsection.

(2) The superintendent may require a brokerage to do one or more of the following:

(a) explain why a shortage or other deficiency arose;

(b) pay money into a trust account to cover a negative balance in the trust account;

(c) re-establish the brokerage to a state of solvency;

(d) provide a bond or other form of security.

Additional rules for strata management trust accounts and investments

77 (1) This section applies to a brokerage that provides strata management services.

(2) A brokerage must, for each strata corporation on behalf of which the brokerage holds or receives money, maintain the following brokerage trust accounts:

(a) at least one separate trust account designated in the name of the strata corporation;

(b) if the brokerage is to hold contingency reserve fund money, at least one separate trust account designated in the name of the strata corporation for the contingency reserve fund money;

(c) if the brokerage is to hold special levy money, at least one separate trust account designated in the name of the strata corporation for the special levy money.

(3) If a brokerage receives money that is subject to subsection (2) by means of direct electronic deposit into a brokerage trust account that receives funds on behalf of more than one strata corporation, the money must be transferred to the applicable trust account under that subsection no later than 3 days after the day on which it is received.

(4) Amounts received by a brokerage on behalf of a strata corporation must be paid into the trust accounts under subsection (2) as follows:

(a) if the amount received does not include contingency reserve fund money or special levy money, it must be paid into an applicable trust account under subsection (2) (a);

(b) if the amount received is only contingency reserve fund money, it must be paid into an applicable trust account under subsection (2) (b);

(c) if the amount received is only special levy money, it must be paid into an applicable trust account under subsection (2) (c);

(d) if the amount received consists of amounts referred to in 2 or more of paragraphs (a), (b) and (c),

(i) it must be paid into an applicable trust account under subsection (2) (a), and

(ii) the amount received in respect of contingency reserve fund money or special levy money must then be dealt with in accordance with subsection (5).

(5) If subsection (4) (d) applies, within 7 days after the end of the month in which the contingency reserve fund money or special levy money is received, the brokerage must,

(a) if the brokerage is to hold the money on behalf of the strata corporation, transfer it to an applicable trust account under subsection (2) (b) or (c), or

(b) pay the money to the strata corporation.

(6) If money in a trust account under subsection (2) (a) is transferred to a pooled trust account for one or more strata corporations, the brokerage must promptly

(a) pay the money on behalf of the strata corporation, or

(b) transfer the money to an applicable trust account under subsection (2) (a).

(7) In the case of a trust account under subsection (2) (b) or (c), the brokerage must arrange for the trust account to be set up so that the signatures of at least 2 of the following are required in order for money to be withdrawn from the account:

(a) a related managing broker;

(b) a member of the council of the strata corporation or a member of the section executive;

(c) another related licensee of the brokerage;

(d) a director, officer or partner of the brokerage;

(e) a person employed or engaged by the brokerage who is authorized to practise as

(i) a lawyer under the *Legal Profession Act*, or

(ii) a chartered professional accountant under the *Chartered Professional Accountants Act*.

(8) For each trust account under subsection (2), the brokerage must

(a) arrange for the savings institution to issue monthly statements respecting the account, and

(b) provide to the strata corporation, no later than 6 weeks after the end of the month for which a statement is issued under paragraph (a),

(i) a copy of that statement,

(ii) a copy of the monthly reconciliation referred to in section 80 (c) *[trust account and general account records]* in relation to that statement, and

(iii) if requested by the strata corporation, a copy of the records referred to in section 80 (a) and (b) that are related to the monthly reconciliation.

(9) When making investments on behalf of a strata corporation, a licensee providing strata management services is subject to the same restrictions, if any, that apply under the *Strata Property Act* to the strata corporation in relation to its investments.

(10) After the termination of a strata management service agreement, the brokerage must promptly transfer control of the strata corporation's money to the strata corporation or, if the strata corporation engages another brokerage to provide strata management services, to the other brokerage.

(11) Despite subsection (10), the brokerage may retain sufficient funds to pay outstanding and anticipated invoices related to expenses incurred on behalf of the strata corporation before the termination of the service agreement.

Blended payments in strata corporations with sections

78 (1) In this section, **"blended payment"** means money that is subject to section 77 (2) that is received by a brokerage by means of a single instrument or direct electronic deposit, a portion of which is received on behalf of a strata corporation that is a client of the brokerage and a portion of which is received on behalf of one or more sections of that strata corporation that are clients of the brokerage.

(2) If a brokerage receives a blended payment, the brokerage must deposit the money in the brokerage trust account maintained under section 77 (2) (a) that is designated in the name of the strata corporation or the section, as the case may be, in accordance with the instrument by which the blended payment is made.

(3) No later than 7 days after the day on which a blended payment is received, the brokerage must,

(a) if the blended payment was deposited in a trust account designated in the name of the strata corporation, transfer the portion of the blended payment that was received on behalf of a section of the strata corporation to a trust account maintained under section 77 (2) (a) that is designated in the name of that section, or

(b) if the blended payment was deposited in a trust account designated in the name of a section of the strata corporation, transfer the portion of the blended payment that was received on behalf of the strata corporation, or received on behalf of another section of the strata corporation, to a trust account maintained under section 77 (2) (a) that is designated in the name of the strata corporation or the other section, as the case may be.

PART 8 – BROKERAGE RECORDS

Division 1 – Financial Records

Financial records

79 (1) A brokerage must prepare and retain financial records in connection with its business that are necessary to ensure the appropriate and timely accounting of all transactions relating to real estate services provided by the brokerage and its related licensees.

(2) The records required under subsection (1) must show and readily distinguish the following:

(a) the amount of money held or received by the brokerage on its own behalf;

(b) the amount of money paid by the brokerage on its own behalf;

(c) the amount of money held or received on behalf of each other person including, if applicable, an indication of whether it was held or received on behalf of the person as a principal or as a licensee;

(d) the amount of money paid to or on behalf of each other person including, if applicable, an indication of whether it was paid to the person as a principal or as a licensee;

(e) the total amount of money held or received for or on behalf of other persons;

(f) the total amount of money paid to or on behalf of other persons.

Trust account and general account records

80 For each account maintained by a brokerage, the brokerage must

(a) retain all banking records relating to account transactions, including statements, cancelled cheques and other source documents making or confirming deposits or withdrawals,

(b) prepare and retain a record showing amounts received and disbursed, the reason for the receipt or disbursement, and any unexpended balance, and

(c) prepare and retain monthly reconciliations of banking statements with the record referred to in paragraph (b), prepared in a timely fashion but no later than 5 weeks after the end of the month being reconciled.

Pooled trust account records

81 In addition to the records referred to in section 80, for each pooled trust account maintained by a brokerage, the brokerage must prepare and retain the following records:

(a) separate trust ledgers as follows:

(i) in respect of money held or received on account of trades in real estate, a separate trust ledger for each trade in real estate that shows

all amounts received and disbursed in relation to the trade and any unexpended balance in relation to the trade;

(ii) in respect of money held or received on account of rental property management services, a separate trust ledger for each principal that shows all amounts received and disbursed in relation to the principal and any unexpended balance in relation to the principal;

(iii) in respect of money held or received on account of strata management services, a separate trust ledger for each principal that shows all amounts received and disbursed in relation to the principal and any unexpended balance in relation to the principal;

(iv) in respect of money held or received on account of remuneration for real estate services, a separate trust ledger for each licensee or other intended recipient that shows all amounts received and disbursed in relation to the recipient and any unexpended balance in relation to the recipient;

(b) a monthly trust liability and asset reconciliation, prepared in a timely fashion but no later than 5 weeks after the end of the month being reconciled,

(i) that lists, for money held by the brokerage as a stakeholder under section 28 *[circumstances in which brokerage holds money as stakeholder]* of the Act, each trade in real estate in relation to which the brokerage holds the trust money and the amount being held in relation to each trade,

(ii) that lists, for money that is not held by the brokerage as a stakeholder, each person for whom the brokerage holds trust money and the amount being held for each person, and

(iii) that reconciles the money held in the trust account with the unexpended balances in the trust ledgers for the account.

Preparation of records after termination

82 After the termination of a service agreement respecting the provision of real estate services, the brokerage must continue to prepare all financial records required under this Part that relate to the services that were provided by the brokerage to the client.

Division 2 – Other Records

General records

83 (1) A brokerage must retain the following records:

(a) written disclosures under section 30 (j) *[conflicts of interest]*, Division 2 *[Disclosures]* of Part 5 *[Relationships with Principals and Parties]* or Part 9 *[Licensee Exemptions]* and any related acknowledgments;

(b) written service agreements and any other records that establish the scope of authority of the brokerage respecting the provision of real estate services to a client;

(c) annual financial reports under section 75 *[annual financial statements, accountant's report and brokerage activity report]*;

(c.1) reports under section 75.1 *[periodic brokerage activity report]*;

(d) notices under section 8.2 *[assignment of contracts for the purchase and sale of real estate]* of the Real Estate Services Regulation.

(2) A brokerage must prepare and retain a list, maintained separately for each fiscal year of the brokerage, of

(a) all trades in real estate in which the brokerage is or was involved during that year,

(b) all rental properties that are or were managed by the brokerage during that year, and

(c) all strata corporations that are or were managed by the brokerage during that year.

[am. B.C. Reg. 260/2023, s. 6.]

Trading records

84 (1) A brokerage must retain the following records with respect to trades in real estate in relation to which it provides trading services:

(a) the contracts for the acquisition or disposition of real estate;

(a.1) the offers for the purchase or sale of real estate, or for the assignment of a contract for the purchase and sale of real estate, that a related licensee of the brokerage has delivered or received on behalf of a party to a trade in real estate;

(b) any accounting statements prepared by or on behalf of the brokerage that are provided to a party by the brokerage in relation to a trade in real estate;

(c) any notices of rescission, referred to in section 42 (1) of the *Property Law Act [residential real estate – right of rescission]*,

(i) that are prepared by or on behalf of the brokerage and served on a seller, or

(ii) that are received by the brokerage.

(2) If a brokerage or a related licensee holds or receives money in relation to a trade in real estate, the brokerage must prepare and retain a record sheet respecting the trade, in a form approved by the superintendent, that includes the following information:

(a) the nature of the trade in real estate;

(b) a description sufficient to identify the real estate involved in the trade in real estate;

(c) a deal number for the purposes of identifying the trade in real estate;

(d) the sale price or other consideration for the trade in real estate;

(e) the name and address of every party to the trade in real estate;

(f) the amount of money received that is required by section 27 *[payment into trust account]* of the Act to be paid into the brokerage's trust account and the details of every disbursement of that money;

(g) the amount of remuneration paid or payable to any licensee or other person, the name of the party paying the remuneration and the name of the person who has received or is to receive it.

[am. B.C. Regs. 176/2022, s. 3; 260/2023, s. 7.]

Records related to referral fees received by a licensee

85 (1) In this section, **"referral fee"** means remuneration referred to in section 56 (1) (b) or (c) *[disclosure of remuneration]*, or a benefit referred to in section 58 *[benefits in relation to rental property management services and strata management services]*, that is received by a licensee.

(2) Subsection (3) applies

(a) when a referral fee is received by a brokerage in relation to trading services and the only trading service provided by the brokerage is the referral of a person to a licensee or a licensee to a person for the purposes of the licensee providing real estate services, or

(b) when a referral fee is received by a brokerage in relation to rental property management services or strata management services.

(3) If a brokerage receives a referral fee, the brokerage must prepare and maintain a record, in a form approved by the superintendent, that includes the following information:

(a) the amount of the referral fee;

(b) the date on which the brokerage received the referral fee;

(c) a description sufficient to identify the activity undertaken by the brokerage or related licensee for which the referral fee was received;

(d) the name of the person who paid the referral fee;

(e) the name of each person to whom any amount of the referral fee is paid and the date of the payment.

Records related to referral fees paid

86 (1) In this section, **"referral fee"** means remuneration paid to any person who refers another person to a licensee, or refers a licensee to another person, for the purposes of the licensee providing real estate services.

(2) Subsection (3) applies

(a) when money is paid by a brokerage in relation to trading services and in the form of a referral fee but not in connection with a trade in real estate for

which records are required to be retained under section 84 (2) *[trading records]*, or

(b) when a referral fee is paid by a brokerage in relation to rental property management services or strata management services.

(3) If a referral fee is paid by a brokerage, the brokerage must prepare and maintain a record, in a form approved by the superintendent, that includes the following information:

(a) the amount of the referral fee;

(b) the date on which the brokerage paid the referral fee;

(c) a description sufficient to identify the purpose for which the referral fee was paid;

(d) the name of the licensee on whose behalf the referral fee was paid;

(e) the name of the person to whom the referral fee was paid.

Rental property management records

87 (1) A brokerage must retain the following records with respect to its rental property management services:

(a) the tenancy agreements or other contracts for the rental of the real estate;

(b) any accounting statements prepared by or on behalf of the brokerage that are provided to clients;

(c) any invoices for expenditures incurred on behalf of clients.

(2) A brokerage that provides rental property management services must prepare and retain a record of

(a) the tenants at each rental property managed by the brokerage, and

(b) the security deposits, pet damage deposits and other deposits paid by each tenant.

(3) If requested by a former client, the brokerage must provide the following records to the former client or, if the former client engages another brokerage to provide rental property management services, to the other brokerage:

(a) financial records referred to in section 80 *[trust account and general account records]* that relate to trust accounts maintained on behalf of the former client;

(b) the records referred to in subsection (1) (a) and (c) of this section, unless those records have already been provided to the former client;

(c) the records referred to in subsection (2) of this section.

(4) The records requested under subsection (3) must be provided by the brokerage on or before the later of the following dates:

(a) the date that is 2 weeks after the date of the request;

(b) the date that is 4 weeks after the date of the termination of rental property management services.

(5) Nothing in subsection (3) relieves the brokerage of its obligation to retain records under section 92 *[retention of records]*.

Strata management records

88 (1) A brokerage must maintain separate books, accounts and other records with respect to each strata corporation to or on behalf of whom the brokerage provides strata management services.

(2) A brokerage must retain the following records with respect to each strata corporation to or on behalf of which the brokerage provides strata management services:

(a) any accounting statements prepared by or on behalf of the brokerage that are provided to the strata corporation;

(b) any invoices for expenditures incurred on behalf of the strata corporation;

(c) any monthly statements provided to the strata corporation under section 77 (8) *[additional rules for strata management trust accounts and investments]*.

(3) If requested by a former client, the brokerage must provide the following records to the former client or, if the former client engages another brokerage to provide strata management services, to the other brokerage:

(a) financial records referred to in section 80 *[trust account and general account records]* that relate to trust accounts maintained on behalf of the former client;

(b) the records referred to in subsection (2) (b) of this section unless those records have already been provided to the former client.

(4) The records requested under subsection (3) must be provided by the brokerage on or before the later of the following dates:

(a) the date that is 2 weeks after the date of the request;

(b) the date that is 4 weeks after the date of the termination of strata management services.

(5) Nothing in this section

(a) relieves the brokerage of its obligation to retain records under section 92 *[retention of records]*, or

(b) limits a brokerage's obligation to ensure that records are given to the strata corporation as required by section 37 (1) *[strata manager to return records]* of the *Strata Property Act*.

Division 3 – General Record-Keeping

Specific obligations not limiting

89 The requirements established by this Part do not limit the requirements of section 25 *[brokerage records]* of the Act.

Records must be kept up to date

90 Records required under Division 1 *[Financial Records]* or 2 *[Other Records]* must be kept up to date.

Electronic records

91 (1) A record required under Division 1 *[Financial Records]* or 2 *[Other Records]* may be retained as an electronic record if the record can be readily transferred to printed form.

(2) A person authorized under the Act to inspect, review or receive a record, may request, for the purpose of inspecting, reviewing or receiving the record, that the record be in printed form.

(3) On receiving a request under subsection (2), a brokerage must promptly transfer the record to printed form.

Retention of records

92 (1) Subject to subsection (2), a brokerage must retain the records required under Division 1 *[Financial Records]* or 2 *[Other Records]* for at least 7 years after their creation unless a shorter period is authorized in writing by the superintendent.

(2) A brokerage must retain the records required under section 87 (1) (a) and (2) *[rental property management records]* for at least 7 years, or any shorter period authorized in writing by the superintendent, after the earlier of

(a) the date on which the tenancy agreement, or the tenancy to which the agreement pertains, ends, and

(b) the date on which the rental property management services agreement, with respect to which the records are being held, ends.

(3) The records referred to in subsections (1) and (2)

(a) may be retained as copies of the original records, and

(b) must be made available at the head office of the brokerage for the purposes of a review under section 74 *[superintendent review of accounts and other records]*.

Brokerage obligations when winding up business

93 A brokerage that ceases to carry on the business of a brokerage must do all of the following:

(a) immediately surrender to the superintendent the brokerage's licences and the licences of all related licensees that are in the possession of the brokerage;

(b) promptly submit to the superintendent a report respecting the winding up, completed in accordance with any requirements specified by the superintendent;

(c) if requested by the superintendent, submit to the superintendent one or more of the financial statements and reports required under section 75 *[annual financial statements, accountant's report and brokerage activity report]* and one or more of the reports required under section 75.1 *[periodic brokerage activity report]*;

(d) as requested by the superintendent, provide to the superintendent

(i) any other financial records of the brokerage, and

(ii) any further information about the business of the brokerage;

(e) arrange for the records referred to in section 92 to be retained for the applicable periods referred to in that section by

(i) another brokerage,

(ii) an accountant, lawyer or notary public, or

(iii) another person acceptable to the superintendent.

[am. B.C. Reg. 260/2023, s. 8.]

Division 4 – Records or Information Provided to Superintendent

Records or information provided on request

93.1 As requested by the superintendent and in accordance with any requirements specified by the superintendent, a licensee must provide to the superintendent records or information, including personal information, in the possession or control of the licensee.

[en. B.C. Reg. 260/2023, s. 9.]

Records or information provided after specified events

93.2 Within a period specified by the superintendent after the occurrence of an event specified by the superintendent, a licensee must provide to the superintendent records or information, including personal information, specified by the superintendent.

[en. B.C. Reg. 260/2023, s. 9.]

PART 9 – LICENSEE EXEMPTIONS

Management of rental real estate owned by licensee

94 (1) This section applies to an individual licensed as a managing broker, associate broker or representative who provides rental property management services on the licensee's own behalf in relation to the licensee's own real estate.

(2) The Act and these rules do not apply to the licensee in relation to the rental property management services if the licensee does all of the following:

(a) provides those services in the licensee's own name and not in the name of the licensee's related brokerage;

(b) refrains, in any real estate advertising with respect to the rental real estate, from indicating the name, address or telephone number of the licensee's related brokerage or of any place where the licensee is engaged in the licensee's capacity as a licensee;

(c) discloses to each potential tenant of the rental real estate, promptly and before the potential tenant enters into a tenancy agreement, that

(i) even though the licensee is licensed under the Act, the licensee is not acting as a licensee in relation to the rental real estate, and

(ii) the licensee is not regulated under the Act in relation to the rental real estate;

(d) discloses in writing to the managing broker of the related brokerage that the licensee will be providing rental property management services on the licensee's own behalf in relation to the licensee's own real estate.

Management of rental real estate owned by licensee's family

95 (1) This section applies to an individual licensed as a managing broker, associate broker or representative who provides rental property management services that

(a) are provided

(i) to or on behalf of the licensee's spouse, family partner, child or parent, in relation to rental real estate owned by that other person,

(ii) to or on behalf of a partnership in relation to real estate owned by the partnership, if the only partners of the partnership are 2 or more of the following individuals:

(A) the licensee;

(B) a spouse or family partner of the licensee;

(C) a child or parent of the licensee, or

(iii) to or on behalf of a corporation of which the only shareholders are one or more of the individuals referred to in subparagraph (ii), and

(b) are not provided for or in expectation of remuneration.

(2) The Act and these rules do not apply to the licensee in relation to the rental property management services if the licensee does all of the following:

(a) complies with the requirements of section 94 (2) (a), (b) and (c);

(b) before providing the services, discloses in writing the matters set out in section 94 (2) (c) (i) and (ii) to

(i) the spouse, family partner, child or parent to or on behalf of whom the licensee is providing the services, or

(ii) in the case of services provided to or on behalf of a partnership or corporation, each spouse, family partner, child or parent who is a partner or shareholder;

(c) provides to the managing broker of the related brokerage,

(i) in the case of services to which paragraph (b) applies, a copy of the written disclosure under that paragraph, or

(ii) in the case of services provided to or on behalf of a corporation of which the only shareholder is the licensee, written disclosure that the licensee will be providing rental property management services to or on behalf of that corporation.

Management of strata corporation by licensee who is an owner

96 (1) The Act and these rules do not apply to an individual licensed as a managing broker, associate broker or representative who is a strata lot owner, in relation to strata management services provided to or on behalf of the strata corporation of which the licensee is a member by reason of being a strata lot owner, if all of the following conditions are met:

(a) the licensee provides strata management services under this section to no more than 2 strata corporations;

(b) the licensee discloses in writing to the strata corporation, before providing the services, that

(i) even though the licensee is licensed under the Act, the licensee is not acting as a licensee in relation to the strata management services,

(ii) the licensee is not regulated under the Act in relation to the strata management services, and

(iii) the strata corporation is not entitled to the same protections under the Act as persons who deal with licensees who are not acting under this subsection;

(c) the licensee provides a copy of the written disclosure under paragraph (b) to the managing broker of the related brokerage;

(d) the licensee does not have sole signing authority for withdrawals of any funds of the strata corporation and does not otherwise have sole authority for expenditures of any funds of the strata corporation;

(e) the strata management services are not provided for or in expectation of remuneration.

(2) Despite subsection (1), on receipt of any strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the *Strata Property Act*, the licensee must promptly deliver the money to the strata corporation.

Acquisition or disposition of real estate by licensee or a spouse or family partner of a licensee

97 (1) This section applies to an individual licensed as a managing broker, associate broker or representative to provide only

(a) rental property management services,

(b) strata management services, or

(c) rental property management services and strata management services.

(2) The Act and these rules do not apply to the licensee in relation to the acquisition of real estate for the use of the licensee or the spouse or family partner of the licensee, or the disposition of real estate owned by the licensee or the spouse or family partner of the licensee, if the licensee does all of the following:

(a) discloses in writing to each potential seller or buyer of the real estate, as the case may be, promptly and before any agreement for the acquisition or disposition is entered into, that

(i) even though the licensee is licensed under the Act, the licensee is not acting as a licensee in relation to the real estate, and

(ii) the licensee is not regulated under the Act in relation to the real estate;

(b) refrains, in any real estate advertising with respect to the real estate, from indicating the name, address or telephone number of the licensee's related brokerage or of any place where the licensee is engaged in the licensee's capacity as a licensee;

(c) refrains from providing any real estate services to the other party, or receiving from the other party any remuneration with respect to real estate services, in relation to the acquisition or disposition of the real estate.

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