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1963, No. 135

An Act to consolidate and amend the law relating to the licensing and the conduct of business of real estate agents
[25 October 1963]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Real Estate Agents Act 1963.

(2) Except as provided in sections 36 and 85 of this Act, this Act shall come into force on the first day of April, nineteen hundred and sixty-four.

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

“Council” means the Council of the Institute:

“Crime involving dishonesty” has the same meaning as in section 2 of the Crimes Act 1961:

“Fidelity Guarantee Fund” or “Fund” means the Real Estate Agents’ Fidelity Guarantee Fund established under section 37 of this Act:

“General manager”, in relation to any company that carries on any other business in addition to its business as a real estate agent, includes the manager of the real estate agency business of the company if the general manager or principal officer of the company is not in charge thereof:

“Institute” means the Real Estate Institute of New Zealand Incorporated:

“Land” includes all estates and interests, whether freehold or chattel, in real property; and also includes any building and any part of a building; and, in relation to any transaction relating to land that also relates to any goods, chattels, or other property, also includes those goods or chattels and that other property:

“Licence” means a real estate agent’s licence issued under this Act; and “licensee” and “licensed” have corresponding meanings:

“Minister” means the Minister of Justice:

“Year” means a period of twelve months commencing on the first day of April.

(2) In this Act, unless the context otherwise requires, every reference to a real estate agent which by its context relates to an individual shall, with the necessary modifications, apply with respect to a company carrying on business as a real estate agent.

Cf. 1953, No. 86, s. 2 (4); 1956, No. 54, s. 2

3. Meaning of “real estate agent”—(1) For the purposes of this Act, every person shall be deemed to be a real estate agent who acts, or who holds himself out to the public as ready to act, for reward as an agent in respect of the sale or

other disposal of land or of businesses (either with or without any interest in land) or the purchase or other acquisition of land or of businesses (either with or without any interest in land), or in respect of the leasing or letting of land, notwithstanding that he may carry on any other business either in conjunction with the business of a real estate agent or separately therefrom:

Provided that—

- (a) A solicitor shall not be deemed to be a real estate agent for the purposes of this Act by reason merely of the fact that he may, in connection with his business as a solicitor, act as agent in respect of the sale or purchase or other disposal or acquisition of land, unless he is remunerated for so acting by a commission in addition to or instead of his professional charges:
 - (b) A person who sells or offers to sell any land by auction shall not, by reason of that fact, be deemed to be a real estate agent for the purposes of this Act.
- (2) Where two or more persons carry on business jointly as real estate agents, each of those persons shall be deemed to be a real estate agent.

Cf. 1953, No. 86, s. 2 (1)–(3)

PART I

LICENSING OF REAL ESTATE AGENTS

4. Real estate agents to be licensed—(1) No person shall carry on business as a real estate agent unless he is the holder of a real estate agent's licence:

Provided that where two or more persons carry on business in partnership as real estate agents it shall be sufficient compliance with this subsection if one of those persons is the holder of a licence.

(2) A barrister or solicitor while in practice as a barrister or solicitor shall not be the holder of a licence.

Cf. 1953, No. 86, s. 3

5. Application for licence—(1) Every person who desires to obtain a real estate agent's licence shall make application for the licence in the prescribed form.

(2) An application under this section shall be filed in the Magistrate's Court nearest by the most convenient route to the place named in the application as the place of business or principal place of business of the applicant.

(3) Every such application shall state the place or places of business of the applicant. Where the applicant has or proposes to have two or more places of business, he shall specify in his application which of those places of business is his principal place of business. The application shall also contain such other particulars as may be prescribed.

(4) The applicant for a licence shall, not later than twenty-one clear days before the date fixed for the hearing of the application, serve on the Secretary of the Institute a copy of his application, together with a copy of every testimonial or other document (not being a document relating to the financial position of the applicant) filed in connection therewith, and the Institute shall be entitled to appear and be heard at the hearing of the application.

Cf. 1953, No. 86, s. 4

6. Applicants to give security by approved bond—(1) With every application for the grant of a licence there shall be filed in the Magistrate's Court an approved fidelity bond to Her Majesty the Queen in the sum of ten thousand pounds conditioned to secure the fidelity of the applicant:

Provided that in the case of an application by persons carrying on business as real estate agents in partnership it shall be sufficient if one bond is filed conditioned to secure the fidelity of each of the partners in the firm.

(2) Every such bond shall be in the form in the First Schedule to this Act or to the like effect.

(3) The sum of ten thousand pounds named in a fidelity bond under this section shall not be deemed to be a penalty, but shall be liquidated damages, and shall accordingly be recoverable in full as a debt due by the surety or sureties to Her Majesty the Queen unless the surety or sureties perform every condition upon which the bond is defeasible.

(4) Every sum so recovered shall be paid into the Public Account to the credit of the Trust Account, and the residue, after the deduction of costs and other expenses, may, with the approval of the Minister of Finance, and without further appropriation than this Act, be applied—

(a) In compensating any client or customer of the real estate agent or other person for any loss sustained by reason of the defaults or omissions of the real estate agent, his servant, or agent, and any person with whom he is carrying on in partnership the business of a real estate agent; and

(b) In refunding to the surety or sureties any balance left after payment of that compensation.

(5) This section, section 7 of this Act, and the First Schedule to this Act shall be deemed to be repealed on the date appointed, pursuant to section 36 of this Act, for the commencement of sections 49 to 54 of this Act:

Provided that the repeal of this section shall not affect the liability of any surety under any bond in respect of any act or omission of the licensee occurring before the date of the repeal, and the provisions of subsection (4) of this section shall continue to apply with respect to every sum of money recovered under any bond, whether before or after the date of the repeal.

Cf. 1953, No. 86, s. 5; 1959, No. 71, s. 2; 1961, No. 74, s. 2 (1)

7. Fidelity bond may enure so as to apply to renewals of licence—(1) A fidelity bond given under this Act or under the Land Agents Act 1953 may, if so provided therein, enure not only during the term of the licence in respect of which it is originally given, but during the term of any licence to the same person issued under this Act in renewal of a licence.

(2) If a fidelity bond is so given as to enure in respect of the renewal or further renewal of a licence, it shall be lawful for the surety or sureties, by notice in writing addressed to the Registrar of the Magistrate's Court, at any time before the issue of a licence in renewal, to determine his or their liability under the bond in respect of any act or default that may be done or made after the thirty-first day of March next following the date of the notice, and in any such case the Magistrate shall not issue a licence in renewal until another approved bond has been lodged by the applicant.

Cf. 1953, No. 86, s. 6

8. Notice of application for licence, and provisions as to objections—(1) Notice in the prescribed form of every application for a licence shall be published by the applicant twice at least at intervals of not more than fourteen days in some newspaper to be approved for the purpose by the Registrar of the Magistrate's Court in which the application is filed, and the application for the licence shall not be heard before the expiry of one month after the first publication of that notice.

(2) Any person who objects to the issue of a licence under this Act may, within one month after the first publication of the notice of application pursuant to subsection (1) of this section, file in the Magistrate's Court in which the application for a licence is filed a notice in the prescribed form of his objection to the application and of the grounds thereof.

(3) No such objection shall be considered except to the extent that the grounds thereof affect the character or fitness or financial position of the applicant, or, in the case of an application by a member of a firm, the character or fitness or financial position of the partners, or, in the case of an application by a company, the financial position of the company or the character or fitness of the directors or of the general manager or any other responsible officer of the company, or, in the case of any application, the character or fitness of any salesman intended to be employed by the applicant.

Cf. 1953, No. 86, s. 7; 1956, No. 54, s. 3 (1)

9. Hearing of application—Every application for a licence and the objections thereto (if any) shall be heard by a Magistrate exercising jurisdiction in the Court in which the application is filed; and the Magistrate, if he is satisfied that the provisions of this Act have been complied with, and that the applicant is a proper person to be the holder of a licence to carry on business as a real estate agent, shall make an order granting a licence to the applicant, and the Registrar shall, on payment of the prescribed fee, issue to the applicant a licence in the prescribed form.

Cf. 1953, No. 86, s. 8

10. Magistrate to require evidence as to character, fitness, and financial position—(1) Before granting an application for a licence to carry on business as a real estate agent, the Magistrate shall require the production of sufficient evidence to satisfy him that the character, fitness, and financial position of the applicant are such that he is, in the opinion of the Magistrate, having regard to the interests of the public, a proper person to carry on business as a real estate agent.

(2) Where application for a licence is made by a person carrying on or proposing to carry on business as a real estate agent in partnership with any other person, the Magistrate shall require the production of evidence as to the character, fitness, and financial position of each of the partners.

(3) Where application for a licence is made by a company, the Magistrate shall, unless in the circumstances he otherwise decides, require the production of evidence as to the financial position of the company, and as to the character and fitness of the directors and general manager, and of such other responsible officers of the company as the Magistrate thinks fit.

(4) In deciding under this section as to the fitness of any person, the Magistrate shall require to be satisfied that that person has passed the examination prescribed by the rules of the Institute to be passed by persons intending to apply for a licence and has had at least two years' practical experience in real estate agency work as an employee of the holder of a licence as a land agent or real estate agent during the period of three years immediately before the making of the application:

Provided that—

- (a) The Magistrate may, in his discretion, dispense with any of the foregoing provisions of this subsection, if he is satisfied that the general knowledge, judgment, and business experience of the person whose fitness is to be determined are such that the Magistrate is justified in granting the dispensation; and
- (b) Nothing in the foregoing provisions of this subsection shall apply in any case where the person whose fitness is to be determined was immediately before the commencement of this Act the holder, or a partner of the holder, of a licence as a land agent under the Land Agents Act 1953 or, where the applicant for a licence is a company holding such a licence, was a director or general manager or other responsible officer of the company.

Cf. 1953, No. 86, s. 9 (1)–(3), (3A); 1956, No. 54, s. 4

11. Licensee to carry on business under own name, unless Magistrate otherwise approves—(1) No licensee shall carry on business as a real estate agent under any name that is not his own name or the name of his partner in the business or, in the case of a company, the name of the company, unless that name has first been approved by a Magistrate; and the Magistrate shall refuse to approve any name if he considers that the proposed name is that of a person whose licence has been cancelled under section 23 of this Act or the corresponding provisions of any former Act, or whose

application for a licence has been refused under this Act or any former Act, or who is disqualified from holding a licence.

(2) Every person who commits a breach of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 9 (4), (5)

12. Disqualification of applicants—(1) No licence shall be issued to any person who—

(a) Is under the age of twenty-one years; or

(b) Is a bankrupt who has not obtained his order of discharge or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled.

(2) No person shall become or act as a director or the principal officer of any company holding a real estate agent's licence who is disqualified from obtaining a licence under paragraph (a) or paragraph (b) of subsection (1) of this section.

(3) Every person who commits a breach of subsection (2) of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 10

13. Salesmen employed by real estate agents—(1) Every application for the grant of a licence shall specify the names of the persons whom the applicant intends to employ as salesmen in his business as a real estate agent, and shall be accompanied by an application by the applicant in the prescribed form for a certificate of approval as a real estate salesman in respect of each of the salesmen so specified.

(2) Any licensed real estate agent may at any time during the year in respect of which his licence was granted apply in the prescribed form to a Magistrate exercising jurisdiction in the Magistrate's Court in which his licence was granted for a certificate of approval as a real estate salesman in respect of any person whom he intends to employ as a salesman in his business as a real estate agent.

(3) A copy of every application for a certificate of approval of any person as a real estate salesman shall be sent by the applicant to the Secretary of the Institute not later than ten clear days before the date fixed for the hearing of the application, and the Institute shall be entitled to appear and be heard at the hearing of the application.

(4) If the Magistrate is satisfied that the character and fitness of any person in respect of whom an application for a certificate of approval as a real estate salesman is made under this section is such that, having regard to the interests of the public, he is a proper person to be employed as a salesman by a real estate agent, he shall make an order granting the certificate, and the Registrar shall, on payment of the prescribed fee, issue in respect of that person a certificate of approval in the prescribed form.

(5) Every such certificate of approval shall, unless sooner cancelled under this section, continue in force until the expiration of the year in respect of which it is issued, whether or not the salesman continues to be employed by the real estate agent on whose application it was issued.

(6) In the absence of any objection to an application for the renewal of a certificate of approval as a real estate salesman, the Registrar of the Court may, on payment of the prescribed fee, issue a renewal of any such certificate of approval without further inquiry as to the character and fitness of the person to whom the application relates.

(7) Every person commits an offence who—

(a) Being a licensed real estate agent, employs as a salesman in his business as such for more than fourteen days any person in respect of whom a certificate of approval as a real estate salesman is not for the time being in force; or

(b) Not being the holder of a certificate of approval as a real estate salesman, acts for more than fourteen days as such a salesman.

(8) A certificate of approval of any person as a real estate salesman may be cancelled if that person is convicted, whether summarily or on indictment, of any offence involving moral turpitude or any crime involving dishonesty.

(9) The Court before which any person holding a certificate of approval as a real estate salesman is convicted of any such offence may of its own motion cancel that certificate.

(10) Application for the cancellation of a certificate of approval as a real estate salesman on any ground specified in subsection (8) of this section or on the ground that he is no longer a proper person to be employed as a real estate salesman may be made by any person, and shall be made by filing the application in the Magistrate's Court nearest by the most convenient route to the place of business or the principal place of business of the licensee by whom the salesman is employed

or was last employed, and thereupon any Magistrate exercising jurisdiction in that Court shall have power to hear the application and to cancel the certificate.

14. Effect of licence—(1) A licence shall authorise the licensee to act as a real estate agent in any part of New Zealand during the currency of the licence:

Provided that it shall not be lawful for a real estate agent to carry on business as such at any place of business not specified in his licence, unless he has first given to the Registrar of the Magistrate's Court in which the licence was granted notice of his intention to carry on business at that place, and has paid such additional fee (if any) in respect of that place of business as may be prescribed.

(2) Every person who commits a breach of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 11

15. Duration of licence—Every licence shall, unless it is sooner cancelled or the real estate agent is sooner suspended in accordance with this Act, continue in force until the expiration of the year in respect of which it is issued, and may from time to time be renewed for the period ending with the thirty-first of March next after the date on which the renewal takes effect.

Cf. 1953, No. 86, s. 12

16. Renewal of licence—(1) Application for the renewal of a licence may be made not earlier than the first day of January and not later than the last day of February preceding the date of the expiry of the licence, and shall be filed by the applicant in the same manner as if it were an application for the grant of a licence, and shall be accompanied by an application for a certificate of approval, or, as the case may be, an application for renewal of a certificate of approval, in respect of each person whom the applicant intends to employ as a salesman in his business as a real estate agent.

(2) The applicant for renewal of a licence shall send a copy of his application to the Secretary of the Institute so as to reach him before the first day of March in the year in which the application is filed.

(3) Every person who objects to the renewal of a licence may, at any time before the seventh day of March in any year, file in the Magistrate's Court in which application for

the renewal of the licence has been filed a notice in the prescribed form of his objection to the application and of the grounds thereof.

(4) No such objection shall be considered except to the extent that the grounds thereof affect the character or fitness or financial position of the applicant, or, in the case of an application by a person carrying on business as a real estate agent in partnership with any other person, the character or fitness or financial position of any of the partners, or, in the case of an application by a company, the financial position of the company or the character or fitness of the directors or of the general manager or any other responsible officer of the company, or in the case of any application, the character or fitness of any salesman intended to be employed by the applicant.

(5) Where any objection is lodged to the renewal of a licence, the Magistrate shall hear and determine the application for renewal in the same manner as if it were an application for the issue of a licence.

(6) In the absence of any objection to an application for the renewal of a licence, the Registrar of the Court may, on payment of the prescribed fee, grant a renewal without further inquiry as to the fitness of the applicant to carry on the business of a real estate agent.

(7) The Magistrate may, in his discretion, hear and determine any application for the renewal of a licence, or any objection to any such renewal, notwithstanding that the application or objection may not have been filed within the times limited by this section in that behalf, provided the application was filed not later than the thirty-first day of March.

(8) If application for the renewal of a licence has been filed, but is not determined on or before the thirty-first day of March in any year, the licence shall, notwithstanding anything to the contrary in this Act, but, while section 6 of this Act continues in force, provided an approved fidelity bond is for the time being in force, be deemed to be extended until the application is disposed of by a Magistrate in accordance with this Act.

Cf. 1953, No. 86, s. 13; 1956, No. 54, s. 3 (2)

17. Magistrate may award costs—On the hearing of any application for a licence or for the renewal of a licence, the Magistrate shall, if any objection to the application has been filed, have jurisdiction to determine what costs (if any) shall be paid to or by the objector or the applicant respectively,

and to adjudge that those costs be paid, and those costs shall be recoverable accordingly as a final judgment of the Magistrate's Court.

Cf. 1953, No. 86, s. 14

18. Apportionment of licence fees—(1) There may from time to time, without further appropriation than this section, be paid into the Fidelity Guarantee Fund from every fee paid on the issue or renewal of a licence (not being a temporary licence) such amount as the Governor-General prescribes from time to time by Order in Council.

(2) The balance of every such fee shall be paid into the Public Account to the credit of the Consolidated Revenue Account.

(3) No payments shall be made to the Fidelity Guarantee Fund under this section after the date on which the amount of that Fund, including any investments thereof, and after deducting the amount of all unpaid claims and other liabilities outstanding against the Fund, first reaches seventy-five thousand pounds. The Secretary of the Institute shall, forthwith after the amount of the Fund first reaches that amount, give notice in writing thereof to the Secretary for Justice.

Cf. 1953, No. 86, s. 30

19. Transfer of licence—(1) Any person, being—

(a) The licensee; or

(b) In the case of a licensee whose estate the Public Trustee is authorised to administer under the Mental Health Act 1911, or of whose estate the Public Trustee or any other person has been appointed the committee under that Act, the Public Trustee or, as the case may be, the committee of the estate of the licensee; or

(c) In the case of a licensee in respect of whom a protection order is in force under the Aged and Infirm Persons Protection Act 1912, the manager of his estate; or

(d) The personal representative of a deceased licensee; or

(e) The assignee in bankruptcy of a licensee who has been adjudged a bankrupt; or

(f) The liquidator of a company which is a licensee,—

may, on payment of the prescribed fee, transfer the licence to any person approved by a Magistrate in that behalf.

(2) Every application for approval of a transfer under this section shall be filed and advertised, a copy of the application

and of testimonials and other documents shall be sent to the Secretary of the Institute, objections may be received, and the application and objections (if any) shall be heard and determined in all respects as if the application for approval were an application for the grant of a licence.

Cf. 1953, No. 86, s. 15

20. Temporary licence—(1) Any person, being—

- (a) In the case of a licensee whose estate the Public Trustee is authorised to administer under the Mental Health Act 1911 or of whose estate the Public Trustee or any other person has been appointed the committee under that Act, the Public Trustee or, as the case may be, the committee of the estate of the licensee; or
- (b) In the case of a licensee in respect of whom a protection order is in force under the Aged and Infirm Persons Protection Act 1912, the manager of his estate; or
- (c) The personal representative of a deceased licensee,—may, with the consent of a Magistrate, carry on or appoint some other person to carry on the business as a real estate agent of the licensee for such period as the Magistrate determines, subject, while section 6 of this Act continues in force, to the person carrying on the business (not being the Public Trustee or the holder of a licence) filing an approved fidelity bond under that section as if he were an applicant for a licence.

(2) While any person carries on any business pursuant to subsection (1) of this section he shall, for the purposes of this Act, be deemed to be the holder of the licence.

Cf. 1953, No. 86, s. 16

21. Licensee not to enter into partnership without Magistrate's consent—(1) No licensee shall, after the issue of his licence, enter into any partnership with any person in respect of his business as a real estate agent without the prior consent of a Magistrate; and the Magistrate shall refuse to grant that consent unless he is satisfied as to the character and fitness and financial position of the proposed partner.

(2) Where a company registered under the Companies Act 1955 as a private company is a licensee under this Act, no person who is not at the date of the issue of the licence or, as the case may be, at the date of the last renewal of the licence a director or the general manager or other principal officer of the company shall act as a director or the general

manager or other principal officer of the company for a period of more than fourteen days without the prior consent of a Magistrate; and the Magistrate shall refuse to grant that consent unless he is satisfied as to the character and fitness of that person.

(3) The provisions of subsection (4) of section 10 of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to an application for consent under this section as if it were an application for a licence.

(4) Every person who commits a breach of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 17; 1955, No. 72, s. 2 (1), (2); 1956, No. 54, s. 5

22. Holding out as real estate agent without licence—

(1) Every person, not being the holder of a licence or the partner of the holder of a licence, commits an offence and is liable to a fine not exceeding two hundred pounds who describes himself in writing or holds himself out as a real estate agent, or carries on business as a real estate agent, and shall be liable to forfeit to Her Majesty the Queen all money received by him by way of remuneration for any services or work performed by him as a real estate agent.

(2) All money forfeited to Her Majesty under subsection (1) of this section shall be recoverable at the suit of Her Majesty in any Court of competent jurisdiction, or the Court by which the defendant is convicted may assess the amount thereof and order the defendant to pay that amount to Her Majesty.

Cf. 1953, No. 86, s. 26

23. Cancellation of licence or suspension of real estate agent—(1) A licence may be cancelled or a real estate agent may be suspended from carrying on business as such on any of the grounds following, namely:

- (a) If the licensee or any partner of the licensee or, where the licensee is a company, any director or the general manager or other principal officer of the company has been convicted of any crime involving dishonesty;
or
- (b) If the licensee or any partner of the licensee or, where the licensee is a company, any director or the general manager or other principal officer of the company

has been guilty of misconduct in his professional capacity, and by reason thereof the real estate agent is, in the opinion of the Court or Magistrate, not a proper person to carry on business as a real estate agent; or

- (c) If the licensee or any partner of the licensee or, where the licensee is a company, any director or the general manager or other principal officer of the company is convicted, whether summarily or on indictment, of any offence involving moral turpitude or has otherwise been guilty of grave impropriety or infamous conduct, and by reason thereof the real estate agent is, in the opinion of the Court or Magistrate, not a proper person to carry on business as a real estate agent; or
- (d) If the licensee or any partner of the licensee is adjudged bankrupt or makes any assignment for the benefit of his creditors or makes any composition with his creditors; or
- (e) In the case of a licence issued to a company, if any director or the general manager or other principal officer of the company is adjudged bankrupt or makes any assignment for the benefit of his creditors or makes any composition with his creditors, or if the Supreme Court makes an order for the winding up of the company or the company passes a resolution for voluntary winding up.

(2) The Court before which any person is convicted of any crime or offence may of its own motion cancel his licence or, as the case may be, the licence of his partner or the licence of any company of which he is a director or the general manager or other principal officer, or suspend him, or, as the case may be, the company of which he is a director or the general manager or other principal officer, from carrying on business as a real estate agent in any case where the conviction is a ground for the cancellation or suspension.

(3) Application for the cancellation of a licence on any of the grounds aforesaid may be made by any person.

(4) Application for the suspension of a real estate agent on any of the grounds aforesaid may be made only by the Institute or by the Disciplinary Committee after an inquiry held under section 62 of this Act.

(5) Application for the cancellation of a licence or the suspension of a real estate agent shall be made by filing the application in the Magistrate's Court nearest by the most

convenient route to the place of business or principal place of business of the licensee, and thereupon any Magistrate exercising jurisdiction in that Court shall have power to hear the application and to cancel the licence, or, as the case may be, to suspend the real estate agent from carrying on business as such for such period, not exceeding two years, as the Magistrate thinks fit.

(6) On any application for the cancellation of a licence, the Magistrate may make an order of suspension, whether or not the application is made by the Institute or by the Disciplinary Committee.

(7) While any order of suspension continues in force, the licence of the real estate agent or of his partner, as the case may be, shall cease to have effect, and the licence shall not be renewed and a new licence shall not be granted to the real estate agent suspended.

(8) Any order of suspension made under this section may, on application by the real estate agent filed in the Magistrate's Court in which the order was made, be varied or revoked by any Magistrate exercising jurisdiction in that Court.

Cf. 1953, No. 86, s. 24; 1955, No. 72, s. 2 (3); 1961, No. 74, s. 3 (2)

24. Evidence in proceedings for cancellation of licence or suspension of real estate agent—(1) For the purposes of section 23 of this Act, a certificate containing the substance of the conviction of any person of any crime or offence mentioned in paragraph (a) or paragraph (c) of subsection (1) of that section purporting to be signed by the Registrar of the Court or other officer having the custody of the records of the Court by which the offender was convicted shall be sufficient evidence of that conviction without proof of the signature or official character of the person appearing to have signed the certificate.

(2) On any application under section 23 of this Act for the cancellation of any licence or the suspension of any real estate agent, any statement in writing signed by the Chairman of the Disciplinary Committee and by the real estate agent or his solicitor or counsel setting out any facts admitted as having been proved at any inquiry held under section 62 of this Act shall be admissible as evidence of those facts.

PART II

DUTIES OF REAL ESTATE AGENTS

Registered Office

25. Real estate agent to have registered office—(1) Subject to the provisions of this section as to changing the registered office of a real estate agent, the place of business of a real estate agent mentioned in his application for a licence, or, where a real estate agent has two or more places of business, his principal place of business, shall be deemed to be the registered office of the real estate agent.

(2) Any summons, notice, order, or other document required to be served upon a real estate agent may be served by leaving the same at his registered office or by sending it through the post in a prepaid and registered letter addressed to the real estate agent at that office.

(3) A real estate agent may, by notice in writing filed in the Magistrate's Court in which his licence was granted, change his registered office to any other place of business in which he is licensed to carry on business as a real estate agent.

(4) No person other than the holder or partner of the holder of a licence or, where the licensee is a company, a director or responsible officer of the company shall be in control of the real estate agency business at an office or place of business of a real estate agent.

(5) Every real estate agent commits an offence against this Act if he permits any person other than a person specified in subsection (4) of this section to be in control of the real estate agency business at an office or place of business of the real estate agent.

Cf. 1953, No. 86, s. 18

26. Real estate agent to display notice on registered office, and on notices, etc.—(1) Every licensed real estate agent shall exhibit and keep exhibited in a prominent place on his registered office, and on every branch office in which the business of a real estate agent is conducted, so as to be easily read from outside that office, a notice of his name and of the fact that he is licensed as a real estate agent, together with the name or style under which he carries on business as a real estate agent, if the business is not carried on in his own name.

(2) The information required by subsection (1) of this section to be specified in the notice referred to in that subsection shall also be clearly shown on all notices, advertisements, and other publications issued by the licensee and in all letters, accounts, agreements and other documents sent out, entered into, or published by or on behalf of the licensee in or in the course of or in connection with his business as a real estate agent:

Provided that the requirements of this subsection shall not apply to hoardings or other signs erected on any land advertised by the real estate agent as being for sale or to let or lease.

(3) It shall be deemed a sufficient compliance with the provisions of this section requiring a real estate agent to exhibit on his registered office and on every branch office and to show on any document the fact that he is licensed as a real estate agent, if he exhibits on that office or shows on that document a statement indicating that he is a member of the Institute.

(4) Every person who commits a breach of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 19; 1956, No. 54, s. 6

Receipt of Money and Audit of Accounts

27. Duty of real estate agent with respect to money received in course of business—(1) Subject to the provisions of subsection (4) of this section, all money received by a real estate agent in respect of any transaction in his capacity as a real estate agent shall be paid to the person lawfully entitled thereto or as that person may in writing direct:

Provided that where the real estate agent is in doubt on reasonable grounds as to the person who is lawfully entitled to any such money, he may retain that money in his trust account until the person lawfully entitled thereto has been ascertained, but shall take all reasonable steps to ascertain as soon as practicable the person so entitled.

(2) Pending the payment of any money as aforesaid, it shall be paid by the real estate agent into a general or separate trust account at any bank carrying on business in New Zealand under the authority of any Act, and, subject to the provisions of subsection (4) of this section, shall not be drawn therefrom save for the purpose of paying it to the person entitled as aforesaid or as that person may in writing direct.

(3) No such money shall be available for payment of the debts of the real estate agent to any other creditor of the real estate agent, nor shall it be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor.

(4) Nothing in this section shall be construed as to take away or affect any just lien or claim which the real estate agent may have on or in respect of any money so received by him.

(5) For the purposes of this section and of sections 28 to 31 of this Act and of any regulations under this Act relating to the audit of the trust accounts of real estate agents,—

(a) Any money received by any real estate agent by way of rent from the letting of any land and any principal or interest received by any real estate agent arising out of any transaction affecting land shall be deemed to be money received by him in his capacity as a real estate agent:

(b) Any insurance premiums received by a real estate agent on behalf of an insurance company and any other money received by a real estate agent in the course of any agency business conducted by him in conjunction with his business as a real estate agent shall be deemed not to be money received by him in his capacity as a real estate agent.

(6) Every person who commits a breach of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 20; 1955, No. 72, s. 3

28. Real estate agents' trust accounts to be audited—

(1) Every general or particular trust account of a real estate agent shall be audited at the times and in the manner prescribed by regulations under this Act.

(2) Every real estate agent commits an offence who fails to appoint an auditor within the time prescribed, or who fails to comply with the provisions of any regulations relating to the audit of real estate agents' trust accounts.

(3) All information obtained by an auditor in the course of the audit of any trust account under this Act shall be treated as confidential, subject only to such rights of publication as may be prescribed in furtherance of the proper purposes of the audit.

Cf. 1953, No. 86, ss. 20A, 31 (2); 1961, No. 74, s. 3 (1)

29. Real estate agent to furnish account to principal—

(1) Forthwith on the demand of the person for whom he has acted as agent, or if no such demand is made, then within twenty-eight days after the receipt by him of any money in respect of the sale, lease, or other disposal of land, or in respect of any other transaction in his capacity as a real estate agent, every real estate agent shall render to the person lawfully entitled thereto an account in writing, setting forth particulars of all such money, and as to the application thereof:

Provided that—

- (a) It shall be deemed sufficient compliance with the provisions of this section in respect of rent or interest collected by a real estate agent if he renders an account to the person lawfully entitled thereto at intervals of one month or at such longer intervals as that person may in writing approve:
- (b) Where a real estate agent is in doubt on reasonable grounds as to the person who is lawfully entitled to any such money, he shall not be required to render an account under this subsection until the person lawfully entitled thereto has been ascertained, but he shall take all reasonable steps to ascertain as soon as practicable the person so entitled.

(2) If any real estate agent refuses or for a period of seven days after demand neglects or fails to render an account as aforesaid, or, in the absence of a demand, neglects or fails to render an account within the period of twenty-eight days aforesaid, he commits an offence against this Act.

(3) Subject to the provisions of section 30 and to the proviso to subsection (1) of section 27 of this Act, where any real estate agent who is required pursuant to the last-mentioned subsection to pay any money received by him to the person lawfully entitled thereto refuses or for a period of ten days after demand fails to pay that money to that person or as that person directs, he commits an offence against this Act.

Cf. 1953, No. 86, s. 21 (1)–(3); 1955, No. 72, s. 3 (2)
(a)

30. Money to be held by real estate agent for ten days—

(1) Except in pursuance of an order of a Court of competent jurisdiction or an authority signed by all the parties to the transaction, where a real estate agent receives any money in respect of any transaction, he shall not pay that money to any person for a period of ten days after the date

on which he received it; and, if at any time while he holds any money on behalf of any party to the transaction he receives written notice of any requisitions or objections in respect of the title to any land affected by the transaction, he shall not at any time pay that money to any person except in pursuance of such an order or authority as aforesaid:

(2) Every person who commits a breach of subsection (1) of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 21 (4), (5); 1955, No. 72, s. 3 (2) (b)

31. Rendering false account—Every person is liable on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine not exceeding five hundred pounds who renders an account purporting to be an account of any money received by him in his capacity as a real estate agent, knowing the same to be false in any material particular.

Cf. 1953, No. 86, s. 22; 1957, No. 87, s. 214 (1)

PART III

THE REAL ESTATE INSTITUTE OF NEW ZEALAND INCORPORATED

32. Licensed real estate agents to be members of Institute—

(1) Every real estate agent holding a licence for the time being in force and every partner of every such real estate agent shall be a member of the Institute, whether or not he applies for membership thereof.

(2) Every member of the Institute who ceases to hold a licence for the time being in force or to be a partner of a real estate agent holding a licence for the time being in force shall thereupon cease to be a member of the Institute, unless he retains his membership in accordance with the rules of the Institute.

(3) Notwithstanding anything in the foregoing provisions of this section, where a licensed real estate agent is a company, such of the directors or officers of the company as the rules of the Institute provide shall be members of the Institute.

33. Exempting from membership of the Institute licensed real estate agents with conscientious objections to membership—(1) Notwithstanding anything in section 32 of this Act, where any licensed real estate agent satisfies a Magistrate exercising jurisdiction in the Court in which the licence of the real estate agent was granted that he has a conscientious

objection to becoming a member of the Institute, the Magistrate may exempt him from membership of the Institute, subject to such conditions as the Magistrate may impose; and, while any such exemption continues and all conditions governing the exemption are complied with, the person who is granted the exemption shall not be a member of the Institute.

(2) Every real estate agent who is for the time being so exempted from membership of the Institute shall from time to time pay to the Institute the fees or other payments, annual or otherwise, that he would be required to pay to the Institute if he were a member of the Institute.

(3) If any fee or other payment payable to the Institute by a real estate agent under subsection (2) of this section is not paid within four months after it is due, the Council may apply to a Magistrate exercising jurisdiction in the Court in which the licence of the real estate agent was granted for an order for the suspension of that licence, and the Magistrate may make an order accordingly. While a licence is suspended under this subsection, the real estate agent shall be deemed not to be licensed.

(4) If any person whose licence is suspended under this section pays all such fees and other payments, the suspension of his licence shall be deemed to be cancelled.

(5) All the provisions of this Act and of the rules and code of ethics of the Institute relating to the discipline of members of the Institute, all the decisions of the Institute regulating the charges that may be made by real estate agents for work as such, and all other provisions which are not inconsistent with the express provisions of this section shall apply with respect to every person exempted from membership of the Institute under this section as if he were a member of the Institute.

34. Improper use of words, initials, etc., implying membership of Institute—Every person commits an offence against this Act who, not being a member of the Institute, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials, which are intended to cause or may reasonably cause any person to believe that he is a member of the Institute.

Cf. 1953, No. 86, s. 27

35. Rules of Institute—(1) The Institute may from time to time make rules (not inconsistent with this Act) for all or any of the following purposes:

(a) For the regulation and good government of the Institute and of the members and affairs thereof:

- (b) Providing for the qualifications for membership of the Institute, and for different classes of members:
 - (c) Providing for the creation of districts and for the constitution, election, and tenure of office of the Council, and the filling of extraordinary vacancies thereon:
 - (d) Regulating the election of the President and Vice-Presidents of the Institute, and the filling of extraordinary vacancies in those offices:
 - (e) Providing for the constitution of branches of the Institute:
 - (f) Regulating the audit of the accounts of the Institute and the appointment of auditors, and prescribing their qualifications:
 - (g) Providing for and regulating the granting of certificates of membership:
 - (h) Prescribing the examination to be passed by persons intending to apply for a licence in matters relating to the duties, obligations, and conduct of real estate agents, and providing for the appointment of examiners, and regulating the conduct of examinations:
 - (i) Regulating the retention as members of the Institute of persons who are not holders of licences:
 - (j) Providing for the convening of ordinary and special meetings of the Institute and of the Council, and regulating the quorum, the representation of members, and the procedure thereat:
 - (k) Providing for the conferring of fellowships, honorary memberships, and other distinctions:
 - (l) Prescribing the fees or other payments, annual or otherwise, to be paid by members of the Institute, not being licence fees or payments to be made into the Fidelity Guarantee Fund:
 - (m) Prescribing a code of ethics for regulating the professional conduct of members of the Institute:
 - (n) Prescribing the manner in which a scale of charges may be fixed for work done by real estate agents as such:
 - (o) Imposing fines not exceeding ten pounds upon any member of the Institute for the breach of any rule of the Institute:
 - (p) Generally for carrying into full effect the objects for which the Institute is formed.
- (2) The subject-matter and syllabus of any examinations conducted by the Institute shall be such as the Governor-General, by Order in Council, approves from time to time.

(3) Any fine imposed upon any member under any rule shall be deemed to be a debt due from the member to the Institute, and shall be recoverable accordingly.

(4) No rules made under this section shall come into force unless and until they are approved by the Minister.

(5) The rules of the Institute in force at the commencement of this Act, as far as they are applicable and are not inconsistent with this Act, shall continue in force as if they had been made under this section and approved by the Minister:

Provided that those rules, unless they are sooner revoked, shall be deemed to have been revoked on the first day of January, nineteen hundred and sixty-five, unless they have been approved by the Minister before that date.

PART IV

REAL ESTATE AGENTS' FIDELITY GUARANTEE FUND

36. Commencement of sections 49 to 54—(1) Sections 49 to 54 of this Act shall come into force on the date to be appointed for the commencement thereof by the Governor-General, by Order in Council.

(2) No such Order in Council shall be made unless the Governor-General is satisfied that the amount of the Fidelity Guarantee Fund, including any investments thereof and after deducting the amount of all liabilities of the Fund, is not less than thirty thousand pounds.

37. Real Estate Agents' Fidelity Guarantee Fund—

(1) There is hereby established a fund to be known as the Real Estate Agents' Fidelity Guarantee Fund.

(2) The Fund shall be the property of the Institute, and shall be held in trust for the purposes specified in this Part of this Act.

38. Separate bank account—All money belonging to the Fund shall, pending the investment or application thereof in accordance with this Part of this Act, be paid into a bank to the credit of a separate account to be called the Real Estate Agents' Fidelity Guarantee Fund Account.

39. Money payable into Fund—The Fund shall consist of—

(a) All sums paid to or on account of the Fund by real estate agents, either as annual contributions or as levies, in accordance with the provisions of this Act in that behalf:

- (b) The interest from time to time accruing from the investment of the Fund, as hereinafter provided:
- (c) All money recovered by or on behalf of the Institute in the exercise of any right of action conferred by this Part of this Act:
- (d) The proportion of licence fees payable into the Fund pursuant to section 18 of this Act:
- (e) Any other money that may be lawfully paid into the Fund.

40. Expenditure from Fund—There shall from time to time be paid out of the Fund, as required—

- (a) The amount of all claims, including costs, allowed or established against the Fund as hereinafter provided:
- (b) All legal expenses incurred in defending claims made against the Fund, or otherwise incurred in relation to the Fund:
- (c) All premiums payable in respect of contracts of insurance entered into by the Council under section 53 of this Act:
- (d) All refunds made to real estate agents or to their personal representatives under subsection (4) of section 44 or section 55 of this Act:
- (e) The expenses involved in the administration of the Fund, including allowances to members of the Council and to members or officers of the Institute in respect of their services and their reasonable travelling expenses incurred in connection with the management of the Fund:
- (f) All other money payable in respect of any matter for which payment is required or deemed necessary by the Council for the purposes of this Part of this Act or the rules made thereunder, including the cost of investigations directed by the Council.

41. Audit of accounts—The accounts of the Fund shall be audited by a member of the New Zealand Society of Accountants appointed for the purpose by the Council. No person shall be so appointed to audit the Fund unless he is authorised to audit real estate agents' trust accounts in accordance with the regulations for the time being in force relating to the audit of those accounts.

42. Council to administer Fund—(1) Subject to the provisions of section 43 of this Act, the Fund shall be administered on behalf of the Institute by the Council together with

a barrister or solicitor of the Supreme Court, to be appointed for that purpose by the Council and to hold office during the pleasure of the Council.

(2) For the purposes of this Part of this Act, the barrister or solicitor so appointed shall be deemed to be a member of the Council.

(3) For the purposes of this Part of this Act, the quorum for meetings of the Council shall be the number of members specified in the rules of the Institute together with the barrister or solicitor appointed under this section.

43. Committee of management—(1) The Council may, by resolution, delegate its powers in relation to the Fund, or any of those powers, to a committee of management consisting of not fewer than three nor more than six members of the Council together with the barrister or solicitor of the Supreme Court who is a member of the Council under section 42 of this Act. Any such resolution may at any time be in like manner rescinded or varied.

(2) Where the Council has delegated any of its powers to a committee of management under this section, every reference in this Part of this Act to the Council shall, in relation to those powers, be deemed to include a reference to the committee of management.

44. Real estate agents to contribute to Fund—(1) Except as provided in section 45 of this Act, and subject to the provisions of subsections (2) and (3) of this section, every real estate agent, on making application in any year for a licence or renewal of a licence, shall, in addition to all other fees then payable to the Registrar of the Magistrate's Court in respect of the licence, pay to the Council the sum of ten pounds, and no such licence shall be issued unless and until the real estate agent produces to the Registrar satisfactory evidence that the payment has been made:

Provided that any real estate agent may pay to the Council the sum of thirty pounds in respect of the year commencing on the first day of April, nineteen hundred and sixty-four, and, if he does so, he shall not be liable to make any payment under this subsection in respect of the year commencing on the first day of April, nineteen hundred and sixty-five, and the amount payable by him under this subsection in respect of each succeeding year shall be the sum of five pounds instead of the sum of ten pounds specified in this subsection.

(2) Where the applicant for a licence or for the renewal of a licence is carrying on business in partnership with any other person or persons, an additional contribution of a like amount shall be payable under subsection (1) of this section in respect of each of his partners in the firm.

(3) Where the applicant for a licence or for the renewal of a licence is a company, the contribution payable by the company under subsection (1) of this section shall be an amount equal to three times the amount of the contribution payable by a real estate agent, being an individual, who is carrying on business alone.

(4) Where any real estate agent who for any year has paid the amount prescribed by this section remains in business as such for less than three months of that year, the Council may, out of the money received by it under that subsection, refund to the real estate agent such portion of the amount paid as it thinks fit.

(5) If any real estate agent commences business during the last three months of any year for which the amount prescribed by this section is payable, the Council may accept in full satisfaction of the contribution for that year such portion of the contribution as it thinks fit.

(6) The person receiving any amounts paid to the Council under this section shall forthwith pay them into the Fund.

45. Accumulated Fund not to exceed £75,000—No real estate agent shall be liable to pay any contribution under section 44 of this Act at any time while the amount of the Fund, including any investments thereof, and after deducting the amount of all unpaid claims and other liabilities outstanding against the Fund, exceeds seventy-five thousand pounds.

46. Real estate agent may be required to pay levy—(1) If at any time the Fund is not sufficient to satisfy the liabilities of the Institute in relation thereto, the Council may, by resolution, impose on every licensed real estate agent, for payment into the Fund, a levy of such amount as it thinks fit, not exceeding the amount specified in subsection (2) of this section.

(2) The amount of any such levy shall not exceed,—

(a) In the case of a real estate agent, being an individual, who is carrying on business alone, the sum of ten pounds in any one year:

- (b) In the case of a real estate agent carrying on business in partnership with any other person or persons, the sum of ten pounds in any one year in respect of each member of the partnership:
 - (c) In the case of a company that is a real estate agent, the sum of thirty pounds in any one year.
- (3) Notwithstanding anything in subsection (1) or subsection (2) of this section,—
- (a) No real estate agent, being an individual, shall be required to pay by way of levy under this section, whether as the holder of a licence or as a partner of the holder of a licence, more than fifty pounds during the whole period of his carrying on business as a real estate agent:
 - (b) No real estate agent, being a company, shall be required to pay by way of levy under this section more than two hundred and fifty pounds during the whole period of its carrying on business as a real estate agent.
- (4) The amount of every such levy shall become payable on a date and in a manner to be fixed by the Council, and if not theretofore paid shall be paid together with the next annual fee payable to the Fund under section 44 of this Act.

47. Investment of Fund—Any money in the Fund that is not immediately required for the purposes thereof may be invested in any manner in which trustees are for the time being authorised to invest trust funds.

48. Application of Fund—(1) Subject to the provisions of this Part of this Act, the Fund shall be held and applied for the purpose of reimbursing persons who may suffer pecuniary loss by reason of the theft by a licensed real estate agent, or by his servant or agent, or, where the real estate agent is a company, by a director or officer or servant or agent of the company, of any money or other valuable property entrusted to the real estate agent, or to the servant, agent, director, or officer of the real estate agent, in the course of the business of the real estate agent.

(2) No person shall have any claim against the Fund in respect of any theft committed before the date of commencement of sections 49 to 54 of this Act, and, in respect of any theft committed after that date, no person shall have a claim against the Fund unless notice of the claim is given in writing to the Council within twelve months after the claimant has become aware of the theft.

49. Claims against Fund—(1) The Council may receive and settle any claim against the Fund at any time after the commission of the theft in respect of which the claim arose, but no person shall be entitled, without the leave of the Council, to commence any action in relation to the Fund, unless and until the claimant has exhausted all relevant rights of action and other legal remedies available against the defaulting real estate agent or any other person in respect of the loss suffered by the claimant.

(2) No person shall be entitled to recover from the Fund an amount greater than the balance of the loss suffered by him after deducting from the total amount of his loss the amount or value of all money or other benefits received or receivable by him from any source other than the Fund in reduction of his loss, including any benefits received by reason of services rendered or payments made by the defaulting real estate agent.

(3) No amount shall be paid or payable out of the Fund as interest on the amount of any judgment obtained or of any claim admitted against the Fund.

(4) No right of action shall lie in relation to the Fund in respect of any loss suffered by any person by reason of any theft committed by a real estate agent at any time after the claimant or his privies have received a notification in writing from the Council or from the committee of management established under section 43 of this Act warning him or them against the employment or continued employment of that real estate agent.

(5) No right of action shall lie in relation to the Fund in respect of any loss suffered by the spouse of a real estate agent by reason of any theft committed by that real estate agent, or in respect of any loss suffered by any real estate agent by reason of any theft committed by any partner of that real estate agent, or by reason of any theft committed by a servant of the real estate agent or a servant of any firm of real estate agents in which the real estate agent is a partner or, where that real estate agent is a company, by reason of any theft committed by a director, an officer, or a servant of the company.

(6) No action for damages shall lie against the Institute or the Council or any member or servant of the Institute or of the Council for any notification given in good faith and without malice for the purpose of subsection (4) of this section.

50. Defences to claims against Fund—In any action brought against the Institute in relation to the Fund, all defences which would have been available to the defaulting real estate agent shall be available to the Institute.

51. Subrogation of rights of action against defaulting real estate agent—On payment out of the Fund of any money in settlement in whole or in part of any claims under this Part of this Act, the Institute shall be subrogated, to the extent of that payment, to all rights and remedies of the claimant against the real estate agent in relation to whom the claim arose, or in the event of the death or insolvency or other disability of the real estate agent, against his personal representatives or other persons having authority to administer his estate, and to all other rights and remedies whatsoever of the claimant in respect of the theft to which the claim relates.

52. Provisions applicable if Fund insufficient to satisfy claims—(1) No money or other property belonging to the Institute other than the Fund shall be available for the satisfaction of any judgment obtained against the Institute in relation to the Fund, or for the payment of any claim allowed by the Council; but if at any time the Fund is not sufficient to provide for the satisfaction of all such judgments and claims they shall, to the extent to which they are not so satisfied, be charged against the future accumulations of the Fund.

(2) The Council may in its absolute discretion, having regard to the rules in subsection (3) of this section, determine the order in which the judgments and claims charged against the Fund as aforesaid shall be satisfied, and may, if the amount accumulated is not sufficient to satisfy all such judgments and claims in full, satisfy any such judgments or claims in whole or in part.

(3) Without limiting the discretion of the Council, it shall, in applying the Fund towards the settlement of any such judgments and claims as aforesaid, have regard to the following rules:

- (a) It shall take into consideration the relative degrees of hardship suffered or likely to be suffered by the several claimants in the event of their claims against the Fund not being satisfied in whole or in part:
- (b) Claims for amounts not exceeding five hundred pounds shall, except in special circumstances, be satisfied in full before claims for amounts exceeding five hundred pounds are satisfied to a greater extent than five hundred pounds:

- (c) Where all other considerations are equal, claimants shall have priority as between themselves according to the dates of the judgments or the dates when the claims were admitted by the Council, as the case may be.

53. Council may enter into contracts of insurance—(1) Notwithstanding anything to the contrary in the foregoing provisions of this Part of this Act, the Council may, in its discretion, enter into any contract or contracts of insurance with any person or company carrying on fidelity insurance business in New Zealand, whereby the Institute will be indemnified to the extent and in the manner provided by the contract or contracts against liability to pay claims under this Part of this Act.

(2) Any such contract of insurance may be entered into in relation to licensed real estate agents generally or in relation to any licensed real estate agent or agents named therein.

(3) No action shall lie against the Institute, or against any member or servant of the Institute, or against any member or servant of the Council for injury alleged to have been suffered by any real estate agent by reason of the publication in accordance with fact of a statement that any contract of insurance entered into under this section does or does not apply to that real estate agent:

Provided that, in the event of any contract of insurance being entered into in respect of any specified real estate agent or agents, the Council shall on the application of any other real estate agent enter into a like contract of insurance in respect of the last-mentioned real estate agent if the insurer signifies his or its willingness to enter into such a contract on like terms and conditions.

54. Application of insurance money—No claimant against the Fund shall have any right of action against any insurance company or other person with which or with whom a contract of insurance is made under this Part of this Act in respect of that contract, or have any right to claim any money paid by the insurer in accordance with any such contract of insurance; but all such money shall be paid into the Fund and shall be applied in or towards the settlement of relevant claims.

55. Council may refund contributions in certain cases—In the event of the death or on the retirement from business of any licensed real estate agent in respect of whom no claim has been made under this Part of this Act, or, if any such

claim has been made, in respect of whom no such claim has been sustained, the Council may in its discretion pay to him, or to his personal representatives, as the case may be, a sum not exceeding the aggregate amount of his contributions to the Fund.

56. Council may take possession of books and documents of real estate agent—(1) This section applies in any case where the Council is satisfied, in respect of any real estate agent—

- (a) That there is reasonable cause to believe that he, or, where the real estate agent is a company, any director or the general manager or other principal officer of the company, has been guilty of theft or of any improper conduct in relation to the money or other property of any other person; or
- (b) That there is reasonable cause to believe that any money or other property entrusted to the real estate agent has been stolen by his servant or agent, or, where the real estate agent is a company, by any director, officer, servant, or agent of the company; or
- (c) That he is, owing to physical or mental disability, unable properly to administer his trust account; or
- (d) That he has died; or
- (e) That he has been adjudicated a bankrupt; or
- (f) Where the real estate agent is a company, that the company is being wound up, whether by the Court or voluntarily or subject to the supervision of the Court; or
- (g) That the licence of the real estate agent has been cancelled; or
- (h) That the real estate agent has ceased to carry on business and has neglected to wind up his trust account after reasonable notice has been given to him by the Council requiring him to do so.

(2) In any case to which this section applies, the Council may, if in its opinion it is expedient to do so, take possession of any ledgers, books of account, records, deeds, or other documents belonging to the real estate agent or held in the course of his business in his possession or under his control or, where the real estate agent is a company, in the possession or under the control of any director or officer or servant of the company.

(3) Every person having possession or control of any such ledgers, books of account, records, deeds, or other documents who refuses or fails without lawful justification to deliver them or cause them to be delivered to the Council forthwith upon

demand by the Council commits an offence against this section, and is liable to a fine not exceeding one hundred pounds.

(4) Upon receipt of any ledgers, books of account, records, deeds, or other documents under this section, the Council shall forthwith serve on the real estate agent a notice giving particulars of the documents received and the date of receipt, and, if the documents are the property of a firm of real estate agents in which the real estate agent is a partner, a similar notice shall be served on each partner in the firm.

(5) Any such notice may be served on a real estate agent—

(a) By serving it personally on the real estate agent or by posting it by registered letter addressed to him at his last-known place of business or residence:

(b) Where the real estate agent is a company, by serving it personally on a director or the general manager or other principal officer of the company, or by leaving it at the only or principal place of business of the company with a person appearing to be in charge thereof, or by posting it by registered letter addressed to the company at that place of business.

(6) Every such notice sent by registered post shall be deemed to have been received when in the ordinary course of post it would be delivered.

(7) Within fourteen days after any such notice has been served as aforesaid, the real estate agent or any partner in the firm of real estate agents of which he is a member may apply to a Magistrate for an order directing the Institute to return any such ledgers, books of account, records, deeds, or other documents as aforesaid to the person or persons from whom they were received, or for such other order as the Magistrate may think fit. On the hearing of any such application the Magistrate may make such order as he thinks fit.

57. Council may inspect books relating to money received by defaulting real estate agent—(1) If the Council has reason to believe that any money entrusted to a real estate agent has been stolen by him, or by his servant or agent, or, where the real estate agent is a company, by a director, officer, servant, or agent of the company, the Council shall be entitled to inspect all ledgers, books of account, pass books, cheques, or records relating to any money received by the real estate agent or by his servant or agent, or, as the case may be, the director, officer, servant, or agent of the company, whether the money has been paid into a private or trust account at a bank or not.

(2) Every person commits an offence, and is liable to a fine not exceeding one hundred pounds, who, having possession or control of any such ledgers, books of account, pass books, cheques, or records, refuses or fails without lawful justification to permit and enable the Council or any person authorised by the Council to inspect them and to make copies of them and any entries therein forthwith upon demand by the Council.

58. Expenses of Council in investigating affairs of real estate agent—The reasonable expenses of the Council acting in the exercise of any of the powers conferred by sections 56 and 57 of this Act in respect of any real estate agent shall be recoverable from that real estate agent.

59. Appointment of authorised person to investigate affairs of real estate agents—(1) For the purpose of safeguarding the Fund, the Council may at any time appoint a member of the New Zealand Society of Accountants for the time being authorised to conduct the audit of real estate agents' trust accounts to examine the accounts of real estate agents, and to furnish to it a confidential report as to any irregularity in the accounts of any real estate agent or firm of real estate agents that may be disclosed by the examination, or as to any other matter that in the opinion of the person so appointed should, in the interest of the Fund, be further investigated.

(2) Every appointment made under this section shall be in writing and shall be signed on behalf of the Council by the Chairman or any two members of the Council.

(3) Upon production by any person so appointed of the instrument of his appointment as aforesaid, he may—

(a) Require any real estate agent or firm of real estate agents or any servant, agent, or banker of any real estate agent or firm of real estate agents, or, where the real estate agent is a company, any director, officer, servant, agent, or banker of the company, to produce to him all books, papers, accounts, securities, or other documents relating to the business or accounts of any real estate agent or firm of real estate agents, and to give all information in relation thereto that may be reasonably required by him; and

(b) Inspect all ledgers, books of account, pass books, cheques, and records relating to any money received by any real estate agent or firm of real estate agents, or any servant, agent, or banker of any real estate

agent or firm of real estate agents, or, where the real estate agent is a company, any director, officer, servant, or banker of the company, whether the money has been paid into a private account or a trust account at a bank or has not been paid to any such account:

Provided that the powers conferred by this paragraph (b) shall not be exercised except pursuant to a resolution of the Council passed in relation to any specified real estate agent or firm of real estate agents.

(4) If the person required to produce any such books, papers, accounts, securities, or other documents or to give any such information as aforesaid, without lawful justification or excuse, the proof whereof shall lie on him, refuses or fails to do so, or otherwise hinders, obstructs, or delays the person so appointed in the performance of his duties or the exercise of his powers under this section, he commits an offence, and is liable to a fine not exceeding one hundred pounds.

(5) The person so appointed to make any examination of accounts for the purposes of this section shall not, except in the course of his report to the Council, communicate to any person any matter which may come to his knowledge in the course of his examination.

(6) The Council shall consider the report in committee and not otherwise; and it shall not be lawful for any member of the Council or any of its officers to publish to any person any information disclosed in the report except in the performance of his duty. The Council shall have power, at its discretion, to communicate the contents of the report or any part thereof to the Council of the New Zealand Society of Accountants or to any member of the Police.

(7) Every person who commits a breach of any of the provisions of subsections (5) and (6) of this section commits an offence against this Act.

60. Rules for purposes of this Part—(1) For the purposes of this Part of this Act, the Council may from time to time make rules for all or any of the following purposes:

- (a) Providing for the investment of so much of the Fund as is not immediately required for the purposes thereof:
- (b) Prescribing forms of notices to be given to the Council in relation to claims against the Fund, and the conditions subject to which and the extent to which the Council may settle any such claims without recourse being had to legal proceedings:

(c) Prescribing the duties of accountants appointed to conduct an examination of any accounts under section 59 of this Act; and prescribing also the duties in relation thereto of the real estate agent or real estate agents concerned, or, in cases where a real estate agent is a company, the duties of the directors, officers, and servants of the company concerned, and the circumstances in which that real estate agent or those real estate agents may be required to pay the cost of the examination:

(d) Generally, for such other matters as may be considered necessary for the purpose of protecting the Fund or of giving full effect to the intent of this Part of this Act.

(2) Rules made under this section shall not come into force unless and until they are approved by the Governor-General in Council.

PART V

DISCIPLINARY COMMITTEE

61. Constitution of Disciplinary Committee—(1) There shall be a Committee to be known as the Disciplinary Committee of the Real Estate Institute of New Zealand (in this Part of this Act referred to as the Disciplinary Committee), and to be appointed in accordance with this section to exercise the powers and functions by this Part of this Act conferred on it.

(2) The Disciplinary Committee shall be appointed by the Council, and shall consist of not fewer than five nor more than eight members of the Institute, as the Council may from time to time determine, together with a barrister or solicitor of the Supreme Court to act as Chairman and to be appointed as provided in subsection (3) of this section.

(3) The Council shall from time to time appoint a barrister or solicitor of the Supreme Court to be a member of the Disciplinary Committee and to act as Chairman at the hearing of applications and inquiries under this Part of this Act generally or at the hearing of applications and inquiries held in any specified city or borough or at the hearing of any specified application or inquiry.

(4) The Council may from time to time, within the limits prescribed by subsection (2) of this section, remove from office any member of the Disciplinary Committee, or fill any vacancy in its membership, or appoint any additional member or members to it.

(5) Except as otherwise provided by this Part of this Act, three members of the Disciplinary Committee, including the Chairman, shall form a quorum.

(6) Except as otherwise provided by this Part of this Act, the Disciplinary Committee shall regulate its own procedure.

62. Functions of Disciplinary Committee—(1) Without limiting or derogating from any other provisions of this Act with regard to offences by real estate agents, and without limiting or derogating from any disciplinary powers embodied in the rules of the Institute, except to the extent (if any) to which those rules may be inconsistent herewith, the Disciplinary Committee shall have power, where a charge has been made by the Institute or any branch of the Institute against a real estate agent that he, or, where the real estate agent is a company, any director or the general manager or other principal officer of the company, has been guilty of any professional misconduct or that the real estate agent has been guilty of any breach of his duties or obligations under this Act, to inquire into the charge.

(2) If after inquiring into any charge the Disciplinary Committee is of opinion that the real estate agent, or, as the case may be, any such director or general manager or other principal officer has been guilty of professional misconduct or that the real estate agent has been guilty of a breach of any duty or obligation under this Act, it may, if it thinks fit, but subject to the following provisions of this Part of this Act, do one or more of the following things:

- (a) Apply under section 23 of this Act for an order cancelling the real estate agent's licence or, as the case may be, the licence of his partner, or for an order suspending the real estate agent from carrying on business as such:
- (b) Order the real estate agent to pay to the Institute such sum by way of penalty, not exceeding fifty pounds, as the Committee thinks fit:
- (c) Censure the real estate agent or, as the case may be, any director or the general manager or other principal officer of the real estate agent.

(3) Except by consent, no decision shall be made by the Disciplinary Committee under this section, unless at least four members of the Committee (including the Chairman) are present and at least four members vote in favour of the decision.

63. Right of real estate agent to be heard—Except in the case of a decision to apply for an order of interim suspension under section 64 of this Act, the Disciplinary Committee shall not exercise with respect to any real estate agent, or with respect to any director, general manager, or other principal officer of a company that is a real estate agent, any of the disciplinary functions conferred on it by this Part of this Act without giving the real estate agent or person concerned a reasonable opportunity of being heard in his own defence.

64. Interim suspension pending investigation of charge—

(1) Where a charge has been made under section 62 of this Act that any real estate agent or any director or the general manager or other principal officer of any company that is a real estate agent has been guilty of professional misconduct or that any real estate agent has been guilty of a breach of any duty or obligation under this Act, an application by or on behalf of the Disciplinary Committee or the Council may be filed in the Magistrate's Court nearest by the most convenient route to the place of business or principal place of business of the real estate agent for an order that the real estate agent be suspended from carrying on business as such until the charge has been heard and disposed of, and any Magistrate exercising jurisdiction in that Court may, without the necessity of giving any notice to the real estate agent, make an order accordingly.

(2) Where an order of interim suspension is made under this section, the real estate agent or the Disciplinary Committee or the Council may at any time, by application filed in the Magistrate's Court in which the order was made, apply for the revocation of the order, and any Magistrate may grant or refuse the application as he thinks fit.

(3) While an order under this section continues in force, the licence of the real estate agent or, as the case may be, the licence of his partner shall cease to have effect, and the licence shall not be renewed and a new licence shall not be granted to the real estate agent.

65. Disciplinary Committee may order payment of costs—

After the hearing by the Disciplinary Committee of any application or inquiry under this Part of this Act, the Committee may make such order as to the payment of costs as it thinks fit, and, in particular,—

- (a) May order that costs be awarded to any real estate agent in relation to whom an application or inquiry has been made, and that those costs be paid by the Institute or by any branch of the Institute:
- (b) May order the real estate agent to pay to the Institute such sums as the Committee may at any time think fit in respect of costs and expenses of and incidental to the inquiry, including all or any part of the costs and expenses of and incidental to any investigation of the real estate agent or, as the case may be, of any director or the general manager or other principal officer of the real estate agent or of the trust account of the real estate agent carried out by or for the Institute:
- (c) Without finding a real estate agent or any director or general manager or other principal officer of a company that is a real estate agent guilty of professional misconduct or of a breach of any duty or obligation under this Act, may nevertheless, if the Committee considers that the application or inquiry was justified and that it is just to do so, order the real estate agent to pay to the Institute such sums as the Committee may at any time think fit in respect of costs and expenses of and incidental to the proceedings, including all or any part of the costs and expenses of and incidental to any investigation of conduct of the real estate agent or of any such director or general manager or other principal officer or of the trust account of the real estate agent carried out by or for the Institute.

66. Recovery of penalties and costs—Any sum ordered by the Disciplinary Committee to be paid by way of penalty or costs or expenses under this Part of this Act shall be deemed to be a debt due by the person ordered to pay it to the person to whom it is ordered to be paid, and shall be recoverable accordingly.

67. Place of hearing—The hearing of any application or inquiry by the Disciplinary Committee under this Part of this Act shall, unless otherwise agreed between the Committee and the real estate agent concerned, be held—

- (a) In the city or borough in which the place of business or principal place of business of the real estate agent is situated if sittings of the Supreme Court are held in that city or borough:

- (b) In any other case, in the city or borough in which sittings of the Supreme Court are held which is nearest by the most convenient route to the place of business or principal place of business of the real estate agent.

68. Delegation of powers of Disciplinary Committee—If the Disciplinary Committee in any case thinks fit, it may delegate the hearing of any application or inquiry under this Part of this Act to a sub-committee consisting of any three or more members of the Committee, together with a barrister or solicitor of the Supreme Court appointed for the purpose by the Disciplinary Committee, who shall act as Chairman at the hearing. A sub-committee so constituted shall, in relation to that application or inquiry, be deemed for all purposes under this Part of this Act to be the Disciplinary Committee.

69. Witnesses may be required to attend and give evidence—(1) The Disciplinary Committee may, by notice in writing signed by its Chairman, require any person to attend and give evidence before it at the hearing of any application or inquiry under this Part of this Act, and to produce all books and documents in that person's custody or under his control relating to the subject-matter of any such application or inquiry.

(2) The Disciplinary Committee may require evidence to be given on oath, and either orally or in writing, and for that purpose the Chairman of the Committee may administer an oath.

(3) Every person who without lawful justification refuses or fails to attend and give evidence when required to do so by the Disciplinary Committee, or to answer truly and fully any question put to him by a member of the Disciplinary Committee, or to produce to the Disciplinary Committee any book or document required of him, commits an offence against this Act.

70. Immunity of witnesses and counsel—Witnesses and counsel shall have the same privileges and immunities in relation to applications and inquiries heard by the Disciplinary Committee under this Part of this Act as if they were proceedings in a Court of law.

71. Witnesses' expenses—(1) Every witness giving evidence or attending to give evidence at the hearing of any application or inquiry by the Disciplinary Committee under this Part of

this Act shall be entitled to such sum for his expenses and loss of time as he would be entitled to if he were a witness in criminal proceedings in the Magistrate's Court.

(2) Subject to any order made by the Disciplinary Committee as to the payment of costs or expenses, all such witnesses' expenses shall be paid by the Institute.

72. Rules of procedure—The Disciplinary Committee may from time to time make rules in respect of the making, hearing, and determination of applications and inquiries required to be heard by the Committee under this Part of this Act.

73. Form and proof of orders of Disciplinary Committee—(1) Every decision of the Disciplinary Committee under this Part of this Act shall be signed by the person acting as Chairman of the Committee at the meeting when the decision was made or, if he is not available, by some other member of the Committee present at the meeting when the decision was made.

(2) Every such decision, other than a decision to apply for an order of interim suspension under section 64 of this Act, shall contain a statement of the findings of the Committee in relation to the case.

(3) Every document purporting to be a decision of the Disciplinary Committee and to be signed by the Chairman or any other member of the Committee shall, in the absence of proof to the contrary, be deemed to be a decision of the Disciplinary Committee duly made, without proof of the making thereof, or proof of signature, or proof that the person signing the decision was in fact the Chairman or a member of the Committee entitled to sign the decision.

74. Appeals from decisions of Disciplinary Committee—(1) An appeal against any decision of the Disciplinary Committee made under paragraph (b) or paragraph (c) of subsection (2) of section 62 or under section 65 of this Act shall lie to the Magistrate's Court at the instance of the real estate agent to whom the decision relates.

(2) Every such appeal shall be made within one month after notice of the decision has been given to the real estate agent concerned or within such further time as the Court may allow, and shall be made by originating application in accordance with the rules of the Magistrate's Court filed in the office of the Court nearest by the most convenient route to the place of business or principal place of business of the real estate agent.

(3) Every such appeal shall be by way of rehearing:

Provided that a statement in writing signed by the Chairman of the Disciplinary Committee and by the real estate agent or his solicitor or counsel setting out any facts admitted as having been proved at the inquiry shall be admissible as evidence of those facts for the purposes of the appeal.

75. Protection of Institute and other bodies and persons—

Neither the Institute nor any branch thereof nor any member or servant of the Institute or of any branch thereof or of the Disciplinary Committee shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done, or in respect of any words spoken or written, at or for the purposes of the hearing of any application or inquiry or other proceedings under this Part of this Act, unless it is proved to the satisfaction of the Court before which any proceedings are taken that the defendant in those proceedings has acted in bad faith.

76. Jurisdiction of Court not limited—Except as expressly provided in this Part of this Act, nothing in this Part of this Act shall be construed to limit the jurisdiction of any Court.

PART VI

MISCELLANEOUS PROVISIONS

77. Appeal to Supreme Court—(1) Subject, in the case of proceedings for offences against this Act, to the provisions of the Summary Proceedings Act 1957, any party to any application to or proceedings before a Magistrate under this Act who is aggrieved by the decision of the Magistrate thereon may appeal against the decision to the Supreme Court, and—

(a) Where the appeal is against a decision of a Magistrate in proceedings for the cancellation of any licence or of any certificate as a real estate salesman or for the suspension of any real estate agent, the provisions of Part IV of the Summary Proceedings Act 1957 shall, with the necessary modifications apply, as if the decision were a determination to which that Part applies:

(b) Where the appeal is against any other decision of a Magistrate, the provisions of Part V of the Magistrates' Courts Act 1947 shall, with the necessary modifications, apply as if the decision were a final determination of a Magistrate's Court against which the appellant was entitled to appeal as of right.

(2) Where any such appeal is against an order cancelling any licence or suspending any real estate agent from carrying on business as such, any Magistrate exercising jurisdiction in the Court in which the order was made may, if he thinks fit, defer the operation of the order pending the determination of the appeal.

78. Purchase or lease by agent void—(1) No real estate agent shall, without the consent in writing of his principal, directly or indirectly and whether by himself or by any partner or sub-agent,—

- (a) Purchase or take on lease, or be in any way concerned or interested, legally or beneficially, in the purchase or taking on lease, of any land or business which he is commissioned by any principal to sell or lease; or
- (b) Sell or lease to his spouse or child any such land or business.

(2) No partner or employee of a real estate agent and no director of a company that is a real estate agent shall, without the consent in writing of the principal of the real estate agent, directly or indirectly,—

- (a) Purchase or take on lease, or be in any way concerned or interested, legally or beneficially, in the purchase or taking on lease, of any land or business which the real estate agent by whom he is employed, or of which he is a director, is commissioned by any principal to sell or lease; or
- (b) Sell or lease to his spouse or child any such land or business.

(3) Any contract made in contravention of the provisions of this section shall be void, and any commission paid in respect thereof shall be repayable by the land agent to his principal and be recoverable by the principal as a debt.

79. Evidence of contracts of agency—No person shall be entitled to sue for or recover any commission, reward, or other valuable consideration in respect of any service or work performed by him as a real estate agent, unless—

- (a) He was the holder or a partner of the holder of a licence as a real estate agent under this Act or a licence as a land agent under the Land Agents Act 1953 at the time of the performing of the service or work; and
- (b) His appointment to act as agent or perform that service or work is in writing signed either before or after the performance of that service or work by the person to

be charged with the commission, reward, or consideration or by some person on his behalf lawfully authorised to sign the appointment.

Cf. 1953, No. 86, s. 25

80. Real estate agent not to act as land broker in connection with same transaction—(1) A real estate agent who is also a licensed land broker under the Land Transfer Act 1952 shall not, without the request in writing of the purchaser, act as a land broker for the purchaser in connection with or in the completion of any transaction in which he is employed as a real estate agent.

(2) A real estate agent who acts in contravention of this section commits an offence against this Act.

Cf. 1953, No. 86, s. 23

81. General penalty for offences—(1) Except where this Act otherwise provides, every person who commits an offence against this Act or against any regulations under this Act is liable to a fine not exceeding fifty pounds.

(2) Except where this Act otherwise provides, every offence against this Act or against any regulations under this Act shall be punishable on summary conviction.

Cf. 1953, No. 86, s. 28

82. Civil remedies not affected—Nothing in this Act shall affect any civil remedy that any person may have against a real estate agent in respect of any matter.

Cf. 1953, No. 86, s. 29

83. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing forms of applications for licences and renewals of licences and forms of licences and of objections to the granting or renewal of licences and other forms required for the purposes of this Act:
- (b) Prescribing forms of advertisements and other notices under this Act:
- (c) Prescribing the fees payable on the issue or renewal or transfer of licences or on the issue or renewal of certificates of approval of real estate salesmen under this Act:

- (d) Providing for an audit from time to time of the trust accounts of all real estate agents, and the manner in which and the persons or class of persons by whom that audit shall be conducted, and for a report of the result of the audit:
- (e) Requiring real estate agents to give such notice of the appointment of an auditor as may be prescribed:
- (f) Authorising the Minister of Justice to direct an audit of a real estate agent's trust accounts at any time:
- (g) Requiring the production to the auditor of books, papers, and accounts, subject to such conditions as are prescribed:
- (h) Prescribing the persons to whom the reports of auditors shall be sent for inspection, information, or record:
- (i) Prescribing a scale of fees to be paid to the auditor:
- (j) Prescribing that, in the absence of any agreement in writing to the contrary, the auditor's fees shall be paid by the real estate agent:
- (k) Generally to ensure that all such trust accounts shall be duly kept and audited:
- (1) Authorising the Secretary for Justice, following the report of any auditor or where the Minister of Justice has directed any audit, to apply to a Magistrate's Court for the interim suspension of the licence of a real estate agent any of whose trust accounts is or was the subject of the audit, and empowering the Court, in its discretion, to make an order suspending the licence for such period as it thinks fit:
- (m) Prescribing maximum rates of commission that may be charged by real estate agents for their services in transactions of the kinds specified in the regulations:
- (n) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.
- (2) The fees payable in respect of the issue or renewal of licences shall be uniform, save that additional fees may be prescribed for every place of business in addition to the registered office in which the applicant for a licence carries on or proposes to carry on business, and save also that reduced fees may be prescribed in respect of licences issued after the first day of April in any year.

Cf. 1953, No. 86, s. 31; 1961, No. 74, s. 4

84. Repeals and consequential amendment—(1) The enactments specified in the Second Schedule to this Act are hereby repealed.

(2) Every reference to a land agent in any other Act, or in any regulation, rule, order, bylaw, agreement, deed, instrument, application, notice, or other document whatsoever shall, unless the context otherwise requires, be hereafter read as a reference to a real estate agent.

85. Transitional provisions—(1) Application for the renewal for the year commencing on the first day of April, nineteen hundred and sixty-four, of a licence as a land agent granted under the Land Agents Act 1953 and in force on the first day of January, nineteen hundred and sixty-four, or for the grant of a certificate of approval of any person as a real estate salesman may be made at any time after the last-mentioned date and before the commencement of this Act as if this Act had come into force on that date.

(2) The Magistrate may deal with any such application as if this Act had come into force on the last-mentioned date, and, in the case of an application for renewal of a licence as a land agent, as if it were an application for renewal of a licence as a real estate agent granted under this Act.

(3) From the licence fee paid in respect of the renewal of any such licence there shall, after the commencement of this Act, be paid into the Fidelity Guarantee Fund such amount as may be prescribed in that behalf by any Order in Council made pursuant to section 18 of this Act.

(4) The applicant for the renewal of any such licence shall pay to the Council the appropriate contribution specified in section 44 of this Act, and the Council shall pay the same into a separate account and, on the commencement of this Act, shall pay the amount thereof into the Fidelity Guarantee Fund.

(5) This section shall come into force on the first day of January, nineteen hundred and sixty-four.

SCHEDULES

FIRST SCHEDULE

Section 6 (2)

FIDELITY BOND

KNOW all men by these presents that _____, of _____, is [are] held and firmly bound unto Her Majesty the Queen in the sum of ten thousand pounds (£10,000), for the payment of which sum to Her Majesty the said _____ doth [do jointly and severally] bind itself and its successors [ourselves, our executors, and administrators] firmly by these presents.

Whereas _____, of _____ (hereinafter referred to as the licensee), has made application for the issue to him of a licence under the Real Estate Agents Act 1963:

Now, the condition of the above-written bond is such that if the licence is granted to the licensee, and if the licensee and every partner of the licensee during the currency of the term of the licence (and during the currency of the term of every licence granted to the licensee in renewal of the licence)—

- (a) Always duly applies all money received by the licensee or by any partner of the licensee in the manner required by the said Act:
- (b) Always duly renders accounts in writing of all money received by the licensee or by any partner of the licensee within the times and to the persons required by the said Act,—

then the above-written obligation shall be void, but otherwise shall remain in full force and effect.

Dated at _____, this _____ day of _____ 19____.

Signed by the above-named _____ }
 in the presence of [Or, as the case may }
 require, in the case of a company]:

SECOND SCHEDULE

Section 84 (1)

ENACTMENTS REPEALED

- 1953, No. 86—The Land Agents Act 1953. (1957 Reprint, Vol. 7, p. 171.)
- 1955, No. 72—The Land Agents Amendment Act 1955. (1957 Reprint, Vol. 7, p. 190.)
- 1956, No. 54—The Land Agents Amendment Act 1956. (1957 Reprint, Vol. 7, p. 191.)
- 1959, No. 71—The Land Agents Amendment Act 1959.
- 1961, No. 74—The Land Agents Amendment Act 1961.

This Act is administered in the Department of Justice.