

Real Estate Services Act Rules Relating To Strata Management

Division 1 – Licence Categories

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

- (a) trading services;
- (b) rental property management services;
- (c) strata management services;**
- (d) trading services and rental property management services;
- (e) trading services and strata management services;
- (f) rental property management services and strata management services;
- (g) trading services, rental property management services and strata management services.

2-7 Educational requirements

- (1) Courses – The courses referred to in this Division are the courses established by or on behalf of the council for the purposes of licensee qualification.
- (2) Failed examinations – An applicant must not have failed an examination required under these rules within the last 90 days before again attempting the examination.
- (3) Waiver – The council may waive, on the basis of an applicant’s previous knowledge or training, some or all of the requirements of this Division in relation to
 - (a) a course,
 - (b) a corresponding examination, or
 - (c) a course and its corresponding examination.

2-8 Educational requirements for new licensees

- (1) Licensing courses – In order to be issued a licence, an applicant for a new licence who is an individual must
 - (a) have taken the applicable licensing courses respecting the real estate services in relation to which the application is made, and
 - (b) have passed the examinations corresponding to those courses, no longer than 1 year before the date of the application.
- (2) Applied practice courses – Subject to subsection (3), in order to be issued a licence, an applicant for a new licence who is an individual must have taken the applicable applied practice courses, if any, respecting the real estate services in relation to which the application is made, no longer than 2 years before the date of the application.

2-12 Licence certificates

- (1) A licence issued by the council must be in the form of a licence certificate.
- (2) A licence certificate must indicate
 - (a) the level of licence as referred to in section 5 of the Act;
 - (b) the category of licence as referred to in of these rules;
 - (c) the effective date of the licence;
 - (d) in the case of a brokerage licence,
 - (i) the legal name of the brokerage,
 - (ii) the licensee name of the brokerage, if it is different from the legal name, and
 - (iii) the head office or branch office from which the licensee is authorized to provide real estate services under the licence;
 - (e) in the case of a managing broker, associate broker or representative licence,
 - (i) the legal name of the licensee,
 - (ii) the licensee name of the related brokerage, and
 - (iii) the related brokerage office in relation to which the individual is licensed.

(1) The term of a licence is

- (a) 2 years from the effective date of the licence, ending at the end of the day before the second anniversary of that date, or
- (b) in the case of a temporary licence, as specified in the licence.

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

2-23 Administrative penalties - The administrative penalties for contravention of a rule specified by regulation under section 56 (1) [rules subject to administrative penalties] of the Act are as follows:

- (a) \$250 for a first contravention;
- (b) \$500 for a second contravention;
- (c) \$1000 for a third or subsequent contravention.

3-1 Managing broker responsibilities

(1) Supervision – A managing broker must perform duties on behalf of the brokerage.

(2) Knowledge of improper conduct – If the managing broker has knowledge of conduct that the managing broker considers

- (a) may constitute professional misconduct, or conduct unbecoming a licensee, on the part of a related licensee, or
- (b) may be improper or negligent conduct, in relation to the provision of

real estate services, on the part of

- (i) a related licensee, or
- (ii) an employee of the brokerage or any other person associated with the brokerage, the managing broker must take reasonable steps to deal with the matter.

(3) Accounts and records – A managing broker must

(a) ensure the trust accounts and records of the brokerage are maintained in accordance with the Act, regulations, rules and bylaws, and

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

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

(a) a deposit contemplated by the agreement that, if received, would be held by the related brokerage as a stakeholder under section 28 of the Act has not been received, or

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

(5) Notice under subsection (4) must be given in writing or confirmed in writing.

3-2 Associate broker and representative responsibilities

(1) An associate broker or representative must promptly provide to the managing broker the original or a copy of all records referred to in section 8-7.1 of these rules that are in the possession of the associate broker or representative and that were prepared by or on behalf of the associate broker or representative, or received from or on behalf of a principal.

(2) Keeping managing broker informed – An associate broker or representative must

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

(b) immediately notify the managing broker if a deposit referred to in section 3-1 (4) (a) [anticipated stakeholder deposit] of these rules has not been received.

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

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

(5) Knowledge of improper conduct – An associate broker or representative must promptly notify the managing broker on learning of conduct that the associate broker or representative considers may be conduct referred to in section 3-1 of these rules, whether that conduct is (a) the licensee's own conduct, (b) the conduct of an employee of the licensee or of another person who performs duties on the licensee's behalf, or c) the conduct of any other person in relation to which the managing broker has responsibility under section 3-1 (2) of these rules.

3-3 Duties to clients

(1) Subject to subsection (2), if a client engages a brokerage to provide real estate services to or on behalf of the client, the brokerage and its related licensees must do all of the following:

- (a) act in the best interests of the client;
- (b) act in accordance with the lawful instructions of the client;
- (c) act only within the scope of the authority given by the client;
- (d) advise the client to seek independent professional advice on matters outside of the expertise of the licensee;
- (e) maintain the confidentiality of information respecting the client;

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

3-4 Duty to act honestly and with reasonable care and skill When providing real estate services, a licensee must act honestly and with reasonable care and skill.

5-1 Written service agreements required in some cases

(1) Requirement for service agreement – Unless waived by the prospective client, a brokerage must have a written service agreement in accordance with this section if ... the brokerage is to provide strata management services to a strata corporation.

(2) ... A service agreement ... must be entered ... before providing any of those services.

(3) ... A service agreement ... must be signed by the client and an authorized signatory of the brokerage and clearly state all terms and conditions of the agreement, including the matters required by this section.

(4) ... In all cases, a service agreement required ... must include the

following:

- (a) the name of the client and the licensee name of the brokerage;
- (b) the address of the real estate in relation to which services are provided under the agreement;
- (c) the date on which the agreement is effective;
- (d) the duration of the agreement;**
- (e) a general description of services to be provided by the brokerage;
- (f) the remuneration to be paid under the agreement and the circumstances in which it will be payable;
- (g) provision respecting the use and disclosure of personal information.

(5.1) Strata management agreements – In the case of a service agreement ... respecting the provision of strata management services, the service agreement must also include the following:

- (a) an indication of whether the brokerage will be holding one or more of
 - (i) contingency reserve fund money,
 - (ii) operating fund money,
 - (iii) special levy money, and
 - (iv) other amountson behalf of the strata corporation;
- (b) any authority under section 30 (1) (g) [withdrawals from trust account] of the Act for the brokerage to transfer amounts
 - (i) between brokerage trust accounts maintained for the strata corporation,
 - (ii) from such a brokerage trust account under section 7-9 (2) (a) of these rules to a pooled trust account for one or more strata corporations;
- (c) the scope of the authority of the brokerage or a related licensee when acting on behalf of the strata corporation, including any authority to
 - (i) sign cheques or make disbursements on behalf of the strata corporation,
 - (ii) enter into contracts on behalf of the strata corporation, and
 - (iii) invest money held by the brokerage on behalf of the strata corporation;
- (d) the timing, frequency and nature of accounting statements and other records to be provided by the brokerage to the strata corporation, in addition to those required to be provided under section 7-9 (7) of these rules;
- (e) a description of the records that are to be kept by the brokerage on behalf of the strata corporation, including an indication of which, if any, of the records required under section 35 of the Strata Property Act that

the brokerage will retain on behalf of the strata corporation;

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

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

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

(a) a related licensee of the brokerage,

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

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

6-1 Payment to unlicensed persons prohibited

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

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

This section applies to a brokerage that provides strata management services.

(2) Subject to an agreement under section 27 (4) [exception to requirements for payment into trust account] of the Act, for each strata corporation on behalf of which the brokerage holds or receives money, the brokerage must maintain the following brokerage trust accounts:

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

(b) if the brokerage is to hold contingency reserve fund money or special levy money on behalf of the strata corporation, at least one separate trust account in the name of the strata corporation for the contingency reserve fund money, the special levy money or both.

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

(a) if the amount received does not include contingency reserve fund or

special levy money, it must be paid into an applicable trust account under subsection (2) (a);

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

(c) if the amount received is partly contingency reserve fund money or special levy money or both,

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

(ii) the amount received in respect of contingency reserve fund money or special levy money must then be dealt with in accordance with subsection (4).

(4) If subsection (3) (c) applies, within 7 days after the end of the month in which the contingency reserve fund money or special levy money was received, the brokerage must either (a) pay the money over to the strata corporation, or (b) if the brokerage is to hold the money on behalf of the strata corporation, transfer it to an applicable trust account under subsection (2) (b).

(5) If money in a trust account under subsection (2) (a) is transferred to a pooled trust account for one or more strata corporations, the brokerage must promptly (a) pay the money on behalf of the strata corporation, or (b) transfer it to an applicable trust account under subsection (2) (a).

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

(a) a related managing broker;

(b) a member of the council of the strata corporation;

(c) another related licensee of the brokerage;

(d) a director or officer of the brokerage;

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

(i) a lawyer under the Legal Profession Act,

(ii) a certified general accountant under the Accountants Act,

(iii) a chartered accountant under the Accountants (Chartered) Act,

(iv) a certified management accountant under the Accountants Act.

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

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

(b) must provide a copy of the statement to the strata corporation

within 30 days after the statement was issued by the savings institution.

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

8-2 For each account maintained by a brokerage, other than a trust account, the brokerage must keep the following records:

- (a) a cash record showing all receipts and disbursements;
- (b) all banking documents relating to account transactions, including statements, cancelled cheques or other records of disbursements, vouchers, duplicate deposit slips and deposit books;
- (c) monthly reconciliations of banking statements to the cash record, prepared in a timely fashion and, in any case, no later than 5 weeks after the monthly accounting cut-off date for the account.

8-3 A brokerage must keep the following records with respect to all trust accounts maintained by the brokerage:

- (a) a trust cash record showing all transactions affecting the trust account, including all deposits, withdrawals, interest and other banking transactions that have affected the trust account;
- (b) a trust journal showing all amounts received and disbursed and any unexpended balance;
- (c) separate trust ledgers as follows:
 - (i) in respect of money held or received on account of trades in real estate—a separate trust ledger for each trade in real estate showing all amounts received and disbursed in relation to the trade and any unexpended balance in relation to the trade;
 - (ii) in respect of money held or received on account of rental property management services—a separate trust ledger for each principal showing all amounts received and disbursed in relation to the principal and any unexpended balance in relation to that principal;
 - (iii) in respect of money held or received on account of strata management services—a separate trust ledger for each principal showing all amounts received and disbursed in relation to the principal and any unexpended balance in relation to that principal;
- (e) all banking documents relating to the account transactions, including statements, cancelled cheques or other records of disbursements, vouchers, duplicate deposit slips and deposit books.

A brokerage must keep the following records:

- (b) copies of all significant correspondence sent or received by the brokerage or a related licensee respecting the provision of real estate services by the brokerage or a related licensee;
- (c) a copy of all annual financial reports;
- (d) a list, maintained separately for each fiscal year of the brokerage, of ... all strata corporations that are or were managed by the brokerage during that year.

9-3 Management of strata corporation by licensee who is an owner

(1) Subject to this section, the Act and these rules do not apply to a managing broker, associate broker or representative who is a strata lot owner in relation to strata management services provided to or on behalf of the strata corporation of which the licensee is a member by reason of being a strata lot owner, if all the following conditions are met:

- (a) the licensee provides strata management services under this section to no more than 2 strata corporations;
- (b) the licensee discloses in writing to the strata corporation, before providing the services, that
 - (i) even though they are licensed under the Real Estate Services Act, they are not acting as a licensee in this case,
 - (ii) the licensee is not regulated under the Real Estate Services Act in relation to the strata management services, and
 - (iii) the strata corporation is not entitled to the same protections applicable under the Real Estate Services Act to persons who deal with licensees who are not acting under this section of the rules;
- (c) the licensee provides a copy of the written disclosure under paragraph (b) to the managing broker of the related brokerage;
- (d) the licensee does not have sole signing authority for withdrawals of any funds of the strata corporation and does not otherwise have sole authority for expenditures of any funds of the strata corporation;
- (e) the strata management services are not provided for or in expectation of remuneration.

(2) On receipt of any strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the Strata Property Act, the licensee must promptly deliver the money to the strata corporation.