
Trust in Real Estate Services Act, 2002

[S.O. 2002, CHAPTER 30](#)

[SCHEDULE C](#)

CURRENT

Consolidation period: December 1, 2023 - e-Laws currency date (August 25, 2025)

Last amendment: [2020, c. 36, Sched. 7, s. 334](#).

Not-yet-in-force provisions appear in consolidated law as **text with a grey background** and are accompanied by related editorial notes.

Legislative History

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PART I INTERPRETATION

Interpretation

1 (1) In this Act,

“administrative authority” means the administrative authority as designated under section 3 of the *Safety and Consumer Statutes Administration Act, 1996* for the purpose of administering this Act; (“organisme d’application”)

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 1 (1) of the Act is amended by adding the following definitions: (See: 2020, c. 1, s. 2 (1))

“administrative penalty” means an administrative penalty imposed under section 43.2 or, if an order under that section is confirmed or varied under section 43.3, the administrative penalty as confirmed or varied under section 43.3; (“pénalité administrative”)

“assessor” means an assessor appointed under subsection 43.1 (2) who is authorized to impose an administrative penalty or the registrar acting as an assessor; (“évaluateur”)

“broker” means an individual who has the prescribed qualifications to be registered as a broker under this Act and who is employed by a brokerage to trade in real estate; (“courtier”)

“brokerage” means a corporation, partnership, sole proprietor, association or other organization or entity that, on behalf of others and for compensation or reward or the expectation of such, trades in real estate or holds himself, herself or itself out as such; (“maison de courtage”)

“business” means an undertaking carried on for gain or profit and includes any interest in such undertaking; (“entreprise”)

“employ” means to employ, appoint, authorize or otherwise arrange to have another person act on one’s behalf, including as an independent contractor; (“employer”)

“equity share” means, in respect of a corporation, a share of a class or series of shares of a corporation that carries a voting right either under all circumstances or under circumstances that have occurred and are continuing; (“action participante”)

“investigator” means an investigator appointed under subsection 22 (1); (“enquêteur”)

“Minister” means the Minister of Consumer and Business Services or such other member of the Executive Council to whom administration for this Act is assigned under the *Executive Council Act*; (“ministre”)

“officer” includes the chair and any vice-chair of the board of directors, the president and any vice-president, the secretary and assistant secretary, the treasurer and assistant treasurer and the general manager and assistant general manager of the corporation or a partner or general manager and assistant general manager of a partnership, any other individual designated as an officer by by-law or resolution or any other individual who performs functions normally performed by an individual occupying such office and the manager of the real estate department of a trust corporation; (“dirigeant”)

“personal real estate corporation” means a corporation that meets the prescribed criteria; (“société immobilière personnelle”)

“prescribed” means prescribed by regulations made under this Act; (“prescrit”)

“real estate” includes leasehold interests and businesses, whether with or without premises, and fixtures, stock-in-trade and goods connected with the operation of a business; (“bien immobilier”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “real estate” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2020, c. 1, s. 2 (3))

“real estate” does not include such matters as may be prescribed but includes,

- (a) leasehold interests,
- (b) businesses, and
- (c) fixtures, stock-in-trade and goods connected with the operation of a business; (“bien immobilier”)

“registrant” means a brokerage that is registered under this Act or a broker or salesperson who is registered under this Act; (“personne inscrite”)

“regulations” means regulations made under this Act; (“règlements”)

“salesperson” means an individual who has the prescribed qualifications to be registered as a salesperson under this Act and who is employed by a brokerage to trade in real estate; (“agent immobilier”)

“self-represented party” means a party that meets the prescribed criteria; (“partie non représentée”)

“trade” includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for purchase and sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition, acquisition or transaction, and any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, and the verb “trade” has a corresponding meaning; (“opération”, “mener des opérations”)

“Tribunal” means the Licence Appeal Tribunal established under the *Licence Appeal Tribunal Act, 1999* or such other tribunal as may be prescribed. (“Tribunal”) 2002, c. 30, Sched. C, s. 1 (1); 2004, c. 19, s. 18 (1); 2006, c. 34, s. 21 (1); 2020, c. 1, s. 2 (2, 4, 5).

Associated persons

(2) For purposes of this Act, one person is associated with another person in any of the following circumstances:

1. One person is a corporation of which the other person is an officer or director.
2. One person is a partnership of which the other person is a partner.
3. Both persons are partners of the same partnership.
4. One person is a corporation that is controlled directly or indirectly by the other person.
5. Both persons are corporations and one corporation is controlled directly or indirectly by the same person who controls directly or indirectly the other corporation.

6. Both persons are members of the same voting trust relating to shares of a corporation.

7. Both persons are associated within the meaning of paragraphs 1 to 6 with the same person. 2004, c. 19, s. 18 (2).

✓ Section Amendments with date in force (d/m/y)

PART II OFFICERS

Director

2 (1) Subject to subsection (2), a director shall be appointed for the purposes of this Act and a maximum of two deputy directors may be appointed,

(a) by the board of the administrative authority; or

(b) by the Minister if there is no designated administrative authority. 2002, c. 30, Sched. C, s. 2 (1).

Director cannot be registrar

(2) A person appointed as the registrar or a deputy registrar under subsection 3 (1) shall not be appointed as the director or a deputy director under subsection (1). 2002, c. 30, Sched. C, s. 2 (2).

Deputy director, duties

(3) A deputy director shall perform such duties as are assigned by the director and shall act as director in his or her absence. 2002, c. 30, Sched. C, s. 2 (3).

Deputy director

(4) If more than one deputy director is appointed, only one deputy director may act as the director under subsection (3) at any one time. 2002, c. 30, Sched. C, s. 2 (4).

✓ Section Amendments with date in force (d/m/y)

Registrar

3 (1) Subject to subsection (2), a registrar shall be appointed for the purposes of this Act and a maximum of two deputy registrars may be appointed,

- (a) by the board of the administrative authority; or
- (b) by the deputy minister to the Minister if there is no designated administrative authority. 2002, c. 30, Sched. C, s. 3 (1).

Registrar cannot be director

(2) A person appointed as the director or a deputy director under subsection 2 (1) shall not be appointed as the registrar or a deputy registrar under subsection (1). 2002, c. 30, Sched. C, s. 3 (2).

Deputy registrar, duties

(3) A deputy registrar shall perform such duties as are assigned by the registrar and shall act as the registrar in the registrar's absence. 2020, c. 1, s. 3.

Deputy registrar

(4) If more than one deputy registrar is appointed, only one deputy registrar may act as the registrar under subsection (3) at any one time. 2002, c. 30, Sched. C, s. 3 (4).

✓ Section Amendments with date in force (d/m/y)

PART III

PROHIBITIONS RE: PRACTICE

Prohibition against trade in real estate unless registered

4 (1) No person shall,

- (a) trade in real estate as a brokerage unless the person is registered as a brokerage;
- (b) trade in real estate as a broker unless he or she is registered as a broker of a brokerage;
- (c) trade in real estate as a salesperson unless he or she is registered as a salesperson of a brokerage; or

(d) trade in real estate unless registered under this Act. 2002, c. 30, Sched. C, s. 4 (1).

Unregistered persons

(2) A person who is not registered as a brokerage, broker or salesperson shall not,

(a) directly or indirectly hold himself, herself or itself out as being a brokerage, broker or salesperson, respectively; or

(b) perform any of the functions of a brokerage, broker or salesperson as provided in this Act. 2002, c. 30, Sched. C, s. 4 (2).

Change in partnership

(3) A change in the membership of a partnership shall be deemed to create a new partnership for the purpose of registration. 2002, c. 30, Sched. C, s. 4 (3).

Change in corporation

(4) A change in the officers or directors of a corporation registered as a brokerage may be made only with the consent of the registrar. 2002, c. 30, Sched. C, s. 4 (4).

Exemptions

5 (1) Subject to such conditions as may be prescribed, despite section 4, registration shall not be required in respect of any trade in real estate by,

(a) an assignee, custodian, liquidator, receiver, trustee or other person acting under the *Bankruptcy and Insolvency Act* (Canada), the *Corporations Act*, the *Business Corporations Act*, the *Courts of Justice Act*, the *Not-for-Profit Corporations Act, 2010*, the *Winding-up and Restructuring Act* (Canada), or a person acting under the order of any court, or an executor or trustee selling under the terms of a will, marriage settlement or deed of trust;

(b) an auctioneer if the trade is made in the course of and as part of the auctioneer's duties as auctioneer;

(c) a person who is registered under the *Securities Act* if the trade is made in the course of and as part of the person's business in connection with a trade in securities;

- (d) a financial institution described in subsection (1.1), if the trade is in real estate owned or administered by the financial institution;
- (e) a person in respect of any mine or mining property within the meaning of the *Mining Act* or in respect of the real estate included in a Crown grant or lease, a mining claim or mineral lands under the *Mining Act* or any predecessor of that Act;
- (f) a full-time salaried employee of a party to a trade if the employee is acting for or on behalf of his or her employer in respect of land situate in Ontario;
- (g) a solicitor of the Superior Court of Justice who is providing legal services if the trade in real estate is itself a legal service or is incidental to and directly arising out of the legal services;
- (h) a person, on the person's own account, in respect of the person's interest in real estate unless,
 - (i) the trade results from an offer of the person to act or a request that the person act in connection with the trade or any other trade, for or on behalf of the other party or one of the other parties to the trade, or
 - (ii) the interest of the person in the real estate was acquired after the offer or request referred to in subclause (i) whether or not the trade is the result of the offer or request;
- (i) a person in respect of the provision for another, for remuneration other than by commission, of all consultations, undertakings and services necessary to arrange for the routing of a right of way including the acquisition of land or interests in land for the purpose, and the person's employees engaged in the project;
- (j) a person who trades in real estate solely for the purpose of arranging leases to which the *Residential Tenancies Act, 2006* applies; or
- (k) such persons or classes of persons that are prescribed as exempt from registration. 2002, c. 30, Sched. C, s. 5 (1); 2006, c. 17, s. 255; 2007, c. 7, Sched. 7, s. 190 (1); 2017, c. 20, Sched. 8, s. 124; 2020, c. 1, s. 4 (1, 2).

Financial institutions

(1.1) A financial institution referred to in clause (1) (d) is,

- (a) a bank or authorized foreign bank as defined in section 2 of the *Bank Act* (Canada);

- (b) a loan or trust corporation;
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 2020*; or
- (d) an insurer licensed under the *Insurance Act, 2007*, c. 7, Sched. 7, s. 190 (2); 2020, c. 1, s. 4 (3); 2020, c. 36, Sched. 7, s. 334 (1).

Independent contractor not an employee

(2) An independent contractor is not an employee for the purpose of clauses (1) (f) and (i). 2002, c. 30, Sched. C, s. 5 (2).

Personal real estate corporation

(3) Subject to such conditions as may be prescribed, despite section 4, registration shall not be required in respect of a personal real estate corporation and prescribed members of such a corporation. 2020, c. 1, s. 4 (4).

✓ Section Amendments with date in force (d/m/y)

Notification of registration required

6 Subject to subsection 14 (8), no brokerage, broker or salesperson shall trade in real estate until notified in writing by the registrar that the brokerage, broker or salesperson, as the case may be, is registered. 2002, c. 30, Sched. C, s. 6 .

Prohibition against multiple offices unless registered

7 (1) No brokerage shall conduct a business of trading in real estate from more than one place to which the public is invited unless the brokerage is registered in respect of each place, one of which shall be designated as the main office and the remainder as branch offices. 2002, c. 30, Sched. C, s. 7 (1).

Branch offices

(2) Every branch office of a brokerage shall be under the supervision of a broker and each such office having more than one salesperson shall be under the direct management of a broker or of a salesperson who has been registered for at least two years and who is under the supervision of a broker. 2002, c. 30, Sched. C, s. 7 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 7 (2) of the Act is repealed and the following substituted: (See: 2020, c. 1, s. 5)

Branch offices

(2) Every branch office of a brokerage shall be under the supervision of a broker and each such office having more than one salesperson shall be under the direct management, in accordance with the regulations, of a registrant who meets such requirements as may be prescribed. 2020, c. 1, s. 5.

✓ Section Amendments with date in force (d/m/y)

8 REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* – December 31, 2012.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2020, c. 1, s. 6)

Specialist certification

8 No registrant shall hold himself, herself or itself out as a specialist in trading in any type of real estate unless,

- (a) the trading in that type of real estate is an area of specialization established under the regulations;
 - (b) the registrant has obtained such education and satisfied such other criteria as may be required under the regulations in order to be certified in that area of specialization; and
 - (c) the registrant is certified, in accordance with the process established in respect of that area of specialization and that type of registrant under the regulations, as a specialist in trading in that area of specialization. 2020, c. 1, s. 6.
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✓ Section Amendments with date in force (d/m/y)

Registration a requirement to bring action

9 No action shall be brought for remuneration for services in connection with a trade in real estate unless at the time of rendering the services the person bringing the action

was registered or exempt from registration under this Act and the court may stay any such action upon motion. 2002, c. 30, Sched. C, s. 9; 2020, c. 1, s. 7.

✓ Section Amendments with date in force (d/m/y)

PART IV REGISTRATION

Registration prohibited

9.1 (1) If an applicant for registration or renewal of registration does not meet the prescribed requirements, the registrar shall refuse to grant or renew the registration. 2004, c. 19, s. 18 (3).

Non-application

(2) Section 14 does not apply to a refusal under subsection (1) to grant or renew a registration. 2004, c. 19, s. 18 (3).

Notice of refusal

(3) The registrar shall give the applicant written notice of a refusal under subsection (1), setting out the reasons for the refusal and subsection 45 (3) does not apply to the notice. 2004, c. 19, s. 18 (3).

✓ Section Amendments with date in force (d/m/y)

Registration

10 (1) An applicant is entitled to registration or renewal of registration by the registrar if, in the registrar's opinion,

- (a) the applicant is not a corporation and,
 - (i) having regard to the past and present financial position of the applicant and of all interested persons in respect of the applicant, the applicant can reasonably be expected to be financially responsible in the conduct of business,
 - (ii) the past and present conduct of the applicant and of all interested persons in respect of the applicant affords reasonable grounds for belief that the applicant will carry on business in accordance with law and with integrity and honesty, and

- (iii) neither the applicant nor an employee or agent of the applicant has made any false statement in an application for registration or for renewal of registration;
- (b) the applicant is a corporation and,
 - (i) having regard to its past and present financial position and the past and present financial position of all interested persons in respect of the corporation, the applicant can reasonably be expected to be financially responsible in the conduct of its business,
 - (ii) having regard to the past and present financial position of its officers and directors and of all interested persons in respect of its officers and directors, the applicant can reasonably be expected to be financially responsible in the conduct of its business,
 - (iii) the past and present conduct of its officers and directors, of all interested persons in respect of its officers and directors and of all interested persons in respect of the corporation affords reasonable grounds for belief that its business will be carried on in accordance with the law and with integrity and honesty, and
 - (iv) no officer or director of the corporation has made any false statement in an application for registration or for renewal of registration;
- (c) neither the applicant nor any interested person in respect of the applicant has carried on or is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations;
- (d) the applicant is not in breach of a condition of the registration;
- (e) the applicant meets any requirements, including any requirements to obtain education, as may be specified under the regulations;
- (f) the applicant has complied with any request made by the registrar under subsection (1.1); and
- (g) granting the registration or the renewal, as the case may be, would not be contrary to the public interest. 2020, c. 1, s. 8 (1).

Request for information

(1.1) The registrar may request an applicant for registration or renewal of registration to provide to the registrar,

- (a) information specified by the registrar that is relevant to the decision to be made by the registrar as to whether or not to grant the registration or renewal or to apply conditions to the registration;
- (b) verification, by affidavit or otherwise, of any information described in clause (a) that the applicant is providing or has provided to the registrar. 2004, c. 19, s. 18 (7); 2020, c. 1, s. 8 (2, 3).

Conditions

(2) A registration is subject to such conditions as are consented to by the applicant or registrant, as are applied by the registrar under section 13, as are ordered by the discipline committee or the Tribunal or as are prescribed. 2002, c. 30, Sched. C, s. 10 (2); 2020, c. 1, s. 8 (4).

Registration not transferable

(3) A registration is not transferable. 2002, c. 30, Sched. C, s. 10 (3).

Interested person

(4) For the purposes of this section, a person shall be deemed to be an interested person in respect of another person if the person is associated with the other person or if, in the opinion of the registrar,

- (a) the person has or may have a beneficial interest in the other person's business;
- (b) the person exercises or may exercise control either directly or indirectly over the other person; or
- (c) the person has provided or may have provided financing either directly or indirectly to the other person's business. 2002, c. 30, Sched. C, s. 10 (4); 2004, c. 19, s. 18 (8).

✓ Section Amendments with date in force (d/m/y)

Registration of corporation

11 (1) When it registers and on each renewal of its registration, a brokerage that is a corporation shall disclose to the registrar the identity of,

- (a) each person that beneficially owns or controls 10 per cent or more of the equity shares issued and outstanding at the time of the registration or the renewal of registration, as the case may be; and
- (b) persons that are associated with each other and that together beneficially own or control 10 per cent or more of the equity shares issued and outstanding at the time of the registration or the renewal of registration, as the case may be. 2004, c. 19, s. 18 (9).

Calculating number of shares

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total number of all shares beneficially owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried. 2002, c. 30, Sched. C, s. 11 (2).

✓ Section Amendments with date in force (d/m/y)

Broker of record

12 (1) Every brokerage shall,

- (a) designate a broker who is employed by the brokerage as the broker of record and notify the registrar of his or her identity; and

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 12 (1) (a) of the Act is repealed and the following substituted: (See: 2020, c. 1, s. 9 (1))

- (a) designate a broker who is employed by the brokerage and meets any prescribed requirements as the broker of record and notify the registrar of the broker's identity; and
- (b) notify the registrar if the broker of record changes, within five days of the change. 2002, c. 30, Sched. C, s. 12 (1).

Duties

(2) The broker of record shall ensure that the brokerage complies with this Act and the regulations. 2002, c. 30, Sched. C, s. 12 (2).

Sole proprietor

(3) If a brokerage is a sole proprietorship, it shall designate the sole proprietor as the broker of record even though other brokers may be employed by the brokerage. 2002, c. 30, Sched. C, s. 12 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 12 (3) of the Act is repealed and the following substituted: (See: 2020, c. 1, s. 9 (2))

Sole proprietor

(3) A brokerage that is a sole proprietorship, whether or not it employs brokers other than the sole proprietor, shall,

- (a) ensure that the sole proprietor meets any prescribed requirements for being designated as the broker of record; and
- (b) designate the sole proprietor as the broker of record. 2020, c. 1, s. 9 (2).

✓ Section Amendments with date in force (d/m/y)

Refusal to register, etc.

13 (1) Subject to section 14, the registrar may refuse to register an applicant or may suspend or revoke a registration or refuse to renew a registration if, in his or her opinion, the applicant or registrant is not entitled to registration under section 10. 2004, c. 19, s. 18 (10).

Conditions

(2) Subject to section 14, the registrar may,

- (a) approve the registration or renewal of a registration on such conditions as he or she considers appropriate; and
- (b) at any time apply to a registration such conditions as he or she considers appropriate. 2002, c. 30, Sched. C, s. 13 (2).

✓ Section Amendments with date in force (d/m/y)

Notice re: refusal, suspension, etc.

14 (1) The registrar shall notify an applicant or registrant in writing if he or she proposes to,

- (a) refuse under subsection 13 (1) to grant or renew a registration;
- (b) suspend or revoke a registration; or
- (c) apply conditions to a registration or renewal to which the applicant or registrant has not consented. 2002, c. 30, Sched. C, s. 14 (1); 2004, c. 19, s. 18 (11).

Content of notice

(2) The notice of proposal shall set out the reasons for the proposed action and shall state that the applicant or registrant is entitled to a hearing by the Tribunal if the applicant or registrant mails or delivers, within 15 days after service of the notice, a written request for a hearing to the registrar and to the Tribunal. 2002, c. 30, Sched. C, s. 14 (2).

Service

(3) The notice of proposal shall be served on the applicant or registrant in accordance with section 45. 2002, c. 30, Sched. C, s. 14 (3).

If no request for hearing

(4) If an applicant or registrant does not request a hearing in accordance with subsection (2), the registrar may carry out the proposal. 2002, c. 30, Sched. C, s. 14 (4).

Hearing

(5) If a hearing is requested, the Tribunal shall hold the hearing and may by order direct the registrar to carry out the registrar's proposal or substitute its opinion for that of the registrar and the Tribunal may attach conditions to its order or to a registration. 2002, c. 30, Sched. C, s. 14 (5).

Parties

(6) The registrar, the applicant or registrant and such other persons as the Tribunal may specify are parties to the proceedings under this section. 2002, c. 30, Sched. C, s. 14 (6).

Voluntary cancellation

(7) The registrar may cancel a registration upon the request in writing of the registrant and this section does not apply to the cancellation. 2002, c. 30, Sched. C, s. 14 (7).

Continuation pending renewal

(8) If, within the time prescribed or, if no time is prescribed, before the expiry of the registrant's registration, the registrant has applied for renewal of a registration and paid the required fee, the registration shall be deemed to continue,

- (a) until the renewal is granted;
- (b) until the registrar gives the registrant written notice of the registrar's refusal under section 9.1 to grant the renewal; or
- (c) if the registrant is served notice that the registrar proposes to refuse under subsection 13 (1) to grant the renewal, until the time for requesting a hearing has expired or, if a hearing is requested, until the Tribunal makes its order. 2004, c. 19, s. 18 (12).

Immediate effect

(9) Even if a registrant appeals an order of the Tribunal under section 11 of the *Licence Appeal Tribunal Act, 1999*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. 2002, c. 30, Sched. C, s. 14 (9).

✓ Section Amendments with date in force (d/m/y)

Immediate suspension

15 (1) If the registrar proposes to suspend or revoke a registration under section 14 and if the registrar considers it in the public interest to do so, the registrar may by order temporarily suspend the registration. 2002, c. 30, Sched. C, s. 15 (1).

Immediate effect

(2) An order under subsection (1) takes effect immediately. 2002, c. 30, Sched. C, s. 15 (2).

Expiry of order

(3) If a hearing is requested under section 14, the order expires 15 days after the written request for a hearing is received by the Tribunal but the Tribunal may extend the time of expiration until the hearing is concluded, if a hearing is commenced within the 15-day period. 2020, c. 1, s. 10.

Same

(4) Despite subsection (3), if it is satisfied that the conduct of the registrant has delayed the commencement of the hearing, the Tribunal may extend the time of the expiration for the order,

- (a) until the hearing commences; and
- (b) once the hearing commences, until the hearing is concluded. 2002, c. 30, Sched. C, s. 15 (4).

✓ Section Amendments with date in force (d/m/y)

Requirements for hearing request

16 (1) A request for a hearing under section 14 is sufficiently served if delivered personally or sent by registered mail to the registrar and to the Tribunal. 2002, c. 30, Sched. C, s. 16 (1).

Same

(2) If service is made by registered mail, it shall be deemed to be made on the third day after the day of mailing. 2002, c. 30, Sched. C, s. 16 (2).

Other methods

(3) Despite subsection (1), the Tribunal may order any other method of service. 2002, c. 30, Sched. C, s. 16 (3).

Suspension without a hearing

16.1 (1) If a registrant does not pay any amounts that the registrant is required to pay with respect to insurance, the registrar shall suspend the registration of the registrant effective as of the date at which the term of the insurance related to the payment begins. 2006, c. 34, s. 21 (2).

No hearing

(2) Section 14 does not apply to a suspension of registration under subsection (1). 2006, c. 34, s. 21 (2).

Notice of suspension

(3) The registrar shall give written notice to the registrant, that sets out,

- (a) the fact that the registrar has suspended the registration;
- (b) the reason for the suspension;
- (c) the date as of which the suspension took effect;
- (d) the fact that the registrant is not entitled to request a hearing under section 14 with respect to the suspension; and
- (e) the registrant's right of revival of the registration under subsection (4). 2006, c. 34, s. 21 (2).

Revival

(4) The registrant is entitled to have the registration revived for the unexpired balance of its term upon,

- (a) paying the unpaid amounts, for which default in payment resulted in the suspension; and
- (b) providing to the registrar evidence in writing satisfactory to the registrar that the registrant has paid all amounts that the registrant is required to pay with respect to insurance. 2006, c. 34, s. 21 (2).

Same

(5) Upon receiving the evidence described in clause (4) (b), the registrar shall,

- (a) revive the registration for the unexpired balance of its term effective from the date on which the registrant paid the unpaid amounts described in clause (4) (a); and
- (b) give notice in writing to the registrant of the revival and the date on which it is effective. 2006, c. 34, s. 21 (2).

Service of notice

(6) Subsection 45 (3) does not apply to the notice mentioned in subsection (3) or clause (5) (b). 2006, c. 34, s. 21 (2).

✓ Section Amendments with date in force (d/m/y)

Further application

17 A person whose registration is refused, revoked or refused renewal may reapply for registration only if,

- (a) the time prescribed to reapply has passed since the refusal, revocation or refusal to renew; and
- (b) new or other evidence is available or it is clear that material circumstances have changed. 2002, c. 30, Sched. C, s. 17.

Notice of issue or transfer of shares

18 (1) In addition to the disclosure required under section 11, every brokerage that is a corporation shall notify the registrar in writing within 30 days after the issue or transfer of any equity shares of the corporation, if the issue or transfer results in,

- (a) any person, or any persons that are associated with each other, acquiring or accumulating beneficial ownership or control of 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation; or
- (b) an increase in the percentage of issued and outstanding equity shares of the corporation beneficially owned or controlled by any person, or any persons who are associated with each other, where the person or the associated persons already beneficially owned or controlled 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation before the issue or transfer. 2004, c. 19, s. 18 (13).

Same

(2) Despite subsection (1), if a registrant that is a corporation becomes aware of a transfer that otherwise falls into subsection (1) after the transfer has taken place, it shall notify the registrar in writing within 30 days after knowledge of the transfer comes to the attention of its officers or directors. 2002, c. 30, Sched. C, s. 18 (2).

Calculation of total number of equity shares

(3) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purpose of this section, the total number shall be calculated as the total of all the shares beneficially owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries. 2002, c. 30, Sched. C, s. 18 (3).

✓ Section Amendments with date in force (d/m/y)

PART V COMPLAINTS AND DISCIPLINE

Complaints

19 (1) The registrar may,

- (a) receive complaints concerning conduct that may be in contravention of this Act or the regulations;
- (b) make written requests to registrants for information regarding complaints; and
- (c) attempt to mediate or resolve complaints, as appropriate, concerning any conduct that comes to the registrar's attention that may be in contravention of this Act or the regulations. 2020, c. 1, s. 12.

Request for information

(2) A request under clause (1) (b) shall indicate the nature of the complaint. 2020, c. 1, s. 12.

Duty to comply

(3) A registrant who receives a written request under clause (1) (b) shall provide the requested information to the registrar. 2020, c. 1, s. 12.

✓ Section Amendments with date in force (d/m/y)

Registrar's powers

20 If the registrar is of the opinion, whether as a result of a complaint or otherwise, that a registrant has contravened any provision of this Act or the regulations, the registrar may do any of the following, as the registrar considers appropriate:

1. Give the registrant a written warning, stating that if the registrant continues with the activity that led to the alleged contravention, action may be taken against the registrant.
2. Require the broker or salesperson to obtain additional education.
3. Refer the matter, in whole or in part, to the discipline committee.
4. Take an action under section 13, subject to section 14.
5. Take further action in accordance with this Act. 2020, c. 1, s. 12.

✓ Section Amendments with date in force (d/m/y)

Discipline proceedings

21 (1) The discipline committee established under this Act is continued for the purposes of hearing and determining, in accordance with the prescribed procedures, whether a registrant has contravened any provision of this Act or the regulations. 2020, c. 1, s. 12.

Appointment of members

(2) The board of the administrative authority or, if there is no designated administrative authority, the Minister, shall appoint the members of the discipline committee and, in making the appointments, shall ensure that the prescribed requirements for the composition of the committee are met. 2020, c. 1, s. 12.

Result of determination

(3) If the discipline committee makes a determination under subsection (1) that a registrant has contravened a provision of this Act or the regulations, it may, by order, do any of the following, as the committee considers appropriate:

1. Require the broker or salesperson to obtain additional education.
2. In accordance with such terms as may be specified by the committee, require the brokerage to fund, or to both arrange for and fund, the obtaining of additional

education by brokers and salespersons employed by the brokerage.

3. Despite subsection 12 (1) of the *Safety and Consumer Statutes Administration Act, 1996*, impose such fine as the committee considers appropriate, subject to subsection (4), to be paid by the registrant to the administrative authority or to the Minister of Finance if there is no designated administrative authority.

4. Suspend or postpone the obligation to satisfy a requirement mentioned in paragraph 1, 2 or 3 for such period and upon such terms as the committee designates.

5. Apply conditions to a registration.

6. Suspend a registration,

i. for a definite period,

ii. until conditions specified by the committee are met to the satisfaction of the registrar, or

iii. for a definite period and, after that, until conditions specified by the committee are met to the satisfaction of the registrar.

7. Revoke a registration if, in the committee's opinion, the registrant is not entitled to registration under section 10.

8. Despite section 17.1 of the *Statutory Powers Procedure Act*, fix and impose costs to be paid by the registrant to the administrative authority or to the Minister of Finance if there is no designated administrative authority. 2020, c. 1, s. 12.

Maximum fine

(4) The maximum amount of the fine mentioned in paragraph 3 of subsection (3) is,

(a) \$50,000, or such lesser amount as may be prescribed, if the registrant is a broker or a salesperson; or

(b) \$100,000, or such lesser amount as may be prescribed, if the registrant is a brokerage. 2020, c. 1, s. 12.

Costs

(5) For the purposes of paragraph 8 of subsection (3), the committee shall fix and impose costs in such manner as the committee considers appropriate, subject to any prescribed requirements. 2020, c. 1, s. 12.

Appeal

(6) A party to the discipline proceeding may appeal the final order of the discipline committee to the Tribunal. 2020, c. 1, s. 12.

Immediate effect

(7) Subject to subsection (8), an order under paragraph 5, 6 or 7 of subsection (3) takes effect immediately even if the order has been appealed under subsection (6). 2020, c. 1, s. 12.

Exception

(8) An order mentioned in subsection (7) does not take effect immediately if the discipline committee has,

- (a) specified a different effective date in the order; or
- (b) granted a stay of the order until the disposition of the appeal. 2020, c. 1, s. 12.

Time for appeal

(9) An appeal under subsection (6) shall be commenced within 30 days after the discipline committee sends notice under section 18 of the *Statutory Powers Procedure Act* of the order being appealed. 2020, c. 1, s. 12.

Parties

(10) The parties to an appeal are the appellant, the other persons who were parties to the proceeding before the discipline committee, and any other person added as a party by the Tribunal. 2020, c. 1, s. 12.

Power of the Tribunal

(11) The Tribunal may by order overturn, affirm or modify the order of the discipline committee and may order anything mentioned in subsection (3). 2020, c. 1, s. 12.

Immediate effect

(12) Even if a registrant appeals an order of the Tribunal under section 11 of the *Licence Appeal Tribunal Act, 1999*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. 2020, c. 1, s. 12.

Payment of fine

(13) The registrant shall pay any fine imposed under subsection (3),

- (a) on or before the day specified in the order of the discipline committee or, if the fine is the subject of an appeal, on or before the day specified in the order of the Tribunal; or
- (b) on or before the 60th day after the date of the last order made in respect of the fine, if no day is specified in that order. 2020, c. 1, s. 12.

Additional education

(14) If a registrant is required by an order to do anything under paragraph 1 or 2 of subsection (3) respecting additional education, the registrant shall satisfy the requirement,

- (a) within the time period specified in the order of the discipline committee or, if the requirement respecting additional education is the subject of an appeal, within the time period specified in the order of the Tribunal; or
- (b) at the first reasonable opportunity after the last order made respecting additional education, if no time period is specified in that order. 2020, c. 1, s. 12.

Public access

(15) Decisions of the discipline committee shall be made available to the public in such manner as may be prescribed. 2020, c. 1, s. 12.

✓ Section Amendments with date in force (d/m/y)

PART V.1

INSPECTIONS AND INVESTIGATIONS

Inspectors

Registrar is inspector

21.1 (1) The registrar is, by virtue of the registrar's office, an inspector. 2020, c. 1, s. 13.

Appointment of inspectors

(2) The registrar shall appoint persons to be inspectors for the purposes of conducting inspections under this Act. 2020, c. 1, s. 13.

Certificate of appointment

(3) The registrar shall issue to every appointed inspector a certificate of appointment bearing the registrar's signature or a facsimile of it. 2020, c. 1, s. 13.

Proof of appointment

(4) Every appointed inspector who is conducting an inspection under this Act shall, upon request, produce the certificate of appointment as an inspector. 2020, c. 1, s. 13.

Powers and duties

(5) An inspector shall have the powers and duties set out in this Act and such other powers and duties as may be prescribed. 2020, c. 1, s. 13.

✓ Section Amendments with date in force (d/m/y)

Inspections

21.2 (1) An inspector may, without a warrant or court order, conduct inspections for the purpose of,

- (a) ensuring compliance with this Act and the regulations; or
- (b) ensuring a registrant remains entitled to registration. 2020, c. 1, s. 13.

Power to enter premises

(2) As part of an inspection, an inspector may, without a warrant or court order, enter and inspect, at any reasonable time, the business premises of a registrant, other than any part of the premises used as a dwelling. 2020, c. 1, s. 13.

Expert help

(3) An inspector conducting an inspection may be accompanied by one or more persons with special, expert or professional knowledge, and any other persons as necessary, as the inspector considers advisable. 2020, c. 1, s. 13.

Powers on inspection

(4) An inspector conducting an inspection may,

- (a) examine records or anything else that is relevant to the inspection;
- (b) demand the production of a record or any other thing that is relevant to the inspection;
- (c) on issuing a written receipt for it, remove for review and copying a record or any other thing that is relevant to the inspection;
- (d) in order to produce a record in readable form, use any data storage, information processing or retrieval devices or systems that are normally used in carrying on business;
- (e) take photographs, video recordings or other visual or audio recordings that are relevant to the inspection; and
- (f) inquire into all financial transactions, records and other matters that are relevant to the inspection. 2020, c. 1, s. 13.

Limitation re photographs and recordings

(5) A photograph or recording made under clause (4) (e) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy. 2020, c. 1, s. 13.

Written demand

(6) A demand that a record or any other thing be produced for inspection must be in writing and must state the nature of the record or thing required and when the record or thing is to be produced. 2020, c. 1, s. 13.

Obligation to produce and assist

(7) If an inspector demands that a record or other thing be produced for inspection, the person having custody of the record or other thing shall produce it for the inspector within the time provided for in the demand, and shall, upon the inspector's demand,

- (a) provide whatever assistance is reasonably necessary to produce a record or other thing in a readable form, including using any data storage, processing or retrieval device or system; and

(b) provide whatever assistance is reasonably necessary to interpret a record or other thing for the inspector. 2020, c. 1, s. 13.

Return of things

(8) A record or other thing that has been removed for review and copying,

(a) shall be made available to the person from whom it was removed on request and at a time and place that are convenient for the person and for the inspector; and

(b) shall be returned to the person within a reasonable time. 2020, c. 1, s. 13.

No use of force

(9) An inspector shall not use force to enter and inspect premises under this section. 2020, c. 1, s. 13.

No obstruction

(10) No person shall obstruct an inspector conducting an inspection or a person accompanying the inspector under subsection (3) or withhold from the inspector or other person or conceal, alter or destroy any record or other thing that is relevant to the inspection. 2020, c. 1, s. 13.

Admissibility of copies

(11) A copy of a record or other thing that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2020, c. 1, s. 13.

✓ Section Amendments with date in force (d/m/y)

Appointment of investigators

22 (1) The director may appoint persons to be investigators for the purposes of conducting investigations. 2002, c. 30, Sched. C, s. 22 (1).

Certificate of appointment

(2) The director shall issue to every investigator a certificate of appointment bearing his or her signature or a facsimile of the signature. 2002, c. 30, Sched. C, s. 22 (2).

Production of certificate of appointment

(3) Every investigator who is conducting an investigation, including under section 23, shall, upon request, produce the certificate of appointment as an investigator. 2006, c. 34, s. 21 (4).

✓ Section Amendments with date in force (d/m/y)

Search warrant

23 (1) Upon application made without notice by an investigator, a justice of the peace may issue a warrant, if he or she is satisfied on information under oath that there is reasonable ground for believing that,

(a) a person has contravened or is contravening this Act or the regulations or has committed an offence under the law of any jurisdiction that is relevant to the person's fitness for registration under this Act; and

(b) there is,

(i) in any building, dwelling, receptacle or place anything relating to the contravention of this Act or the regulations or to the person's fitness for registration, or

(ii) information or evidence relating to the contravention of this Act or the regulations or the person's fitness for registration that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant. 2004, c. 19, s. 18 (15); 2006, c. 34, s. 21 (5); 2020, c. 1, s. 14 (1).

Powers under warrant

(2) Subject to any conditions contained in it, a warrant obtained under subsection (1) authorizes an investigator,

(a) to enter or access the building, dwelling, receptacle or place specified in the warrant and examine and seize anything described in the warrant;

(b) to make reasonable inquiries of any person, orally or in writing, with respect to anything relevant to the investigation;

(c) to require a person to produce the information or evidence described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the information or evidence described in the warrant;

(d) to use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form; and

(e) to use any investigative technique or procedure or do anything described in the warrant. 2004, c. 19, s. 18 (15); 2006, c. 34, s. 21 (6, 7); 2020, c. 1, s. 14 (1, 2).

Entry of dwelling

(3) Despite subsection (2), an investigator shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling, unless,

(a) the justice of the peace is informed that the warrant is being sought to authorize entry into a dwelling; and

(b) the justice of the peace authorizes the entry into the dwelling. 2004, c. 19, s. 18 (15).

Conditions on warrant

(4) A warrant obtained under subsection (1) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2004, c. 19, s. 18 (15).

Expert help

(5) The warrant may authorize persons who have special, expert or professional knowledge and other persons as necessary to accompany and assist the investigator in respect of the execution of the warrant. 2004, c. 19, s. 18 (15); 2006, c. 34, s. 21 (8).

Time of execution

(6) An entry or access under a warrant issued under this section shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise. 2004, c. 19, s. 18 (15).

Expiry of warrant

(7) A warrant issued under this section shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by an investigator. 2004, c. 19, s. 18 (15).

Use of force

(8) An investigator may call upon police officers for assistance in executing the warrant and the investigator may use whatever force is reasonably necessary to execute the warrant. 2004, c. 19, s. 18 (15).

Obstruction

(9) No person shall obstruct an investigator executing a warrant under this section or withhold from him or her or conceal, alter or destroy anything relevant to the investigation being conducted pursuant to the warrant. 2004, c. 19, s. 18 (15).

Compliance

(10) If an investigator under clause (2) (c) requires a person to produce evidence or information or to provide assistance, the person shall produce the evidence or information or provide the assistance, as the case may be. 2020, c. 1, s. 14 (3).

Copies of seized items

(11) An investigator who seizes any thing under this section or section 23.1 may make a copy of it. 2020, c. 1, s. 14 (3).

Admissibility

(12) A copy of a document or record certified by an investigator as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2004, c. 19, s. 18 (15).

✓ Section Amendments with date in force (d/m/y)

Seizure of things not specified

23.1 An investigator who is lawfully present in a place pursuant to a warrant or otherwise in the execution of his or her duties may, without a warrant, seize anything in plain view that the investigator believes on reasonable grounds will afford evidence relating to a contravention of this Act or the regulations. 2006, c. 34, s. 21 (10).

✓ Section Amendments with date in force (d/m/y)

Searches in exigent circumstances

24 (1) An investigator may exercise any of the powers described in subsection 23 (2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant. 2004, c. 19, s. 18 (16).

Dwellings

(2) Subsection (1) does not apply to a building or part of a building that is being used as a dwelling. 2004, c. 19, s. 18 (16).

Use of force

(3) The investigator may, in executing any authority given by this section, call upon police officers for assistance and use whatever force is reasonably necessary. 2004, c. 19, s. 18 (16).

Applicability of s. 23

(4) Subsections 23 (5), (9), (10), (11) and (12) apply with necessary modifications to a search under this section. 2004, c. 19, s. 18 (16).

✓ Section Amendments with date in force (d/m/y)

Report when things seized

24.1 (1) An investigator who seizes any thing under the authority of section 23, 23.1 or 24 shall bring it before a justice of the peace or, if that is not reasonably possible, shall report the seizure to a justice of the peace. 2020, c. 1, s. 15.

Procedure

(2) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of a thing seized under the authority of section 23, 23.1 or 24 of this Act, reading the reference in subsection 160 (1) of that Act to a document that a person is about to examine or seize under a search warrant as a reference to a thing that an investigator is about to examine or seize under the authority of section 23, 23.1 or 24 of this Act. 2020, c. 1, s. 15.

✓ Section Amendments with date in force (d/m/y)

Freeze order

25 (1) If the conditions in subsection (2) are met, the director may in writing,

- (a) order any person having on deposit or controlling any assets or trust funds of a registrant or former registrant to hold those funds or assets;
- (b) order a registrant or former registrant to refrain from withdrawing any asset or trust fund from a person having it on deposit or controlling it; or
- (c) order a registrant or former registrant to hold any asset or trust fund of a client, self-represented party or other person in trust for the person entitled to it. 2002, c. 30, Sched. C, s. 25 (1); 2006, c. 19, Sched. G, s. 9 (1); 2020, c. 1, s. 16 (1).

Conditions

(2) The director may make an order under subsection (1) if he or she believes that it is advisable for the protection of the clients of a registrant or former registrant or the protection of self-represented parties dealing with a registrant or former registrant and,

- (a) a search warrant has been issued under this Act; or
- (b) criminal proceedings or proceedings in relation to a contravention under this Act or under any other Act are about to be or have been instituted against the registrant or former registrant in connection with or arising out of the business in respect of which the registrant or former registrant is or was registered. 2002, c. 30, Sched. C, s. 25 (2); 2006, c. 19, Sched. G, s. 9 (2); 2020, c. 1, s. 16 (2).

Limitation

(3) In the case of a financial institution described in subsection (3.1), the order under subsection (1) applies only to the offices and branches named in the order. 2007, c. 7, Sched. 7, s. 190 (3).

Financial institutions

(3.1) A financial institution referred to in subsection (3) is,

- (a) a bank or authorized foreign bank as defined in section 2 of the *Bank Act* (Canada);
- (b) a loan or trust corporation; or
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 2020*. 2007, c. 7, Sched. 7, s. 190 (3); 2020, c. 1, s. 16 (3); 2020, c. 36, Sched. 7, s. 334 (2).

Release of assets

(4) The director may consent to the release of any particular asset or trust fund from the order or may wholly revoke the order. 2002, c. 30, Sched. C, s. 25 (4).

Exception

(5) Subsection (1) does not apply if the registrant or former registrant files with the director, in such manner and amount as the director determines,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of an insurer licensed under the *Insurance Act* to write surety and fidelity insurance;
- (c) a bond of a guarantor accompanied by collateral security; or
- (d) another prescribed form of security. 2002, c. 30, Sched. C, s. 25 (5).

Application to court

(6) An application may be made to the Superior Court of Justice for a determination in respect of the disposition of an asset or trust fund,

- (a) by a person in receipt of an order under subsection (1), if that person is in doubt as to whether the order applies to the asset or trust fund; or

(b) by a person who claims an interest in the asset or trust fund that is subject to the order. 2002, c. 30, Sched. C, s. 25 (6).

Notice

(7) If an order is made under this section, the director may register in the appropriate land registry office a notice that an order under subsection (1) has been issued and that the order may affect land belonging to the person referred to in the notice, and the notice has the same effect as the registration of a certificate of pending litigation, except that the director may in writing revoke or modify the notice. 2002, c. 30, Sched. C, s. 25 (7).

Cancellation or discharge application

(8) A registrant or former registrant in respect of which an order is made under subsection (1) or any person having an interest in land in respect of which a notice is registered under subsection (7) may apply to the Tribunal for cancellation in whole or in part of the order or for discharge in whole or in part of the registration. 2002, c. 30, Sched. C, s. 25 (8).

Disposition by Tribunal

(9) The Tribunal shall dispose of the application after a hearing and may cancel the order or discharge the registration in whole or in part if the Tribunal finds,

(a) that the order or registration is not required in whole or in part for the protection of clients of the applicant, self-represented parties dealing with the applicant or of other persons having an interest in the land; or

(b) that the interests of other persons are unduly prejudiced by the order or registration. 2002, c. 30, Sched. C, s. 25 (9) ; 2006, c. 19, Sched. G, s. 9 (3); 2020, c. 1, s. 16 (4).

Parties

(10) The applicant, the director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal. 2002, c. 30, Sched. C, s. 25 (10).

Court application

(11) If the director has made an order under subsection (1) or registered a notice under subsection (7), he or she may apply to the Superior Court of Justice for directions or an order relating to the disposition of assets, trust funds or land affected by the order or notice. 2002, c. 30, Sched. C, s. 25 (11).

Notice not required

(12) An application by the director under this section may be made without notice to any other person. 2002, c. 30, Sched. C, s. 25 (12).

✓ Section Amendments with date in force (d/m/y)

Freeze orders, non-registrants

25.1 (1) The director may make an order described in subsection (2) in respect of the money or assets of a person who is not registered under this Act and who is alleged to have conducted business for which registration is required under this Act at a time when the person was not registered to do so if,

(a) the director receives an affidavit in which it is alleged, and in which facts are set out supporting the allegation, that the person who is not registered under this Act,

(i) is subject to criminal proceedings or proceedings in relation to a contravention under this Act or any other Act that are about to be or have been instituted against the person in connection with or arising out of conducting business for which registration is required under this Act, or

(ii) owns a building, dwelling, receptacle or place, or carries on activities in a building, dwelling, receptacle or place, in respect of which a search warrant has been issued under section 23; and

(b) the director, based on the affidavit referred to in clause (a), finds reasonable grounds to believe that,

(i) in the course of conducting business for which registration is required under this Act, the person who is the subject of the allegation referred to in clause (a) has received money or assets from clients or self-represented parties, and

(ii) the interests of those clients or self-represented parties require protection. 2004, c. 19, s. 18 (17) ; 2006, c. 19, Sched. G, s. 9 (4); 2020, c. 1, s. 17 (1, 2).

Order

(2) In the circumstances described in subsection (1), the director may, in writing,

- (a) order any person having on deposit or controlling any money or asset of the person who is the subject of the allegation referred to in clause (1) (a) to hold the money or asset; or
- (b) order the person who is the subject of the allegation referred to in clause (1) (a),
 - (i) to refrain from withdrawing any money or asset from a person having it on deposit or controlling it, or
 - (ii) to hold any money or asset of a client, self-represented party or other person in trust for the person who is entitled to it. 2004, c. 19, s. 18 (17) ; 2006, c. 19, Sched. G, s. 9 (5); 2020, c. 1, s. 17 (3).

Application

(3) Subsections 25 (3) to (12) apply with necessary modifications to an order made under this section. 2004, c. 19, s. 18 (17).

✓ Section Amendments with date in force (d/m/y)

PART VI CONDUCT AND OFFENCES

Duty of brokerage

26 A brokerage shall ensure that every salesperson and broker that the brokerage employs is carrying out their duties in compliance with this Act and the regulations. 2002, c. 30, Sched. C, s. 26.

Trust account

27 (1) Every brokerage shall,

- (a) maintain in Ontario an account designated as a trust account, in,
 - (i) a bank or authorized foreign bank as defined in section 2 of the *Bank Act* (Canada);
 - (ii) a loan or trust corporation; or

- (iii) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 2020*;
- (b) deposit into the account all money that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business;
- (c) at all times keep the money separate and apart from money belonging to the brokerage; and
- (d) disburse the money only in accordance with the terms of the trust. 2004, c. 19, s. 18 (18); 2007, c. 7, Sched. 7, s. 190 (4); 2020, c. 1, s. 18 (1); 2020, c. 36, Sched. 7, s. 334 (3).

Disclosure

(2) Brokerages shall fully and clearly disclose in writing to a person depositing trust money the terms on which the brokerage deposits the money, including whether the money is deposited in an interest bearing account and the interest rate that the brokerage receives on the money. 2002, c. 30, Sched. C, s. 27 (2).

Interest

(3) Unless otherwise provided by contract, all interest on the trust money referred to in subsection (1) shall be paid to the beneficial owner of the trust money. 2002, c. 30, Sched. C, s. 27 (3).

Entitlement unclear

(4) If a brokerage holds money in trust for a period of two years and entitlement to the money has not been determined or is unclear, the brokerage shall pay the money to,

- (a) the administrative authority; or
- (b) if there is no designated administrative authority, the Minister of Finance. 2002, c. 30, Sched. C, s. 27 (4).

Unclaimed trust money

(5) If a brokerage holds money in trust for a period of two years after the person for whom it is held first became entitled to payment of the money and the person cannot be located, the brokerage shall pay the money to,

- (a) the administrative authority; or

(b) if there is no designated administrative authority, the Minister of Finance. 2002, c. 30, Sched. C, s. 27 (5); 2020, c. 1, s. 18 (2).

Attempt to locate person entitled to payment of money

(6) Before the brokerage pays the money under subsection (5), the brokerage shall use reasonable efforts to locate the person entitled to the money being held in trust. 2002, c. 30, Sched. C, s. 27 (6).

Information on entitlement

(7) When a brokerage pays money over under subsection (4) or (5), the brokerage shall provide to the administrative authority or to the Minister of Finance, as the case may be, as much information as the brokerage has in order to determine who is entitled to the trust money. 2002, c. 30, Sched. C, s. 27 (7).

Money held in trust

(8) If the administrative authority has been paid money under clause (4) (a) or (5) (a), it shall hold the money in trust until the money is claimed by the person who is entitled to it or the money is transferred to the Minister of Finance under subsection (11). 2002, c. 30, Sched. C, s. 27 (8).

Use of interest

(9) If money has been paid to the administrative authority under clause (4) (a) or (5) (a), the administrative authority shall allocate any interest that is earned after it has received the money to a separate account and may use the money from that account only to cover the costs of administering the trust fund and processing claims for the recovery of money held in trust. 2002, c. 30, Sched. C, s. 27 (9).

Same

(10) If money to which clause (4) (a) or (5) (a) applies is held in an interest bearing account and the money is paid to the administrative authority, the administrative authority shall treat the money that is paid as a capital amount, and for purposes of subsection (9), interest shall be deemed not to be earned on the money until after the administrative authority has received it. 2002, c. 30, Sched. C, s. 27 (10).

Unclaimed trust money to Minister of Finance

(11) If the administrative authority holds money that has been paid under clause (4) (a) or (5) (a) for a period of five years, the administrative authority shall pay the money to the Minister of Finance within one year after it has been held for the five-year period. 2002, c. 30, Sched. C, s. 27 (11).

Attempt to locate person entitled to money

(12) The Minister or the administrative authority, as the case may be, shall use reasonable efforts to locate the person entitled to the money paid under subsection (5). 2002, c. 30, Sched. C, s. 27 (12).

Rights preserved

(13) The payment of money held in trust to the Minister of Finance or the administrative authority is made without any prejudice to the rights of any person to claim entitlement to the trust money. 2002, c. 30, Sched. C, s. 27 (13).

Payment

(14) The Minister of Finance or the administrative authority that receives money under subsection (4) or (5) shall pay it to the person entitled to the money. 2002, c. 30, Sched. C, s. 27 (14).

Transition

(15) If a person who was registered as a broker under the *Real Estate and Business Brokers Act* immediately before that Act is repealed is holding money to which subsection (4) or (5) would apply if they were in force for the period specified in the subsection or for a longer period immediately before this section is proclaimed into force, within one year after this section has come into force, the person deemed to be a brokerage under subsection 49 (2) shall pay the money to,

- (a) the administrative authority; or
- (b) if there is no designated administrative authority, the Minister of Finance. 2002, c. 30, Sched. C, s. 27 (15).

✓ Section Amendments with date in force (d/m/y)

Notice of changes to registrar

28 (1) Every registrant shall, within five days after the event, provide notice to the registrar of,

- (a) any change in the registrant's address for service;
- (b) in the case of a corporation or partnership, any change in the officers or directors;
- (c) any change in the information that was included in a registrant's application for registration; and
- (d) any change to such other information as may be prescribed. 2020, c. 1, s. 19.

(2) REPEALED: 2020, c. 1, s. 19.

Timing

(3) The registrar shall be deemed to have been notified on the day on which he or she is actually notified or, where the notification is by mail, on the day of mailing. 2002, c. 30, Sched. C, s. 28 (3).

Financial statements

(4) Every brokerage shall, when required by the registrar, file a financial statement showing the matters specified by the registrar and signed by the broker of record and certified by a person licensed under the *Public Accounting Act, 2004*. 2002, c. 30, Sched. C, s. 28 (4); 2004, c. 8, s. 46; 2011, c. 1, Sched. 2, s. 7.

Confidential

(5) The information contained in a financial statement filed under subsection (4) is confidential and no person shall otherwise than in the ordinary course of the person's duties communicate any such information or allow access to the financial statement. 2002, c. 30, Sched. C, s. 28 (5).

✓ Section Amendments with date in force (d/m/y)

Carrying on business as sole proprietor

29 (1) A brokerage carrying on business alone through an individual broker shall carry on business in the name of the broker and shall not use any description or device that

would indicate that the brokerage's business is being carried on by more than one person or by a corporation. 2002, c. 30, Sched. C, s. 29 (1).

Exception

(2) Despite subsection (1), a surviving or remaining partner may carry on business in the name of the original partnership if the surviving or remaining partner publishes on all letterhead, circulars and advertisements used in connection with the business the fact that the surviving or remaining partner is the sole proprietor. 2002, c. 30, Sched. C, s. 29 (2).

Restrictions re: employees

30 No brokerage shall,

- (a) employ another brokerage's broker or salesperson to trade in real estate or permit such broker or salesperson to act on the brokerage's behalf;
 - (b) employ an unregistered person to perform a function for which registration is required; or
 - (c) pay any remuneration to a person referred to in clause (a) or (b), except if otherwise provided for in the regulations and in accordance with the regulations.
- 2002, c. 30, Sched. C, s. 30; 2020, c. 1, s. 20.

✓ Section Amendments with date in force (d/m/y)

Restrictions re: brokers and salespersons

31 (1) No broker or salesperson shall trade in real estate on behalf of any brokerage other than the brokerage which employs the broker or salesperson. 2002, c. 30, Sched. C, s. 31 (1).

Same

(2) Except if the regulations provide otherwise and subject to the regulations, no broker or salesperson is entitled to or shall accept any remuneration for trading in real estate from any person except the brokerage which employs the broker or salesperson. 2020, c. 1, s. 21.

✓ **Section Amendments with date in force (d/m/y)**

Acquisition or divestiture by registrant

32 (1) Unless the registrant first delivers to all other parties to the agreement the notice described in subsection (2) and the other parties have acknowledged in writing receipt of the notice, no registrant shall, directly or indirectly,

- (a) purchase, lease, exchange or otherwise acquire for himself, herself, or itself, any interest in real estate, or make an offer to do so; or
- (b) divest himself, herself, or itself of any interest in real estate, or make an offer to do so. 2004, c. 19, s. 18 (21).

Contents of notice

(2) The notice referred to in subsection (1) shall be in writing and shall include,

- (a) a statement that the registrant is a brokerage, broker or salesperson, as the case may be;
- (b) full disclosure of all facts within the registrant's knowledge that affect or will affect the value of the real estate; and
- (c) in the case of a transaction described in clause (1) (a), the particulars of any negotiation, offer or agreement by or on behalf of the registrant for the subsequent sale, lease, exchange or other disposition of an interest in the real estate to any other person. 2004, c. 19, s. 18 (21).

✓ **Section Amendments with date in force (d/m/y)**

Prohibition re: breaking contract

33 (1) No registrant shall attempt to induce or induce any party to an agreement in respect of a trade in real estate to break the agreement for the purpose of entering into another such agreement. 2020, c. 1, s. 22 (1).

Date of signing

(2) Every salesperson and broker shall make all reasonable efforts to ensure that a person signing an agreement in respect of a trade in real estate sets out the date upon

which the signature was affixed. 2002, c. 30, Sched. C, s. 33 (2).

Remuneration

(3) Unless agreed to in writing by the seller, no brokerage is entitled to claim remuneration from the seller in respect of a trade in real estate if the real estate is, to the knowledge of the brokerage, covered by an unexpired listing agreement with another brokerage. 2002, c. 30, Sched. C, s. 33 (3); 2004, c. 19, s. 18 (22); 2020, c. 1, s. 22 (2).

✓ Section Amendments with date in force (d/m/y)

Falsifying information

34 No registrant shall falsify, assist in falsifying or induce or counsel another person to falsify or assist in falsifying any information or document relating to a trade in real estate. 2002, c. 30, Sched. C, s. 34.

Furnishing false information

35 No registrant shall furnish, assist in furnishing or induce or counsel another person to furnish or assist in furnishing any false or deceptive information or documents relating to a trade in real estate. 2002, c. 30, Sched. C, s. 35.

Offers to purchase real estate

35.1 (1) No registrant shall,

- (a) while acting on behalf of a purchaser, present an offer to purchase real estate except if the offer is in writing;
- (b) represent to any person that a written offer to purchase real estate exists except if the offer is in writing. 2013, c. 13, Sched. 3, s. 1.

Records

(2) A brokerage acting on behalf of a seller shall, in accordance with the regulations, retain copies of all written offers that it receives to purchase real estate or copies of all other prescribed documents related to those offers. 2020, c. 1, s. 23 (1).

Request for inquiry by registrar

(3) A person who has made a written offer to purchase real estate or a registrant acting on behalf of such a person may request that the registrar make an inquiry to determine the number of written offers that the brokerage acting for a seller has received to purchase the real estate. 2013, c. 13, Sched. 3, s. 1.

Inquiry

(4) On receiving a request under subsection (3), the registrar may make an inquiry of the brokerage and the brokerage shall,

- (a) respond within a reasonable period of time, or within the time that is prescribed; and
- (b) at the request of the registrar, provide the registrar with copies of the written offers or other documents that it is required to retain under subsection (2). 2013, c. 13, Sched. 3, s. 1.

Disclosure by registrar

(5) Subject to subsection (5.1), the registrar shall determine the number of written offers that the brokerage has received to purchase the real estate and shall disclose the number of the offers as soon as practicable, or within the period of time that is prescribed, to the person who requested the inquiry under subsection (3). 2020, c. 1, s. 23 (2).

Same

(5.1) Except in such circumstances as may be prescribed, the registrar shall not disclose the substance of any of the offers or the identity of the person making any of the offers. 2020, c. 1, s. 23 (2).

Other action by registrar

(6) Nothing in this section limits the authority of the registrar to take any other action against a registrant that this Act authorizes the registrar to take. 2013, c. 13, Sched. 3, s. 1.

✓ Section Amendments with date in force (d/m/y)

Remuneration

36 (1) All remuneration payable to a brokerage in respect of a trade in real estate shall be an agreed amount or percentage of the sale price or rental price, as the case may be, or a combination of both. 2013, c. 13, Sched. 3, s. 2; 2020, c. 1, s. 24 (1).

(1.1) REPEALED: 2020, c. 1, s. 24 (2).

Percentages

(2) If the remuneration payable in respect of a trade in real estate is expressed as a percentage of the sale price or rental price, the percentage does not have to be fixed but may be expressed as a series of percentages that decrease at specified amounts as the sale price or rental price increases. 2002, c. 30, Sched. C, s. 36 (2); 2020, c. 1, s. 24 (3).

Prohibition

(3) No registrant shall request or enter into an arrangement for the payment of any remuneration based on the difference between the price at which real estate is listed for sale or rental and the actual sale price or rental price, as the case may be, of the real estate, nor is a registrant entitled to retain any remuneration computed upon any such basis. 2020, c. 1, s. 24 (4).

✓ Section Amendments with date in force (d/m/y)

False advertising

37 No registrant shall make false, misleading or deceptive statements in any advertisement, circular, pamphlet or material published by any means relating to trading in real estate. 2002, c. 30, Sched. C, s. 37.

Order of registrar re: false advertising

38 (1) If the registrar believes on reasonable grounds that a registrant is making a false, misleading or deceptive statement in any advertisement, circular, pamphlet or material published by any means, the registrar may,

- (a) order the cessation of the use of such material;
- (b) order the registrant to retract the statement or publish a correction of equal prominence to the original publication; or

(c) order both a cessation described in clause (a) and a retraction or correction described in clause (b). 2002, c. 30, Sched. C, s. 38 (1).

Procedures

(2) Section 14 applies with necessary modifications to an order under this section in the same manner as to a proposal by the registrar to refuse a registration. 2002, c. 30, Sched. C, s. 38 (2).

Effect

(3) The order of the registrar shall take effect immediately, but the Tribunal may grant a stay until the registrar's order becomes final. 2002, c. 30, Sched. C, s. 38 (3).

Pre-approval

(4) If the registrant does not appeal an order under this section or if the order or a variation of it is upheld by the Tribunal, the registrant shall, upon the request of the registrar, submit all statements in any advertisement, circular, pamphlet or material to be published by any means to the registrar for approval before publication for such period as the registrar specifies. 2002, c. 30, Sched. C, s. 38 (4); 2004, c. 19, s. 18 (23).

Specified period

(5) The registrar shall not specify under subsection (4) a period,

(a) that exceeds such period as may be prescribed; or

(b) any part of which falls outside such period as may be prescribed. 2004, c. 19, s. 18 (24).

✓ Section Amendments with date in force (d/m/y)

Restraining orders

39 (1) If it appears to the director that a person is not complying with this Act or the regulations or an order made under this Act, the director may apply to the Superior Court of Justice for an order directing that person to comply, and, upon the application, the court may make such order as the court thinks fit. 2002, c. 30, Sched. C, s. 39 (1).

Same

(2) Subsection (1) applies in addition to any other procedures that may be available to the director, whether or not the director has exercised his or her rights under such procedures. 2002, c. 30, Sched. C, s. 39 (2).

Appeal

(3) An appeal lies to the Divisional Court from an order made under subsection (1). 2002, c. 30, Sched. C, s. 39 (3).

Offence

40 (1) A person is guilty of an offence who,

- (a) furnishes false information in any application under this Act or in any statement or return required under this Act;
- (b) fails to comply with any order, other than an order made under section 21, direction or other requirement under this Act; or
- (c) contravenes or fails to comply with any section of this Act or the regulations made under the Act, other than a prescribed code of ethics. 2002, c. 30, Sched. C, s. 40 (1); 2020, c. 1, s. 25.

Brokerages

(2) An officer or director of a brokerage is guilty of an offence who fails to take reasonable care to prevent the brokerage from committing an offence mentioned in subsection (1). 2002, c. 30, Sched. C, s. 40 (2).

Penalties

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years less a day, or both, and a corporation that is convicted of an offence under this Act is liable to a fine of not more than \$250,000. 2002, c. 30, Sched. C, s. 40 (3).

Limitation

(4) No proceeding under this section shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the director. 2002, c. 30, Sched. C, s. 40 (4).

✓ Section Amendments with date in force (d/m/y)

Orders for compensation, restitution

41 (1) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to pay compensation or make restitution. 2002, c. 30, Sched. C, s. 41 (1).

If insurance has paid

(2) If an order is made in a person's favour under subsection (1) and that person has already received compensation or restitution from an insurer, the person ordered to pay the compensation or make restitution shall deliver the amount to the insurer. 2002, c. 30, Sched. C, s. 41 (2).

Default in payment of fines

42 (1) If a fine payable as a result of a conviction for an offence under this Act is in default for at least 60 days, the director may disclose to a consumer reporting agency the name of the defaulter, the amount of the fine and the date the fine went into default. 2002, c. 30, Sched. C, s. 42 (1).

If payment made

(2) Within 10 days after the director has notice that the fine has been paid in full, the director shall inform the consumer reporting agency of the payment. 2002, c. 30, Sched. C, s. 42 (2).

Transition

(3) If a fine is payable as a result of a conviction under the *Real Estate and Business Brokers Act*, despite the repeal of that Act, the director may treat the fine as if it is payable as a result of a conviction under this Act, and subsections (1) and (2) apply to such a fine in like manner as they apply to a fine payable for a conviction under this Act. 2002, c. 30, Sched. C, s. 42 (3).

Liens and charges

43 (1) If a fine payable as a result of a conviction for an offence under this Act is in default for at least 60 days, the director may by order create a lien against the property of the

person who is liable to pay the fine. 2002, c. 30, Sched. C, s. 43 (1).

Liens on personal property

(2) If the lien created by the director under subsection (1) relates to personal property,

- (a) the *Personal Property Security Act*, except Part V, applies with necessary modifications to the lien, despite clause 4 (1) (a) of that Act;
- (b) the lien shall be deemed to be a security interest that has attached for the purposes of the *Personal Property Security Act*; and
- (c) the director may perfect the security interest referred to in clause (b) for the purposes of the *Personal Property Security Act* by the registration of a financing statement under that Act. 2002, c. 30, Sched. C, s. 43 (2).

Liens and charges on real property

(3) If the lien created by the director under subsection (1) relates to real property, the director may register the lien against the property of the person liable to pay the fine in the proper land registry office and on registration, the obligation under the lien becomes a charge on the property. 2002, c. 30, Sched. C, s. 43 (3).

Initiation of sale proceedings prohibited

(4) The director shall not initiate sale proceedings in respect of any real property against which he or she has registered a lien under subsection (3). 2002, c. 30, Sched. C, s. 43 (4).

Proceeds of sale

(5) If a lien is perfected by registration under subsection (2) or is registered against real property under subsection (3) and the related real or personal property is sold, the director shall ensure that the funds he or she receives as a result of the sale are used to pay the fine. 2002, c. 30, Sched. C, s. 43 (5).

Discharge of lien

(6) Within 10 days after the director has knowledge of the payment in full of the fine, the director shall,

- (a) discharge the registration of any financing statement registered under clause (2) (c); and

(b) register a discharge of a charge created on registration of a lien under subsection (3). 2002, c. 30, Sched. C, s. 43 (6).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following Part: (See: 2020, c. 1, s. 26)

PART VI.1

ADMINISTRATIVE PENALTIES

Registrar is assessor

43.1 (1) The registrar is, by virtue of the registrar's office, an assessor. 2020, c. 1, s. 26.

Appointment of assessors

(2) The registrar shall appoint in writing persons to be assessors who are authorized to make an order under section 43.2 imposing an administrative penalty. 2020, c. 1, s. 26.

✓ Section Amendments with date in force (d/m/y)

Order for administrative penalty

43.2 (1) An assessor may, by order, impose an administrative penalty against a person in accordance with this section and the regulations if the assessor is satisfied that the person has contravened or is contravening,

- (a) a prescribed provision of this Act or the regulations; or
- (b) a condition of registration, if the person is a registrant. 2020, c. 1, s. 26.

To whom payable

(2) An administrative penalty is payable to the administrative authority or, if there is no designated administrative authority, to the Minister of Finance, and is a debt due to the person to whom it is payable. 2020, c. 1, s. 26.

Purpose

(3) An administrative penalty may be imposed under this section for one or more of the following purposes:

1. To promote compliance with this Act and the regulations.
2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of contravening a provision of this Act or the regulations. 2020, c. 1, s. 26.

Amount

(4) The amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations, but the amount of the penalty shall not exceed \$25,000. 2020, c. 1, s. 26.

Form of order

(5) An order made under subsection (1) imposing an administrative penalty against a person shall be in the form that the registrar determines. 2020, c. 1, s. 26.

Service of order

(6) The order shall be served on the person against whom the administrative penalty is imposed in the manner that the registrar determines. 2020, c. 1, s. 26.

Absolute liability

(7) An order made under subsection (1) imposing an administrative penalty against a person applies even if,

- (a) the person took all reasonable steps to prevent the contravention on which the order is based; or
- (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent. 2020, c. 1, s. 26.

No effect on offences

(8) For greater certainty, nothing in subsection (7) affects the prosecution of an offence. 2020, c. 1, s. 26.

Other measures

(9) Subject to section 43.4, an administrative penalty may be imposed alone or in conjunction with the exercise of any measure against a person provided by this Act or the regulations, including the application of conditions to a registration, the suspension, immediate suspension or revocation of a registration or the refusal to renew a registration. 2020, c. 1, s. 26.

Limitation

(10) An assessor shall not make an order under subsection (1) more than two years after the day the assessor became aware of the person's contravention on which the order is based. 2020, c. 1, s. 26.

No hearing required

(11) Subject to the regulations, an assessor is not required to hold a hearing or to afford a person an opportunity for a hearing before making an order under subsection (1) against the person. 2020, c. 1, s. 26.

Non-application of other Act

(12) The *Statutory Powers Procedure Act* does not apply to an order of an assessor made under subsection (1). 2020, c. 1, s. 26.

▼ **Section Amendments with date in force (d/m/y)**

Appeal

43.3 (1) In this section,

“appeal body” means the prescribed person or, if no person is prescribed, the Tribunal. 2020, c. 1, s. 26.

Same

(2) The person against whom an order made under subsection 43.2 (1) imposes an administrative penalty may appeal the order to the appeal body by delivering a written notice of appeal to the appeal body within 15 days after receiving the order. 2020, c. 1, s. 26.

If no appeal

(3) If the person does not appeal the order in accordance with subsection (2), the order is confirmed. 2020, c. 1, s. 26.

Hearing

(4) If the person appeals the order in accordance with subsection (2), the appeal body shall hold a hearing and may, by order, confirm, revoke or vary the assessor’s order and the appeal body may attach conditions to its order. 2020, c. 1, s. 26.

Parties

(5) The assessor, the appellant and the other persons that the appeal body specifies are parties to the appeal. 2020, c. 1, s. 26.

Non-application of other Act

(6) If the appeal body is not the Tribunal, the *Statutory Powers Procedure Act* does not apply to an appeal under subsection (2). 2020, c. 1, s. 26.

Immediate effect

(7) Even if the appellant appeals an order of the appeal body, the order takes effect immediately, unless the order provides otherwise, but the Divisional Court may grant a stay until the disposition of the appeal. 2020, c. 1, s. 26.

✓ Section Amendments with date in force (d/m/y)

Effect of paying penalty

43.4 If a person against whom an order imposing an administrative penalty is made pays the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the person cannot be charged with an offence under this Act in respect of the same contravention on which the order is based and no other prescribed measure shall be taken against the person in respect of the same contravention on which the order is based. 2020, c. 1, s. 26.

✓ Section Amendments with date in force (d/m/y)

Enforcement

43.5 (1) If a person against whom an order imposing an administrative penalty is made fails to pay the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the order may be filed with the Superior Court of Justice and enforced as if it were an order of the court. 2020, c. 1, s. 26.

Date of order

(2) For the purposes of section 129 of the *Courts of Justice Act*, the date on which the order is filed with the court shall be deemed to be the date of the order. 2020, c. 1, s. 26.

Liens and charges

(3) If a person against whom an order imposing an administrative penalty is made fails to pay the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the director may, by order,

create a lien against the property of the person that is liable to pay the penalty. 2020, c. 1, s. 26.

Application of s. 43

(4) Subsections 43 (2) to (6) apply to the lien, with necessary modifications, as if it were a lien created by the director under subsection 43 (1) and references to the fine shall be read as references to the administrative penalty. 2020, c. 1, s. 26.

✓ Section Amendments with date in force (d/m/y)

PART VII GENERAL

Confidentiality

44 (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;
- (b) to a ministry, department or agency of a government engaged in the administration of legislation similar to this Act or legislation that protects consumers or to any other entity to which the administration of legislation similar to this Act or legislation that protects consumers has been assigned;
- (b.1) as authorized under the *Regulatory Modernization Act, 2007*;
- (c) to a prescribed entity or organization, if the purpose of the communication is consumer protection;
- (d) to a law enforcement agency;
- (e) to his, her or its counsel; or
- (f) with the consent of the person to whom the information relates. 2004, c. 19, s. 18 (25); 2007, c. 4, s. 41.

Testimony

(2) Except in a proceeding under this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations. 2004, c. 19, s. 18 (25).

✓ Section Amendments with date in force (d/m/y)

Service

45 (1) Any notice, order or request is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by registered mail; or
- (c) sent by another manner if the sender can prove receipt of the notice, order or request. 2002, c. 30, Sched. C, s. 45 (1).

Deemed service

(2) If service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date. 2002, c. 30, Sched. C, s. 45 (2).

Exception

(3) Despite subsections (1) and (2), the Tribunal may order any other method of service it considers appropriate in the circumstances. 2002, c. 30, Sched. C, s. 45 (3).

Fees

46 (1) The Minister may by order establish fees that are payable under this Act in respect of registration, renewal of registration, late filings and other administrative matters. 2002, c. 30, Sched. C, s. 46 (1).

Exception

(2) Subsection (1) does not apply if there is a designated administrative authority 2002, c. 30, Sched. C, s. 46 (2).

Legislation Act, 2006, Part III

(3) An order made under this section is not a regulation for the purposes of Part III (Regulations) of the *Legislation Act, 2006*. 2002, c. 30, Sched. C, s. 46 (3); 2006, c. 21, Sched. F, s. 129.

✓ Section Amendments with date in force (d/m/y)

Certificate as evidence

47 (1) For all purposes in any proceeding, a statement purporting to be certified by the director is, without proof of the office or signature of the director, admissible in evidence as proof in the absence of evidence to the contrary, of the facts stated in it in relation to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the registrar;
- (c) the time when the facts upon which the proceedings are based first came to the knowledge of the director; or
- (d) any other matter pertaining to registration or non-registration of persons or to filing or non-filing of information. 2002, c. 30, Sched. C, s. 47 (1).

Proof of document

(2) Any document made under this Act that purports to be signed by the director or a certified copy of the document is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, that the document is signed by the director without proof of the office or signature of the director. 2002, c. 30, Sched. C, s. 47 (2).

Information to be made available to the public

48 The registrar shall make available to the public, in the prescribed form and manner,

- (a) the names of registrants and other prescribed persons; and

(b) other information, as may be prescribed, in respect of registrants and other prescribed persons. 2020, c. 1, s. 27.

✓ **Section Amendments with date in force (d/m/y)**

Information to the registrar

48.1 (1) The registrar may, subject to the regulations, request information from registrants or a group of registrants for the purposes of this Act and may specify the form in which the information is to be given and the time within which it must be given. 2020, c. 1, s. 28.

Same

(2) Without limiting the authority of the registrar to request information from registrants under subsection (1), the registrar may, subject to the regulations, request that a registrant give,

- (a) any information with respect to a trade in real estate that may be required by the registrar for the purposes of this Act; and
 - (b) information in the form of verification, by affidavit or otherwise, of any information requested. 2020, c. 1, s. 28.
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✓ **Section Amendments with date in force (d/m/y)**

Time and form for giving information

48.2 Every registrant shall give the information that the registrar requests under this Act or that is otherwise required to be given to the registrar under this Act,

- (a) within the time and in the form specified under this Act or the regulations; or
 - (b) if not specified under this Act or the regulations, within the time and in the form specified by the registrar. 2020, c. 1, s. 29.
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✓ **Section Amendments with date in force (d/m/y)**

49 REPEALED: 2020, c. 1, s. 30.

✓ **Section Amendments with date in force (d/m/y)**

**PART VIII
REGULATIONS**

Minister's regulations

50 (1) The Minister may make regulations,

- (a) prescribing a code of ethics for registrants;
- (b) governing the composition of the discipline committee, and, subject to subsection 21 (2), governing matters relating to the appointment of the members of that committee;
 - (b.1) governing the jurisdiction and procedures of the discipline committee, including prescribing requirements for the purposes of subsection 21 (5),
 - (b.2) respecting the manner in which and the frequency with which decisions of the discipline committee are made available to the public;
 - (b.3) governing administrative penalties that an assessor may order and all matters necessary and incidental to the administration of a system of administrative penalties, including,
 - (i) specifying the amount of an administrative penalty or providing for the determination of the amount of an administrative penalty by specifying the method of calculating the amount and the criteria to be considered in determining the amount,
 - (ii) providing for different amounts to be paid, or different calculations or criteria to be used, depending on the circumstances that gave rise to the administrative penalty or the time at which the penalty is paid,
 - (iii) specifying information that must be included in an order for payment of an administrative penalty,
 - (iv) governing the procedure for making an order under section 43.2 for an administrative penalty and the rights of the parties affected by the procedure, including the time at which the order is deemed to be served on the person against whom the order is made, and

- (v) governing the appeal of an order for payment of an administrative penalty;
- (b.4) specifying the purposes for which the administrative authority may use the funds that it collects as administrative penalties;
- (c) respecting any matter that is delegated by the Lieutenant Governor in Council to the Minister under paragraph 25 of subsection 51 (1). 2002, c. 30, Sched. C, s. 50 (1); 2004, c. 19, s. 18 (26); 2020, c. 1, s. 31 (1).

Code of ethics

(1.1) A regulation under clause (1) (c) may be made as part of the prescribed code of ethics. 2004, c. 19, s. 18 (27); 2020, c. 1, s. 31 (2).

Delegation

(2) Despite subsection 3 (4) of the *Safety and Consumer Statutes Administration Act, 1996*, the Minister may, by regulation, delegate to the board of the administrative authority the power to make some or all of the regulations under subsection (1), subject to the approval of the Minister. 2004, c. 19, s. 18 (28).

Approval

(3) The Minister may approve or refuse to approve the regulations but approval shall not be given unless, in his or her opinion, they have been made in accordance with the consultation criteria and process set out in the administrative agreement described in subsection 4 (1) of the *Safety and Consumer Statutes Administration Act, 1996*. 2002, c. 30, Sched. C, s. 50 (3).

Revocation, transition

(4) The Minister may, by regulation, revoke a delegation to the board of the administrative authority under subsection (2), but the revocation of a delegation does not result in the revocation of any regulation made by the board of the administrative authority under the delegated power before the revocation of the delegation, and the board's regulation remains valid. 2004, c. 19, s. 18 (28).

Residual authority to act

(4.1) Despite any delegation under this section to the board of the administrative authority and without having to revoke the delegation, the Minister continues to have

authority to make regulations in respect of the matter that is the subject of the delegation. 2009, c. 33, Sched. 10, s. 13 (2).

Conflicts

(5) If there is a conflict between a regulation made under this section and a regulation made by the Lieutenant Governor in Council under section 51, the latter prevails. 2002, c. 30, Sched. C, s. 50 (5).

(6) REPEALED: 2017, c. 33, Sched. 5, s. 7.

✓ Section Amendments with date in force (d/m/y)

Lieutenant Governor in Council regulations

51 (1) The Lieutenant Governor in Council may make regulations,

1. exempting any person or class of persons or class of trades from any provision of this Act or the regulations and attaching conditions to an exemption;
2. respecting applications for registration or renewal of registration and prescribing conditions of registration;
 - 2.1 prescribing requirements for the purposes of subsections 9.1 (1) and 10 (1);
3. governing education that must be obtained by applicants for registration, applicants for renewal of registration and registrants, including,
 - i. requiring applicants for registration, applicants for renewal of registration and registrants to obtain education,
 - A. specified by the administrative authority, the Minister, the director or the registrar, and
 - B. provided by such organizations as may be designated by the administrative authority, the Minister, the director or the registrar, and
 - ii. requiring that a description of the education required to be obtained, as described in subparagraph i, be made available to the public;
4. governing registrants holding themselves out as specialists in trading for the purposes of section 8, which may include governing different types of registrants differently and which may include,

- i. establishing areas of specialization,
 - ii. establishing a process for certification in respect of each area of specialization,
 - iii. requiring registrants to obtain education and satisfy other criteria, in order to,
 - A. be certified as a specialist in each area of specialization,
 - B. renew a certification in each area of specialization, and
 - C. maintain a certification in each area of specialization,
 - iv. prescribing a maximum number of areas of specialization in respect of which a registrant may be certified as a specialist,
 - v. authorizing the administrative authority or the registrar to do anything that the Lieutenant Governor in Council may do by regulation under subparagraphs i to iv, and
 - vi. restricting or prohibiting the certification of brokerages that are corporations as specialists;
5. prohibiting registrants from engaging in activities specified in the regulations, in addition to activities prohibited by this Act;
6. respecting financial security requirements for brokerages, brokers and salespersons, including requiring them to be bonded or insured or have collateral security, and prescribing the forfeiture of bonds, the disposition of proceeds and other terms related to the financial security requirements;
7. governing the insurance that brokerages, brokers or salespersons must have, including,
- i. prescribing the types of insurance they must have,
 - ii. prescribing the minimum amounts for which they must be insured under each type of insurance,
 - iii. governing group insurance for brokerages, brokers or salespersons, including,
 - A. authorizing the administrative authority or, if there is no designated administrative authority, the Minister to arrange for group insurance on behalf of brokerages, brokers or salespersons,

- B. authorizing the administrative authority or, if there is no designated administrative authority, the Minister to administer group insurance on behalf of brokerages, brokers or salespersons and to act as named insured, and
 - C. requiring brokerages, brokers or salespersons to participate in group insurance;
- 8. governing the documents, records and trust accounts that must be kept by brokerages and by or on behalf of former brokerages, including the manner and location in which they are kept and the time periods for retaining such information and authorizing the registrar to specify the manner and location in which they must be kept and the time periods during which they must be kept;
- 9. prescribing the responsibilities of brokers of record, brokerages, brokers or salespersons;
- 10. requiring registrants to provide information to the registrar concerning persons other than the registrants in order to assist in determining whether such persons are or may be interested persons;
- 11. prescribing procedures and other matters related to complaints under section 19 and the registrar's powers under section 20;
- 12. respecting inspections and investigations under this Act;
- 13. REPEALED: 2020, c. 1, s. 32 (5);
- 14. requiring registrants to provide, on request and in the prescribed circumstances, proof of registration and prescribing the nature of the proof and the manner in which it is to be provided;
- 15. REPEALED: 2020, c. 1, s. 32 (6);
- 16. varying the manner in which a notice under subsection 25 (7) or a lien under subsection 43 (3) is registered as a result of technological or electronic changes in the filing of documents in the land registry office;
- 17. prescribing information that must be provided to the registrar in the form and manner approved by the registrar and requiring that specified information be verified by affidavit;
- 18. governing the activities of registrants in carrying on business, including,

- i. prescribing matters that must be disclosed, the conditions under which they must be disclosed and when they must be disclosed, including,
 - A. matters related to any holdings in brokerages other than the brokerage by which they are employed, in the case of salespersons and brokers, or
 - B. matters related to any holdings in other brokerages, in the case of brokerages,
- ii. prescribing matters that must not be disclosed,
- iii. setting out the manner in which trust accounts are wound down when a brokerage's registration ends,
- iv. regulating advertising and representations or promises intended to induce a trade in real estate or authorizing the registrar to specify requirements respecting advertising and representations or promises intended to induce such a trade and requiring registrants to comply with such specified requirements;
- v. regulating listing agreements, representation agreements and other types of agreements, including,
 - A. prescribing information required to be included or prohibited from being included in agreements,
 - B. requiring such forms of agreements as may be specified by the regulations to be approved by the registrar before being used by registrants,
 - C. providing for a process by which the registrar may approve or require changes to such forms of agreements as may be specified by the regulations and a process by which the registrar may revoke such an approval,
- vi. prescribing conditions that must be met before any remuneration may be charged or collected,
- vii. respecting statements that are to be provided, which may include,
 - A. prescribing the content of the statements or authorizing the registrar to specify the content of the statements,
 - B. prescribing the manner in which the statements are to be provided or authorizing the registrar to specify the manner,

- C. prescribing the form in which the statements are to be provided or authorizing the registrar to specify the form,
 - D. prescribing the circumstances under which statements are not required, and
 - E. prescribing the consequences of failing to provide a statement,
- viii. setting out obligations of a brokerage, broker and salesperson that follow the acceptance of an offer to sell, purchase, exchange, lease or rent real estate;
19. governing the conduct of registrants when they represent more than one party in a trade;
- 19.1 specifying circumstances in which registrants are prohibited from representing more than one party in a trade;
- 19.2 if a registrant is prohibited from representing more than one party in a trade, specifying requirements that the registrant must fulfil in order to provide services to a party in the trade;
- 19.3 requiring a registered brokerage that represents more than one party in a trade, or that provides services to a party in a trade, to provide the prescribed information to the registrar within the prescribed time;
- 19.4 with respect to personal real estate corporations, prescribing conditions that must be met before remuneration may be charged or collected;

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 51 (1) of the Act is amended by adding the following paragraph: (See: 2020, c. 1, s. 32 (10))

- 19.5 prescribing provisions for the purposes of clause 43.2 (1) (a);
20. requiring that any information required under this Act be in a form approved by the director, the registrar or the Minister, as specified in the regulation;
21. prescribing matters that must be disclosed by brokers and salespersons to the brokerages by which they are employed and to brokerages that are prospective employers and the conditions under which such disclosures are required;
22. REPEALED: 2020, c. 1, s. 32 (11);
23. requiring registrants to maintain business premises that comply with the prescribed rules;

- 23.1 prescribing and governing additional duties and powers of the registrar;
- 24. providing for such transitional matters as the Lieutenant Governor in Council considers necessary for the effective implementation of the *Trust in Real Estate Services Act, 2020*;
- 25. delegating to the Minister the power to make regulations with respect to any matter that may be the subject of a regulation under this section;
- 26. prescribing rules relating to addresses for service under the Act;
- 27. prescribing any matter or thing that this Act refers to as being prescribed or in accordance with the regulations other than a matter or thing in respect of which the Minister may make regulations under section 50;
- 28. governing the application of the *Electronic Commerce Act, 2000* or any part of that Act to this Act;
- 29. defining, for the purposes of this Act and the regulations, any word or expression that is used in this Act but not defined in this Act;
- 30. authorizing the director or the board of the administrative authority to conduct quality assurance programs in relation to the administration of this Act or the regulations and to use information collected under this Act for the purposes of those programs.
- 30.1 respecting any matter necessary or advisable to carry out the intent or purpose of this Act. 2002, c. 30, Sched. C, s. 51 (1); 2004, c. 19, s. 18 (29-34); 2017, c. 33, Sched. 5, s. 8 (1, 2); 2020, c. 1, s. 32 (1-9, 11-15).

Residual authority to act

(2) Despite any delegation to the Minister under paragraph 25 of subsection (1) and without having to revoke the delegation, the Lieutenant Governor in Council continues to have authority to make regulations in respect of the matter that is the subject of the delegation. 2002, c. 30, Sched. C, s. 51 (2).

Revocation, transition

(3) The Lieutenant Governor in Council may, by regulation, revoke a delegation to the Minister under paragraph 25 of subsection (1), but the revocation of a delegation does not result in the revocation of any regulation that was made, before the revocation of the delegation,

- (a) by the Minister under the delegated power; or
- (b) by the board of the administrative authority pursuant to a delegation by the Minister under subsection 50 (2),

and the Minister's or board's regulation remains valid. 2004, c. 19, s. 18 (35).

Making regulation not revocation

(4) The making of a regulation to which subsection (2) applies by the Lieutenant Governor in Council shall not constitute the revocation of a delegation under this section unless the regulation so specifies. 2002, c. 30, Sched. C, s. 51 (4).

(5) REPEALED: 2017, c. 33, Sched. 5, s. 8 (3).

✓ Section Amendments with date in force (d/m/y)

52 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2002, c. 30, Sched. C, s. 52.

53 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2002, c. 30, Sched. C, s. 53.
