

CHAPTER 615

REAL ESTATE AGENTS, PROPERTY BROKERS AND PROPERTY CONSULTANTS ACT

*AN ACT to make provision for the licensing of real estate agents,
property brokers and property consultants.*

7th July, 2020

[ACT XXXII of 2020.](#)

ARRANGEMENT OF THE ACT

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PART I

Preliminary

1. The title of this Act is the Real Estate Agents, Property Brokers and Property Consultants Act. Short title.
2. In this Act, unless the context otherwise requires: Interpretation.
 - "Act" means the [Real Estate Agents, Property Brokers and Property Consultants Act, 2020;](#) Act No. XXXII of 2020.
 - "Administrative Review Tribunal" means the Administrative Review Tribunal established by article 5(1) of the [Administrative Justice Act;](#) Cap. 490.
 - "authorisation" means an authorisation granted by the Board in terms of article 5(5);
 - "beneficial owner" means the same as the definition assigned to it under the [Prevention of Money Laundering and Funding of Terrorism Regulations;](#) S.L. 373.01.
 - "Board" means the Licensing Board established under

Part 5 of the Act;

"branch manager" means any natural person who is a holder of a licence and is employed or engaged to supervise any property consultant;

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"land" means that it includes all immovable property as held in the [Civil Code](#) and which is not *extra commercium*;

"licence" means a licence issued by the Board to exercise the activity of a property broker, or real estate agent or to act as a branch manager or property consultant;

"licensee" means any holder of a licence issued by the Board exercising the activity of a real estate agent or a property broker or to act as a branch manager or a property consultant, depending on the type of licence conferred by the Board;

"Minister" means the Minister or the Parliamentary Secretary responsible for the property market;

"partnership" means participants in a business undertaking who are free to agree on the legal form which best suits their needs;

"property broker" means any natural person who has a licence to act as an intermediary in the process of negotiating and arranging transactions involving the acquiring or disposing of leasing of land in terms of this Act and does not employ and, or engages (whether under a contract of service or a contract for services) any branch managers and, or any property consultants;

"property consultant" means any natural person who has a licence to act as an intermediary in the process of negotiating and arranging transactions involving the acquiring or disposing or leasing of land in terms of this Act and is employed or engaged (whether under a contract of service or a contract for services) by an estate agent and who acts under the directions of the same or those of a branch manager;

"real estate agent" means any natural person who has a licence to act as an intermediary in the process of negotiating and arranging transactions involving the acquiring or disposing or leasing of land and employs and, or engages (whether under a contract of service or a contract for services) one or more branch managers and, or one or more property consultants;

"register" means the register of licences issued to exercise the activity of property brokers, real estate agents, branch managers and property consultants as provided in Part III

of the Act.

PART II
Licensing of Real Estate Agents, Property Brokers, Branch
Managers
and Property Consultants

3. (1) The activity of a property broker or real estate agent means the acting as an intermediary in the process of negotiating and arranging transactions involving the acquiring or disposing or leasing of land, including when the said activity is carried out through the engagement or the employment of a branch manager or a property consultant or both.

Licensed property brokers or real estate agents that shall be licensed.

(2) No person shall carry on the activity of a property broker or real estate agent or be employed or engaged as a branch manager or property consultant after the 31st December, 2021 unless he is the holder of a licence issued under the Act.

(3) No licence shall be required where a person acts as an intermediary in the process of negotiating and arranging transactions involving the acquiring or disposing or leasing of land on an occasional basis and does neither advertise his services nor does he employ or engage anyone to assist him in the carrying out of the said occasional activity:

Provided that such person shall still be required to submit a notification in the form prescribed by the Board for the purpose to inform the Board of the intention to carry out such occasional activity and provide any other information which the Board may require:

Provided further that the Board may require such persons who carry out the activity on an occasional basis to furnish it with information on the number and value of transactions on an annual basis, and, or on an *ad hoc* basis as the Board may consider necessary.

(4) For the purposes of this article:

"occasional basis" means acting as an intermediary in the process of negotiating and arranging not more than two (2) transactions *per annum* involving the acquiring or disposing or leasing of land.

(5) Where a real estate agent intends to carry out his activity with some other person, they shall form a partnership, having as its main object the activity envisaged under sub-article (1), and they shall seek the authorisation of the Board prior to the commencement of activity.

(6) The provisions of sub-article (4) shall also apply to property

brokers.

(7) Any person who does not comply with the requirements of this article shall be liable to an administrative fine (*multa*) not exceeding twenty thousand euro (€20,000).

Eligibility for
licences.

4. (1) Any person is eligible to obtain a licence to act as a property broker or real estate agent or a branch manager, provided he:

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(a) has attained the age of eighteen (18) years or has been emancipated to trade in accordance with article 9 of the [Commercial Code](#); and

(b) holds a certificate in real estate having as its subject matter the legal, financial, technical and communication issues related to real estate, its marketing and sale, at a minimum of twelve (12) ECTS at level four (4) of the Malta Qualifications Framework attained from a fully licensed training institution with a regular licence by the National Commission for Further and Higher Education, or;

(c) any other qualifications which the Malta Qualifications Recognition Information Centre recognises as being equivalent:

Provided that where the equivalence of the qualifications are deemed to be only partial, it shall be possible for the applicant to prove his competence in the areas where it is deemed to be lacking by means of an assessment set by the Board.

(2) Any person is eligible to act as a property consultant, provided he:

Cap. 13.

(a) has attained the age of eighteen (18) years or has been emancipated to trade in accordance with article 9 of the [Commercial Code](#); and

(b) holds a certificate in real estate having as its subject matter the legal, financial, technical and communication issues related to real estate, its marketing and sale, at a minimum of eight (8) ECTS at level four (4) of the Malta Qualifications Framework attained from a fully licensed training institution with a regular licence by the National Commission for Further and Higher Education; or

(c) any other qualifications which the Malta Qualifications Recognition Information Centre recognises as being equivalent:

Provided that where the equivalence of the

qualifications are deemed to be only partial, it shall be possible for the applicant to provide his competence in the areas where it is deemed to be lacking by means of an assessment set by the Board.

(3) Notwithstanding sub-article (1) and sub-article (2), no person shall apply for or obtain or be eligible to hold a licence under the Act if:

(a) he is a bankrupt and has not obtained his order of discharge, or, if he has obtained his order of discharge, it is suspended for a term not yet expired or is subject to conditions not yet fulfilled; or

(b) having regard to the applicant's conduct and reputation, his financial position, and to the interests of the public, the applicant is not fit and proper person to carry on the activity of property broker or real estate agent or act as branch manager.

5. (1) Every person who desires to obtain a licence under the Act shall submit an application to the Board in the prescribed form. Application for licence.

(2) Every application under sub-article (1):

(a) shall state the place or places of activity where applicant intends to carry out the activity; and

(b) shall, where the applicant has or proposes to have two (2) or more places of activity, specify which of those places of activity is to be his principal place of activity.

(3) Real estate agents who intend to carry out their activity through a partnership in compliance with the provisions of sub-articles (4) and (5) of article 3 shall submit an application to the Board in the prescribed form.

(4) Every application under sub-article (3) shall state:

(a) the official full name and registration number of the partnership;

(b) the date of incorporation or registration of the partnership;

(c) the registered address or principal place of activity of the partnership;

(d) the names and identity reference numbers of all directors, partners, company secretary and beneficial owners; and

(e) the licence number of the directors who are licensees.

(5) The Board shall authorise the exercise of the activity as envisaged under sub-articles (4) and (5) of article 3 upon being satisfied that:

(a) the requirements of sub-articles (4) to (6) of article 3 have been complied with; and

(b) having regard to the beneficial owners' conduct and repute, their financial position, and the interests of the public, the beneficial owners are fit and proper persons to be involved in a partnership which has as its main object the activity envisaged under article 3(1).

(6) There shall be no change in beneficial ownership, in the board of directors or partners of a partnership, formed for the purpose of sub-articles (4) or (5) of article 3, unless the said change is notified to the Board in the prescribed form and the Board gives its approval thereto upon being satisfied that the criteria set out in articles 3(6) and 5(5) are met.

(7) In case of a change in beneficial ownership, in the board of directors or partners, of a partnership formed for the purpose of sub-articles (4) or (5) of article 3, the partnership may not resume its activity unless such changes are approved by the Board in terms of sub-article (6).

(8) When the Board decides to refuse a request for an approval of a change as envisaged in sub-article (6), it shall inform the applicant and state in the notice the grounds for its decision.

(9) The Board shall also be informed whenever:

(a) any one (1) director or partner of a partnership formed for the purposes of sub-articles (4) or (5) of article 3 resigns or is otherwise removed; or

(b) it is resolved or otherwise decided that a partnership formed for the purposes of sub-articles (4) or (5) of article 3 be dissolved and consequently wound up.

Notice of
application and
determination.

6. (1) The applicant shall submit to the Board a copy of his application together with such other information and documentation filed in support of the application or which may be requested by the Board to reach a determination relative to the said application.

The Board shall acknowledge receipt of a complete application without delay and shall process the application within two (2) months:

Provided that when the Board requires more time to process the application or it requires further documentation, it may extend the processing time established under sub-article (1) by further periods:

Provided further that when an extension of time is required, the Board shall notify the applicant without delay.

(2) The Board shall determine whether the applicant satisfies the criteria of eligibility to be awarded a licence or authorisation.

(3) In granting a licence or authorisation, the Board may subject it to any such additional conditions as it may deem appropriate and, objectively justified, having granted a licence or authorisation, it may, from time to time, vary or revoke any conditions so imposed or may impose new conditions.

(4) When the Board decides to refuse a request to grant a licence or authorisation, it shall inform the applicant or applicants and state in the notice the grounds for its decision.

(5) Without prejudice to the preceding articles, when, for reasons of consumer protection or the prevention of crime and fraud, the Board fails to give a decision within the stipulated time frame, this time frame shall be extended to a maximum of another two (2) months and the applicant shall be informed.

7. (1) No licensee shall exercise the activity of a property broker or of a real estate agent under any name unless the name has first been approved by the Board. Effect of licence.

(2) An applicant for a licence, or a licensee, may at any time apply in writing to the Board to approve a name for the purposes of sub-article (1), which name shall not be approved if it considers that the name so nearly resembles the name of any other person, firm, or company exercising the activity as a licensed property broker or real estate agent in or outside Malta as to be likely to deceive, or that the name is that of any person, firm, or company.

(3) The Board shall issue an identity document to a licensee under this Act. The identity document shall contain a photograph of the licensee and such other information as the Board may deem necessary. This shall include, *inter alia*, his name, the licence type, registration number and term of validity. The identity document shall remain the property of the Board and shall be returned to the Board on the suspension or revocation of a licence issued under this Act.

(4) Every licensee who contravenes sub-article (1) or sub-article (2) is liable to an administrative fine (*multa*) not exceeding twenty thousand euro (€20,000).

Expiration and
renewal of licence.

8. A licence shall, unless it is sooner cancelled, or in accordance with the provisions of this Act, remain valid until the expiration of five (5) years in respect of which it is issued, and shall be renewed after the expiration of the said period unless there are grounds not to renew the licence as provided under this Act.

Refusal to renew a
licence.

9. (1) The Board shall refuse to renew a licence on any of the following grounds:

(a) the licensee is found to be in breach of any provision specified under this Act;

(b) the licensee has permitted any person, other than a licensee in terms of this Act, to act as his agent in the exercise of his activity;

(c) having regard to the character or fitness and propriety of licensees, it is not in the public interest that the licence be renewed;

(d) the licensee failed to undertake a set minimum of hours of continuing professional development set by the Board during the preceding five (5) years.

(2) When the Board decided not to renew a licence, it shall inform the licensee and state in the notice the grounds for its decision.

Surrender,
suspension or
cancellation of a
licence.

10. (1) A licensee may at any time surrender his licence by forwarding a written notice to that effect, together with the licence, to the Board.

(2) Licensees may at any time notify the Board that they do not intend to keep operating through a partnership as envisaged under sub-articles (4) and (5) of article 3 by forwarding a written notice to that effect to the Board.

(3) The Board shall endorse on the notice the date on which it receives the notice, and the licence or authorisation shall, as from that date, cease to have effect.

(4) The surrender of a licence or authorisation under this article shall not affect the licensee's or partnership liability, as the case may be:

(a) to pay any fees or other money payable or to be payable in accordance with this Act on or before the date on which the licence would, but for its surrender, expire;

(b) to perform any obligation required to be performed under this Act on or before that date;

(c) for any act done or default made before the date on which the licence or authorisation ceased to have effect.

(5) A licence or authorisation may be cancelled or suspended by the Board in any of the following instances:

(a) where it determines that the licensee no longer fulfils or meets the requirements of, or has contravened, any of the provisions of this Act or of any rules issued thereunder, or has failed to satisfy or comply with any obligation or condition to which the licence is subject by virtue of or under this Act;

(b) where any beneficial owner, member of the board of directors or partner, of a partnership formed for the purpose of sub-articles (4) or (5) of article 3, no longer meets the conditions set out in article 5(5):

Provided that without prejudice to the generality of this sub-article, the Board shall be entitled to cancel or suspend a licence or authorisation whenever it receives any adverse information from any other authority including other authorities responsible for the supervision and enforcement of any other obligations to which the exercise of the activity of property broker or real estate agent may be subject to;

(c) where a partnership formed for the purposes of sub-articles (4) or (5) of article 3 is to be dissolved and consequently wound up.

(6) In the circumstances referred to in sub-article (4), the Board may instead of the suspension or cancellation of a licence or authorisation, order the removal and replacement of any such person who may be involved in the partnership.

(7) When the Board decides to suspend or cancel a licence or authorisation, it shall inform the licensee or licensees and state in the notice the grounds for its decision.

PART III Registration

11. (1) For the purpose of this Act, the Board shall set up and maintain a Register of Licensees which the Board shall ensure to make available to the public using any means it deems fit.

Register of
Licensees.

(2) The Register shall include the following details:

(a) in the case of the issue of a licence, the name and address of the licensee, the qualification by virtue of which he is entitled to hold a licence under this Act, the address of the principal place of activity and of any approved branch office, the

name of the branch manager of such branch office, the date on which the application was granted and the type of licence issued;

(b) in the case of real estate agents exercising their activity through a partnership:

(i) the official full name and registration number of the partnership;

(ii) the date of incorporation or registration of the partnership;

(iii) the registered address or principal place of activity; and

(iv) the names of all directors, partners, company secretary and beneficial owners;

(c) where real estate agents employ or engage property consultants, an updated list including the personal details of all property consultants who are employed or engaged with the real estate agent;

(d) in the case of the renewal of a licence, the date on which the application was renewed;

(e) in the case of the cancellation of a licence or certificate of approval or the suspension of a licensee or holder of a certificate of approval, the date and the grounds on which the cancellation or suspension was made.

(3) The Board shall also, in respect of any entry, record such other particulars as may be required by this Act or as may from time to time be prescribed.

(4) The register shall be amended wherever a licence or certificate of approval is issued, renewed, or cancelled under this Act, or a licensee or holder of a certificate of approval is suspended.

(5) Licensees shall keep the Board updated at all times with information which the Board considers necessary for the purposes of maintaining the register and perform its supervisory functions under this Act.

PART IV

Information to be Given to the Consumer

Fees.

12. Licensees shall make known to the parties the fees to be charged for their services in advance:

Provided that if the licensee was active during the

negotiations between the parties but the transaction was not completed, a fair compensation would still be due and shall be determined by a court.

**PART V
Licensing Board**

13. (1) There shall be a Board, to be known as the Licensing Board appointed by the Minister, consisting of:

- (a) an advocate who has practiced for not less than five (5) years, who shall preside and;
- (b) four (4) members chosen from amongst persons of known integrity and with knowledge of and experience in any of the following:
 - (i) commerce, economy and industry;
 - (ii) matters relating to social and community affairs;
 - (iii) sustainable development and urban planning;
 - (iv) legal matters.

(2) A member of the Board shall be disqualified from taking part in such circumstances that would disqualify a judge in a civil suit; and in any such case the member shall be substituted by another person appointed for the purpose by the Minister.

(3) There shall also be a secretary of the Board to be appointed by the Minister and shall have such duties as may be assigned to it by the Board.

(4) The members of the Board shall hold office for a period of three (3) years, and shall be eligible for reappointment.

**PART VI
Power to make Regulations**

14. (1) The Minister may make regulations for the better carrying out of the provisions of this Act.

Procedure for
making of
regulations.

Without prejudice to the generality of this sub-article, such regulations may, in particular provide for any matter relating to persons acting as an intermediary in the process of negotiating and arranging transactions involving the acquiring or disposing or leasing of land, including those on an occasional basis, as well as any other matter relating thereto, taking account of all relevant considerations, including

professional qualification standards or ethical conduct. Such requirements may include rules, conditions, and, or exemptions in relation to the carrying out of all activities envisaged under this Act.

(2) The Board may issue regulations containing requirements to be fulfilled by persons acting as an intermediary in the process of negotiating and arranging transactions involving the acquiring or disposing or leasing of land, including those on an occasional basis. Such requirements may include rules, conditions and, or exemptions in relation to the carrying out of all activities envisaged under this Act.

PART VII

Appeals from Board Decisions

Appeals from
Board decisions.

15. (1) The Administrative Review Tribunal shall be competent to hear and determine objections made by any person aggrieved by any decision of the Board:

Provided that, unless otherwise prescribed by law, an objection lodged in terms of this sub-article to the Administrative Review Tribunal shall be filed within twenty (20) days from the receipt of the Board's decision.

Cap. 490.

(2) There shall be a right of appeal in accordance with the provisions of Part IV of the [Administrative Justice Act](#) from decisions of the Administrative Review Tribunal under sub-article (1) and such appeal shall be to the Court of Appeal (Inferior Jurisdiction).
