



**THE REAL ESTATE AGENTS REGULATIONS 1977,
AMENDMENT NO. 5**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 12th day of December 1994

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 122 of the Real Estate Agents Act 1976, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Real Estate Agents Regulations 1977, Amendment No. 5, and shall be read together with and deemed part of the Real Estate Agents Regulations 1977* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

2. Forms—The First Schedule to the principal regulations is hereby amended by revoking forms 14 and 15, and substituting the forms set out in the Schedule to these regulations.

*S.R. 1977/248

Amendment No. 1: (*Spent*)

Amendment No. 2: (*Revoked by S.R. 1987/2*)

Amendment No. 3: (*Revoked by S.R. 1989/407*)

Amendment No. 4: S.R. 1989/407

Cl. 2

SCHEDULE

NEW FORMS 14 AND 15 SUBSTITUTED

Sections 63 (1), 64

“Form 14

CONSENT FOR REAL ESTATE AGENT TO TAKE INTEREST IN PROPERTY

(Real Estate Agents Act 1976 sections 63 (1) and 64)

I, [Full name and address] as principal in the contract of agency with [Full name and address of the real estate agent] in respect of the sale or lease of [Describe property in relation to which the contract of agency exists] hereby consent to [Full name of real estate agent or spouse or child] acquiring the following interest in the said property:

[Describe nature of interest to be acquired by the real estate agent or spouse or child.]

I hereby declare that I have, before signing this consent,—

- (a) Been supplied with a valuation of the said property made by a registered and independent valuer at the expense of the above real estate agent.

or

- (b) Given my agreement to the above real estate agent supplying, within 14 days after the date of this consent, a valuation of the said property made by a registered and independent valuer at the expense of the above real estate agent. The property is provisionally valued at \$.....

Dated at this day of 19.....

.....
Signature of principal.

NOTE—

1. No real estate agent, and no spouse or child of a real estate agent, shall, without the consent of the principal of the real estate agent, purchase or take on lease or acquire any legal or beneficial interest in the property that the real estate agent is commissioned to sell or lease. This requirement applies whether the real estate agent acts directly or indirectly and whether by himself or herself or by any partner or sub-agent.

2. Any contract made in contravention of this requirement may be set aside at the option of the principal.

3. The real estate agent must either—

- (a) Before seeking the consent of his or her principal; or
- (b) With the agreement of his or her principal, within 14 days after obtaining that consent,—

obtain, at his or her own expense, an independent valuation of the property and deliver it to the principal.

4. Where the consent is given before the valuation is supplied, the form of consent must specify the provisional valuation of the property. If the valuation, when supplied, is greater than the provisional valuation, any contract to which the principal is a party and to which the consent relates may be set aside at the option of the principal.”



SCHEDULE—continued

NEW FORMS 14 AND 15 SUBSTITUTED—continued

“Form 15

Sections 63 (2), 64

CONSENT FOR PARTNER OR EMPLOYEE OF REAL ESTATE AGENT OR
DIRECTOR OF A COMPANY THAT IS A REAL ESTATE AGENT TO TAKE
INTEREST IN PROPERTY

(Real Estate Agents Act 1976 sections 63 (2) and 64)

I, [Full name and address] as principal in the contract of agency with [Full name and address of the real estate agent] in respect of the sale or lease of [Describe property in relation to which the contract of agency exists] hereby consent to [Full name of the partner or employee or officer of the said real estate agent or spouse or child of any such person] acquiring the following interest in the said property:

[Describe the nature of the interest to be acquired by the partner or employee or officer of the real estate agent or spouse or child of any such person.]

I hereby declare that I have, before signing this consent,—

(a) Been supplied with a valuation of the said property made by a registered and independent valuer at the expense of [The real estate agent or partner or employee or officer].

or

(b) Given my agreement to the above [Real estate agent or partner or employee or officer] supplying, within 14 days after the date of this consent, a valuation of the said property made by a registered and independent valuer at the expense of [The real estate agent or partner or employee or officer]. The property is provisionally valued at \$.....

Dated at this day of 19.....

.....
Signature of principal.

NOTE—

1. No partner or employee of a real estate agent, and no officer of a company that is a real estate agent, or the spouse or child of any such person shall, without the consent of the principal of the real estate agent, purchase or take on lease or acquire any legal or beneficial interest directly or indirectly in the property that the real estate agent is commissioned to sell or lease.

2. Any contract made in contravention of this requirement may be set aside at the option of the principal.

3. The person seeking to acquire an interest in the property offered for sale or lease must either—

(a) Before seeking the consent of the principal; or

(b) With the agreement of the principal, within 14 days after obtaining that consent,—

obtain, at his or her own expense, an independent valuation of the property and deliver it to the principal.

SCHEDULE—*continued*NEW FORMS 14 AND 15 SUBSTITUTED—*continued*“Form 15—*continued*”CONSENT FOR PARTNER OR EMPLOYEE OF REAL ESTATE AGENT OR
DIRECTOR OF A COMPANY THAT IS A REAL ESTATE AGENT TO TAKE
INTEREST IN PROPERTY—*continued*

4. *Where the consent is given before the valuation is supplied, the form of consent must specify the provisional valuation of the property. If the valuation, when supplied, is greater than the provisional valuation, any contract to which the principal is a party and to which the consent relates may be set aside at the option of the principal.”*

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations replace 2 of the forms that are prescribed under the Real Estate Agents Act 1976.

The forms are used where—

- (a) A real estate agent is commissioned to sell or lease property; and
- (b) The real estate agent wishes to buy, or acquire an interest in, the property, or the agent's partner, employee, or officer, or the spouse or child of any such person, wishes to do so.

In such a case, section 63 of the Real Estate Agents Act 1976 prohibits the sale unless the written consent in the prescribed form of the person on whose behalf the agent is commissioned to sell the property is obtained.

An additional safeguard is contained in section 64 of the Act. That section requires the agent to supply an independent valuation of the property. Prior to 1982, that valuation had to be supplied before the consent was given.

As a result of an amendment made by the Real Estate Agents Amendment Act 1982, that valuation now can be supplied either—

- (a) Before the consent is given; or
- (b) With the agreement of the principal, within 14 days after the consent is given.

As a result of an amendment made by the Real Estate Agents Amendment Act 1994, where the valuation is supplied after the consent is given and is greater than the provisional valuation specified in the form, any contract to which the principal is a party and to which the consent relates may be set aside at the option of the principal.

These regulations bring the prescribed forms up to date in these respects.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 15 December 1994.

These regulations are administered in the Department of Justice.