

Residential Property Managers Bill

Government Bill

Explanatory note

General policy statement

Overview

Almost one third of New Zealand households live in rental accommodation, and housing affordability challenges mean that an increasing proportion of households are expected to need to rent long-term. Māori and Pacific peoples are disproportionately represented in those who rent.

Residential property managers are responsible for managing around 42% of the residential tenancy market. Residential property managers are contracted by property owners to manage their residential tenancy or tenancies, which includes managing relationships with tenants and prospective tenants and ensuring compliance with a broad range of legal obligations.

The Residential Property Managers Bill (the **Bill**) establishes a regulatory regime designed to improve the provision of residential property management services in New Zealand.

The Bill is an omnibus Bill introduced under Standing Order 267(1)(a), which provides that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

The single broad policy of the Bill is to protect the interests of property owners and tenants (including prospective tenants) by creating a comprehensive regulatory regime for residential property managers. The Bill will give effect to this objective by—

- establishing minimum entry requirements for residential property managers:
- ensuring that residential property managers meet professional standards of practice:

- providing accountability by establishing an independent, transparent, and effective complaints and disciplinary process that applies to residential property managers and the delivery of residential property management services.

The new regulatory regime for residential property managers will not apply to landlords, including private landlords, Kāinga Ora, and registered community housing providers.

Regulating the provision of residential property management services

While some residential property managers are members of industry bodies with agreed professional standards, the industry as a whole is not required to meet minimum competency and practice standards. The existing means of protection, including industry self-regulation, have proved insufficient to mitigate the risk of harm to property owners, tenants (including prospective tenants), and regulatory intervention is required to improve outcomes.

The Bill establishes a regulatory regime for the licensing of residential property managers and Residential Property Management Organisations (**RPMOs**). The Real Estate Agents Authority (the **Authority**) will be the regulator for the new regime. Key aspects of the new regime are as follows:

- the Authority will appoint a Registrar for the register of licensees. The register will allow the public to access key information about licensees, to establish the currency and class of a licensee's licence, and to establish whether any recent disciplinary action has been taken:
- the Registrar will be responsible for issuing residential property manager licences and RPMO licences. RPMOs will be responsible for the provision of residential property management services through the residential property managers they contract or employ:
- applicants must meet minimum entry criteria before qualifying for a licence, which include meeting a fit and proper person test, and not being a person prohibited from being licensed under the Bill:
- the Authority will establish a code of professional conduct and prescribe continuing professional development requirements:
- complaints of a licensee's unsatisfactory conduct or misconduct may be referred to a Complaints Assessment Committee or the Real Estate Agents Disciplinary Tribunal for consideration and determination:
- the Authority will have powers to require documents both from licensees and any person the Authority has reasonable grounds to suspect is carrying out residential property management services while unlicensed and not exempt from the Act, in order to effectively enforce the regime:
- a range of offences and penalties will apply, including measures to discourage the provision of unlicensed residential property management services.

Amendments to other Acts

The Bill amends the Real Estate Agents Act 2008 to provide for the updated membership requirements of the Authority, and requires the Minister responsible for this Bill once enacted to act jointly with the Minister responsible for the Real Estate Agents Act 2008 to appoint members to the Authority's board. The Bill also amends the Real Estate Agents Act 2008 to provide for the expanded role of the Real Estate Agents Disciplinary Tribunal, which will include determining allegations of misconduct by residential property manager licensees.

The Bill amends the Residential Tenancies Act 1986 to provide the Tenancy Tribunal with the power to order a landlord to use the services of a residential property manager if they have committed 2 or more of the unlawful acts specified in the Bill within a 5-year period.

Departmental disclosure statement

The Ministry of Housing and Urban Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2023&no=280>

Regulatory impact statement

The Ministry of Housing and Urban Development produced a regulatory impact statement on 17 October 2022 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- https://www.hud.govt.nz/assets/Uploads/Documents/3.-RIS-Regulation-of-Residential-Property-Managers-1_Marked-up_Redacted.pdf
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for different provisions of the Bill to come into force on different dates. The provisions needed to undertake the groundwork in order to establish the licensing regime come into force on the day after the date on which the Bill receives the Royal assent. Some provisions that need to be in operation for people to become licensed come into force 18 months after Royal assent. The provisions needed to create an obligation to be licensed and to enforce that obligation come into force 24 months after Royal assent.

Part 1

Preliminary provisions

Clause 3 sets out the purpose of the Bill. It is to promote and protect the interests of residential property owners and tenants, and promote public confidence in the delivery of property management services. The clause goes on to list 4 ways in which the Bill achieves that purpose.

Clause 4 relates to interpretation. Key terms include—

- landlord, which has the same meaning as in section 2(1) of the Residential Tenancies Act 1986:
- prospective tenancy:
- residential premises, which has the same meaning as in section 2(1) and (3) of the Residential Tenancies Act 1986:
- residential property manager:
- residential property management organisation (**RPMO**):
- residential property management services, which has the meaning set out in *clause 5*.

Clause 5 defines the term residential property management services. It includes listed services provided, in trade, by a person acting on behalf of a landlord as connected with prospective tenancies or tenancies of residential premises.

Clause 6 deals with transitional, savings, and related matters and inserts *new Schedule 1*.

Clause 7 provides that the Bill binds the Crown.

Clause 8 provides that the Bill does not apply to Kāinga Ora or a registered community housing provider. The Bill also does not apply to a landlord (or to an employee of the landlord) who carries out residential property services in relation to the landlord's residential property.

Part 2

Licences

Subpart 1—Key provisions

Requirement to be licensed

Clause 9 requires a person who carries on a business that provides residential property management services to hold a residential property management organisation licence (**RPMO licence**) unless they are exempt from the requirement to hold that licence under the regulations.

Clause 10 requires a person who carries out any work in the delivery of residential property management services to hold a residential property manager's licence and to

act within the scope of that licence while carrying out that work, or to be exempt from holding that licence under the regulations.

Classes of residential property manager licence

Clause 11 establishes 3 different classes of residential property manager licence: the supervisory residential property manager's licence, a standard residential property manager's licence, and a provisional residential property manager's licence.

Offences relating to requirement to be licensed

Clause 12 prohibits persons from holding out that they are a holder of an RPMO licence, unless they are such a holder. A person who breaches this requirement commits an offence punishable by a maximum fine of \$40,000, in the case of an individual, or by a maximum fine not exceeding \$100,000, in any other case.

Clause 13 creates an offence of carrying on a business providing residential property management services unless licensed or exempt. This offence and the offences created by *clauses 14 and 15* are punishable on conviction by a fine not exceeding \$40,000, in the case of an individual, or by a maximum fine not exceeding \$100,000, in any other case.

Clause 14 creates an offence of carrying out work in the delivery of residential property management services unless licensed or exempt.

Clause 15 creates 2 offences in relation to employing or contracting a person as a residential property manager or permitting a person to carry out work in the delivery of residential property management services if the person is not licensed as a residential property manager or exempt from the requirement to hold that licence.

Clause 16 makes it an offence to supply false or misleading information to the Registrar for the purposes of any application for a licence or the renewal of a licence under the Bill (once enacted).

Subpart 2—Issue of licences

How to become licensed

Clause 17 sets out the eligibility criteria for holding a licence. In order to hold a licence, a person must be at least 18 years old, not prohibited from holding a licence under *clause 18*, be a fit and proper person to hold a licence, and have the relevant qualifications and experience prescribed by the regulations. An “entity” may in certain circumstances be licensed as an RPMO but not as a residential property manager.

Clause 18 sets out a list of persons who are not eligible to hold a licence. This includes persons convicted of specified serious offences within the 10 years preceding their application, persons in respect of whom certain disciplinary actions (eg, cancellation or suspension of their licence) have been taken, persons who have failed to maintain the prescribed qualifications relating to the licence, persons who are bankrupt or insolvent, and certain other categories of persons.

Clause 19 sets out the requirements for applications for a licence. They must contain the prescribed matters and be in a form approved by the Real Estate Agents Authority (the **Authority**). They must be accompanied by a statutory declaration and any prescribed fee. In the case of an application for a residential property manager's licence, the application must indicate what class of licence is being applied for.

Clause 20 requires the applicant to publicly notify the application in the manner (if any) prescribed by the regulations.

Clause 21 describes when a licence must be granted. In the case of an individual, a licence must be granted if the Registrar is satisfied that the individual is eligible to be granted the licence under *clause 17* and not prohibited from holding it by *clause 18*. In the case of an entity, the test is the same as for an individual except there is an additional requirement that the Registrar must be satisfied that every officer of the entity is by reason of their personal character and financial position a proper person to be an office holder of a licensee entity.

Clause 22 deals with the mechanics of issuing a licence.

Clause 23 sets out when a licence must be declined.

How to object to issuing of licence

Clause 24 enables any person to object to the issue of a licence. The main grounds of objection are that the person is not eligible under *clause 17* to be granted a licence or is prohibited under *clause 18* from being granted a licence. If an applicant is an entity, it is also a ground of objection that 1 or more of the officers of the entity are not, by reason of their personal character or financial position, proper persons to be officers of a licensee entity.

Clause 25 gives an applicant for a licence who is the subject of a notice of objection a right to give a written submission to the Registrar in response to the notice of objection. The applicant can request the Registrar to hold a hearing in order to consider the application and the notice of objection.

Clause 26 sets out procedural rules for the holding of a hearing to determine the application for a licence and a notice of objection. It also enables the Registrar to determine the application and notice of objection on the papers if no hearing has been sought by either the applicant or the objector.

Subpart 3—Effect of licence and status of licensees

Clause 27 provides that an RPMO licence authorises the licensee to enter into agreements with landlords to provide residential property management services, carry out work to deliver those services through licensed residential property managers, and operate a trust account. It is a condition of the RPMO licence that the licensee employ or engage the holder of a supervisory residential property manager's licence.

Clause 28 authorises the holder of a residential property manager licence of any class to carry out work to deliver residential property management services for and on behalf of a licensed RPMO.

Clause 29 requires provisional residential property managers to be properly supervised and managed by supervisory residential property managers.

Clause 30 provides that a licence may not be transferred and may not vest by operation of law in any person other than the person to whom the licence was granted.

Subpart 4—Term, renewal, and expiry of licence

Clause 31 provides that in general a licence continues in force for a 12-month period and may be renewed for periods of 12 months.

Clause 32 sets out the procedures for renewing a licence.

Clause 33 provides that if no application for renewal of a licence is made on or before the date on which it would otherwise expire, the Registrar must record the expiry of the licence in the register as soon as practicable after that date.

Subpart 5—Cancellation, suspension, and surrender of licence

Cancellation of licence

Clause 34 sets out 9 circumstances in which the Registrar is required to cancel a licence and remove the licensee's name from the register.

Clause 35 sets out the process for cancellation of a licence. The Registrar must give the licensee written notice of the Registrar's intention to cancel the licence and their reasons for wishing to cancel the licence, and give the licensee 10 working days to make representations to the Registrar as to why the licence should not be cancelled.

Clause 36 sets out rules about the date on which the cancellation of the licence becomes effective.

Suspension of licence

Clause 37 requires the Registrar, if they receive notice from the Real Estate Agents Disciplinary Tribunal (the **Disciplinary Tribunal**) that a licence has been suspended, to record this in the register for the period specified in the notice.

Clause 38 sets out a procedure that enables a licensee to voluntarily have their licence suspended. The licensee can then at a later date have their licence reinstated unless there are circumstances that would justify its continued suspension or its cancellation.

Clause 39 sets out the effect of licence suspension, and *clause 40* relates to the effective date of suspension.

Surrender of licence

Clause 41 enables a licensee to surrender their licence by giving written notice to the Registrar, accompanied by the licence.

Temporary licences

Clause 42 sets out a procedure to enable a person to obtain a temporary RPMO licence. This is to cater for a variety of property management businesses for which

the residential property manager works in situations where the existing supervisory residential property manager is unable to act (for example, because of their death, sickness, or absence, or because they have been adjudicated bankrupt or are an entity that is in liquidation or receivership).

Clause 43 allows the holder of a standard residential property manager's licence to obtain a temporary supervisory residential property manager's licence. This is to cater for the situation where the existing supervisory residential property manager has their licence suspended or cancelled or is unavailable to act for any reason.

Part 3

Duties of licensees and register of licensees

Subpart 1—Duties of licensees

Clause 44 requires a licensee to comply with practice rules and continuing education rules made by the Authority.

Clause 45 requires a licensee to produce, on request by any person, either the evidence of the issue of a licence or a copy of that evidence.

Clause 46 requires each applicant for a licence and each licensee to give the Registrar written notice within 10 working days of any change of circumstances. A change of circumstances is any change in the information recorded in the register, any change in the RPMO for which the residential property manager works (if any), and any prescribed change.

Clause 47 sets out the duties of holders of the RPMO licence in relation to the deposit of money paid for residential property management services into a trust account, and the way in which that money is subsequently dealt with.

Subpart 2—Register of licensees

Clause 48 creates a register of licensees and requires the Registrar to enter in it the name of every licensee and the information about that licensee required by *clause 51*.

Clause 49 sets out the purpose of the register.

Clause 50 provides that the register may be kept in electronic form or in any other manner that the Registrar thinks fit. It also provides for the public to have access to an electronic copy of the register kept on an Internet site maintained by or on behalf of the Registrar of licensees.

Clause 51 lists the matters to be included in the register in respect of each licensee. These matters include—

- the licensee's full name and business address or, if the licensee is registered on the New Zealand Business Number Register, the licensee's New Zealand Business Number; and
- any trading names; and
- the registration number issued by the Registrar; and

- the address for communications under this Bill; and
- information about the status and history of the person’s licence; and
- whether the licensee has complied with their continuing education requirements; and
- any other information the Registrar considers necessary for the purposes of the register.

Clause 52 enables any person to search the register for a purpose set out in *clause 49*, in accordance with the regulations.

Clause 53 provides that if a person searches a register for a purpose not listed in *clause 49* they must be treated as having breached an information privacy principle under the Privacy Act 2020.

Clause 54 empowers the Registrar to make changes to the register in accordance with the regulations.

Part 4

Complaints and discipline

Subpart 1—Interpretation

Clause 55 sets out an extended meaning of licensee for the purposes of this Part. It includes a former licensee and a person who is, or has been, an officer of an entity that is a licensee.

Unsatisfactory conduct and misconduct

Clause 56 defines the term unsatisfactory conduct. Three of the 4 criteria can be said broadly to relate to the way in which the licensee has carried out their work, whereas a fourth criterion (which includes conduct that would be regarded by licensed residential property managers and RPMOs as being unacceptable) can extend to cover conduct outside the licensee’s scope of work.

Clause 57 defines misconduct (which is more serious than unsatisfactory conduct). Like unsatisfactory conduct, misconduct extends to acts or omissions within the scope of a licensee’s work but also to conduct outside a licensee’s scope of work.

Subpart 2—How to complain about licensee’s conduct

Clause 58 provides for the making of complaints by any person about the conduct of a licensee. *Clause 58* is based on a comparable provision in the Real Estate Agents Act 2008.

Subpart 3—Complaints Assessment Committees

Constitution and procedures of committees

Clause 59 requires the Authority to appoint as many Complaints Assessment Committees as are required to deal effectively with complaints and allegations about licensees. This provision is based on section 75 of the Real Estate Agents Act 2008.

Clause 60 requires the Authority to maintain a panel of up to 20 persons who are suitable to serve as members of Complaints Assessment Committees. This provision is based on section 76 of the Real Estate Agents Act 2008.

Clause 61 sets out the functions of Complaints Assessment Committees. This provision is based on section 78 of the Real Estate Agents Act 2008.

Clause 62 sets out the procedure that must be followed by a Complaints Assessment Committee on receiving a complaint. This provision is based on section 79 of the Real Estate Agents Act 2008.

Clause 63 requires a Complaints Assessment Committee to give prompt written notice to the person who made the complaint and the person complained about, if the committee decides to take no action in relation to the complaint.

Clause 64 provides for a Complaints Assessment Committee to undertake an inquiry into a complaint or any allegations against a licensee as soon as practicable after it decides to inquire into the complaint or those allegations.

Clause 65 provides for a Complaints Assessment Committee to send particulars of any complaint to the licensee and invite the licensee to make a written explanation. The Committee may also require the licensee to appear before it or require that specified information be supplied to the Committee in writing.

Clause 66 requires the Committee to act in accordance with the rules of natural justice but otherwise enables it to regulate its own procedure (within certain limits).

Clause 67 applies certain provisions of the Real Estate Agents Act 2008 in relation to Complaints Assessment Committees and to complaints about licensees under the Bill.

Clause 69 gives a Complaints Assessment Committee the power to determine a complaint or an allegation. The standard of proof in determining an allegation that a licensee engaged in unsatisfactory conduct is the civil standard (ie, the balance of probabilities).

Clause 70 provides that hearings before the Complaints Assessment Committee are to be hearings on the papers unless the committee otherwise directs.

Clause 71 empowers a Complaints Assessment Committee to refer a complaint to the Disciplinary Tribunal. If the committee decides to do this, it must lay a charge with the Tribunal.

Clause 72 provides that if a Complaints Assessment Committee lays a charge with the Disciplinary Tribunal, it may apply to the tribunal for an order suspending the licence of the licensee pending the hearing of that charge.

Powers of committees

Clause 73 empowers a Complaints Assessment Committee to take no action on a complaint, if the elapse of time makes it impracticable or undesirable to investigate the complaint or the subject matter of the complaint is insufficiently serious to justify disciplinary action.

Clause 74 empowers a Complaints Assessment Committee to make a number of orders if it determines that a licensee has engaged in unsatisfactory conduct. Those orders include—

- censuring or reprimanding the licensee; and
- an order that an agreed settlement have effect, by consent, as all or part of a final determination of the complaint; and
- an order that the licensee apologise to the complainant; and
- an order that the licensee undergo training or education; and
- an order that the licensee reduce, cancel, or refund fees charged for work; and
- an order that the licensee rectify any error or omission or provide relief from the consequences of the error or omission; and
- an order that the licensee pay a fine; and
- an order that a licensee make their business, including any records, accounts, and assets, open for inspection or that the licensee take advice; and
- an order that the licensee pay the complainant costs or expenses incurred by the complainant.

Clause 75 provides that if a Complaints Assessment Committee is satisfied that the unsatisfactory conduct involves more than a minor or technical breach of the Bill, regulations, or rules, the committee can refer the matter to the Disciplinary Tribunal so that it can consider whether to make a compensation order.

Clause 76 requires a Complaints Assessment Committee to send written notice of a determination under *clause 69* to the complainant and to the licensee.

Related matters

Clause 77 provides that every person appearing as a witness or otherwise assisting a Complaints Assessment Committee has the same privileges as a witness in a court.

Clause 78 provides that a counsel appearing before a Complaints Assessment Committee has the same privileges as a counsel in a court.

Clause 79 provides that orders of a Complaints Assessment Committee may be enforced in the same way as an order of the District Court.

Clause 80 makes provision for the suspension and, ultimately, the cancellation, of a licence if a person does not pay fines or costs ordered by a Complaints Assessment Committee.

Subpart 4—Real Estate Agents Disciplinary Tribunal

Disciplinary Tribunal and its procedures

Clause 81 sets out the functions of the Disciplinary Tribunal under this Bill.

Clause 82 enables the Disciplinary Tribunal to regulate its procedures, as it thinks fit, subject to the rules of natural justice, this Bill, and any regulations and practice rules made under this Bill.

Clause 83 gives rights of representation by counsel to persons whose rights may be affected by a proceeding of the Disciplinary Tribunal.

Clause 84 regulates hearings of the Disciplinary Tribunal. Every hearing of the Disciplinary Tribunal must, subject to certain exceptions, be held in public.

Clause 85 empowers the Disciplinary Tribunal to determine a proceeding under this Bill on the papers if the Tribunal considers it appropriate to do so.

Clause 86 enables the Disciplinary Tribunal to prohibit the publication or report of an account of its proceedings, or of any books, papers, or documents produced at a hearing, or the names or particulars of the person charged or of any other person.

Clause 87 applies 2 other provisions of the Real Estate Agents Act 2008 and Schedule 1 of that Act in relation to proceedings before the Disciplinary Tribunal.

Clause 88 provides for appeals to the Disciplinary Tribunal against decisions of the Registrar or a Complaints Assessment Committee under other specified provisions of the Bill.

Clause 89 provides that, for the purposes of any hearing under the Bill, the Disciplinary Tribunal, in general, comprises the chairperson of the Tribunal and 2 other members.

Clause 90 confers on a person who is adversely affected by a determination of the Registrar the ability to apply to the Disciplinary Tribunal for a review of a decision of the Registrar.

Clause 91 requires the Disciplinary Tribunal, when it makes a determination, to notify every party to the proceeding, the Authority, and the Registrar.

Clause 92 empowers the Disciplinary Tribunal to suspend the licence of a licensee if the licensee has been charged under *clause 71* or the Tribunal considers that it is necessary or desirable to suspend the licence having regard to the interests of the public. *Clause 92* also regulates the way in which any suspension is initiated, and provides a right to the licensee to appeal to the High Court.

Powers of Disciplinary Tribunal

Clause 93 provides that the Disciplinary Tribunal may strike out, determine, or adjourn proceedings.

Clause 94 empowers the Disciplinary Tribunal to determine, on the balance of probabilities, whether a licensee who has been charged is guilty of misconduct. If the

licensee is found to be guilty, the Disciplinary Tribunal can impose a wide range of orders. Those orders include—

- any order that a Complaints Assessment Committee might impose; and
- an order cancelling a licence; and
- an order suspending a licence for a period not exceeding 24 months; and
- an order that the person not perform supervisory functions until authorised by the Authority to do so; and
- an order that an individual not be employed or engaged to carry out property management services; and
- an order that a licensee pay a fine; and
- in certain circumstances, an order for compensation not exceeding \$100,000.

Related matters

Clause 95 empowers the Disciplinary Tribunal to issue practice notes.

Clause 96 provides for the enforcement of orders in the District Court.

Clause 97 requires information about procedures, timetables, and the progress of decisions to be published on a website maintained by or on behalf of the chief executive of the Ministry of Justice.

Clause 98 makes it an offence for a person to fail to comply, without sufficient cause, with a summons issued by the Disciplinary Tribunal.

Clause 99 makes it an offence for a person to act in contempt of a Disciplinary Tribunal.

Appeals

Clause 100 creates a right of appeal to the High Court from decisions of the Disciplinary Tribunal.

Clause 101 provides that normally such an appeal must be made within 20 working days of the decision, but the High Court may accept a late appeal lodged up to 60 days after the date of that decision if it is satisfied that there are exceptional circumstances that prevented the appeal from being brought in time.

Clause 102 empowers the High Court to make an interim order allowing an appellant to keep on providing property management services pending the determination of the appeal.

Clause 103 sets out the duties of the Registrar in the event that an interim order is made.

Clause 104 provides that the decision of the High Court is final, subject to a further right of appeal to the Court of Appeal set out in *clause 105*, on a question of law.

Part 5

Real Estate Agents Authority

Subpart 1—Functions of Authority

Clause 106 sets out the functions of the Authority under this Bill.

Subpart 2—Practice rules

Clause 107 requires the Authority to make a code of professional conduct and client care.

Clause 108 requires the Authority to set practice rules about continuing education.

Clause 109 requires the Authority to undertake consultation of a specified kind before making practice rules.

Clause 110 requires practice rules to be approved by the Minister and sets out criteria that the Minister must take into account in deciding whether to approve those rules.

Clause 111 empowers the Minister to amend practice rules.

Clause 112 contains other provisions relating to practice rules.

Subpart 3—Powers to require documents and powers of intervention

Power to require documents

Clause 113 empowers the Authority to require any RPMO or residential property manager to provide a document to the Authority to enable the Authority to monitor compliance by that person with the provisions of this Act, the regulations, and the practice rules. The clause goes on to provide that, if the Authority has reasonable grounds to suspect that any person is carrying out property management activities and that person is unlicensed and not exempt from the provisions of the Bill, the Authority may require that person to supply a document that the Authority considers relevant to establish whether or not there has been a breach of the Act, the regulations, or the practice rules.

Clause 114 describes the documents to which *clause 113* applies.

Powers of intervention

Clause 115 sets out grounds for carrying out a statutory intervention in the affairs of a licensed RPMO. Those statutory interventions are set out in *clauses 116 to 122*.

Clause 116 empowers the Authority to take possession of documents.

Clause 117 empowers the Authority to appoint someone to be the administrator of the organisation's trust account for a period specified by the Authority.

Clause 118 empowers the Authority to make an order appointing an appropriate person as an interim administrator of an organisation's trust account.

Clause 119 empowers the Authority to direct an audit of the trust account of an organisation at any time and appoint an auditor to carry out that audit.

Clause 120 applies if the Authority has reasonable grounds to believe that any money entrusted to an RPMO or to any person on behalf of that RPMO has been stolen by a residential property manager or by a person who has been employed or engaged by the RPMO or, in the case of an RPMO that is an entity, by any officer of the entity or any person who is, or has been, employed or engaged by the entity. If the clause applies, the Authority may require any person (including a banker) to produce any financial records of a person who is suspected of committing theft, and to allow any person appointed by the Authority to copy those records.

Clause 121 empowers a District Court Judge, on application from an organisation that has been required to supply documents to the Authority, to order the Authority to return the documents to the person from whom the documents were seized.

Clause 122 empowers the High Court, on an application under that clause, to give orders to a person appointed as an administrator of a trust account or as an interim administrator of a trust account or to a banker with whom the trust account is kept. Those orders include a direction to the administrator, interim administrator, or banker on the action to be taken in relation to the trust account. Alternatively the High Court may rescind or vary the order of the Authority appointing the administrator or interim administrator of the trust account.

Offences relating to Authority's powers in relation to documents

Clauses 123 to 125 create, respectively,—

- an offence of failing, without reasonable excuse, to comply with a request of the Authority under *clause 113* to produce documents; and
- an offence of failing, without reasonable excuse, to comply with a request by the Authority under *clause 120* to produce financial records; and
- an offence of failing, without reasonable excuse, to permit a person authorised by the Authority to inspect and copy those records under *clause 120*.

Subpart 4—Registrar

Clause 126 requires the Authority to appoint one of its employees as Registrar of the register of licensees.

Clause 127 sets out the functions of the Registrar.

Clause 128 empowers the Registrar to delegate their functions.

Part 6 Miscellaneous

Clause 129 sets out regulation-making powers for the purposes of the Bill.

Fees and levies

Clause 130 empowers the Authority to prescribe fees payable for any action that a person wants the Registrar to perform under the Bill.

Clause 131 empowers the Authority to impose on every licensee or class of licensees an operational levy to fund the costs of the Authority in the performance of the functions of the Authority, the Registrar, or a Complaints Assessment Committee under the Bill.

Clause 132 empowers the Authority to impose on every licensee or class of licensees a disciplinary levy for the purposes of funding the performance of the disciplinary functions of the Disciplinary Tribunal under the Bill.

Clause 133 provides for the commencement of fees and levies notices.

Clause 134 sets out further provisions relating to fees and levies (and in particular payment arrangements).

Further offences

Clause 135 makes it an offence for a person to provide an account for money received in their capacity as a licensee, if the person knows that the account is false in any material particular.

Clause 136 makes it an offence to knowingly resist, obstruct, deceive, or attempt to deceive, a person exercising or attempting to exercise powers or functions under the Bill, or to supply false or misleading particulars to the person.

General penalty

Clause 137 creates a general penalty for offences against the Bill for which no other penalty is specifically provided. An individual is liable on conviction to a fine not exceeding \$40,000. Any other person is liable on conviction to a fine not exceeding \$100,000.

Service

Clause 138 sets out rules about the service of notices and other documents.

Clause 139 provides that, with 1 exception, the civil remedies that any person may have against a licensee are not affected by the Bill.

Part 7

Amendments to other Acts

Subpart 1—Real Estate Agents Act 2008

Clauses 140 to 144 amend the Real Estate Agents Act 2008.

The most significant change to the Real Estate Agents Act 2008 is the change made by *clause 142*.

Clause 142 requires joint Ministers (the Minister responsible for the administration of the Real Estate Agents Act 2008 and the Minister responsible for the administration of this Bill) to appoint at least 3 members to the board of the Real Estate Agents Authority who have experience in the real estate and wider residential property

management industries. The joint Ministers are also required to appoint members to the board who, collectively, have knowledge and experience of, and capability in, perspectives of Māori and te Tiriti o Waitangi/the Treaty of Waitangi.

Subpart 2—Residential Tenancies Act 1986

Clauses 145 and 146 amend the Residential Tenancies Act 1986.

The most significant change to the Residential Tenancies Act 1986 is the change made by *clause 146*, which inserts *new section 109AA* into the Residential Tenancies Act 1986. *New section 109AA* empowers the Tenancy Tribunal, in a limited range of circumstances, to order that a landlord use the services of a licensed residential property manager for any tenancies granted by that landlord.

Schedule 1 relates to transitional, savings, and related provisions.

Hon Barbara Edmonds

Residential Property Managers Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Residential Property Managers Act **2023**.

2 Commencement

- (1) **Sections 1 and 2, Part 1, subparts 1, 2, and 4 of Part 5, Part 6, and subpart 1 of Part 7** come into force on the day after Royal assent. 5
- (2) **Sections 9, 10, 12 to 15, 42 and 43, and 145 and 146** come into force on the day that is 24 months after Royal assent.
- (3) The rest of this Act comes into force on the day that is 18 months after Royal assent. 10

Part 1

Preliminary provisions

3 Purpose

- (1) The purpose of this Act is to promote and protect the interests of residential property owners and tenants, and promote public confidence in the delivery of residential property management services. 15
- (2) The Act achieves its purpose by—
- (a) establishing a licensing and regulatory system for persons and organisations who provide residential property management services:
 - (b) creating an RPMO licence and 3 classes of residential property manager licence for individuals who are residential property managers: 20
 - (c) establishing industry entry standards and providing for the making of practice standards:
 - (d) providing accountability through a complaints resolution and disciplinary process. 25

4 Interpretation

- (1) In this Act, unless the context otherwise requires,—
- Authority** means the Real Estate Agents Authority established by section 10 of the Real Estate Agents Act 2008
- Complaints Assessment Committee** or **Committee** means a Complaints Assessment Committee appointed under **section 59** 30
- crime involving dishonesty** has the same meaning as in section 2(1) of the Crimes Act 1961
- Disciplinary Tribunal** or **Tribunal** means the Real Estate Agents Disciplinary Tribunal established under section 100 of the Real Estate Agents Act 2008 35

document has the same meaning as in section 4(1) of the Evidence Act 2006	
entity means, in relation to an RPMO, the body corporate or unincorporated body that operates the organisation	
Kāinga Ora means Kāinga Ora–Homes and Communities established by section 8 of the Kāinga Ora–Homes and Communities Act 2019	5
landlord has the same meaning as in section 2(1) of the Residential Tenancies Act 1986	
letting agent has the same meaning as in section 2(1) of the Residential Tenancies Act 1986	
licence means a licence in force under Part 2	10
licensee means a person who holds a current licence issued under Part 2	
Minister means the Minister who is for the time being responsible for the administration of this Act	
misconduct has the meaning set out in section 57	
officer means, in relation to an entity,—	15
(a) a person who is a director of the entity or, if there are no directors of the entity, a person who occupies a comparable position to a director in the entity; and	
(b) a person who is responsible for the management of the entity or any branch of the entity	20
prospective tenancy has the meaning set out in subsection (2)	
register means the register established by the Registrar under section 48	
registered community housing provider has the same meaning as in section 2(1) of the Public and Community Housing Management Act 1992	
Registrar means the Registrar appointed under section 126	25
regulations means regulations made under this Act	
residential premises has the same meaning as in section 2(1) and (3) of the Residential Tenancies Act 1986	
residential property manager —	
(a) means an individual who does any work for or provides any services under the direction of, or on behalf of, an RPMO to enable that organisation to deliver residential property management services; and	30
(b) includes a sole trader who is, or is required by this Act to be, a licensed RPMO and who is carrying out any residential property management services in the course of that business	35
residential property manager licence means a licence in any of the classes described in section 11	

residential property management organisation or **RPMO** means an entity, or an individual, who carries on a business that provides residential property management services (whether or not in connection with any other services)

residential property management services has the meaning set out in **section 5** 5

RPMO licence means a licence described in **section 27**

tenancy has the same meaning as in section 2(1) of the Residential Tenancies Act 1986

tenancy agreement has the same meaning as in section 2(1) of the Residential Tenancies Act 1986 10

unsatisfactory conduct has the meaning set out in **section 56**.

- (2) For the purposes of this Act, a **prospective tenancy** is created if a person—
- (a) has offered to grant a tenancy to any other person; or
 - (b) has entered into negotiations with any other person for the granting of a tenancy to that other person. 15

5 Meaning of residential property management services

In this Act, **residential property management services**—

- (a) means any work done or services provided, in trade, on behalf of a landlord or an owner,—
 - (i) for the purpose of bringing a prospective tenancy into existence (regardless of whether a prospective tenant has been identified), or bringing about a tenancy, including acting as a letting agent; or 20
 - (ii) during a tenancy, in relation to managing the tenancy or the landlord's rights or obligations under the Residential Tenancies Act 1986 in relation to the tenancy; or 25
 - (iii) in the case of a former tenancy, in relation to managing the landlord's rights or duties under the Residential Tenancies Act 1986 for that tenancy; and
- (b) includes (as part of the services described in **paragraph (a)**) any of the following: 30
 - (i) advising on the compliance of residential premises with the rights and obligations conferred on landlords and tenants by the law about residential tenancies:
 - (ii) advising on the appropriate amount of rent to charge for residential premises: 35
 - (iii) advising on the management of rental arrears:
 - (iv) advertising for tenants of residential premises:
 - (v) screening prospective tenants for residential premises:

- (vi) preparation of contracts for the rental of residential premises:
 - (vii) lodging bonds paid by tenants of residential premises with the relevant government department or other agency:
 - (viii) collecting rent from tenants of residential premises:
 - (ix) organising the maintenance of, or repairs to, residential premises: 5
 - (x) inspecting residential premises at regular intervals and providing reports on those inspections:
 - (xi) advising on and assisting with terminating tenancies:
 - (xii) acting as an agent for a landlord in relation to the landlord's rights or duties under the Residential Tenancies Act 1986. 10
- 6 Transitional, savings, and related provisions**
- The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.
- 7 Act binds the Crown**
- This Act binds the Crown. 15
- 8 Application**
- This Act does not apply to—
- (a) Kāinga Ora, including its employees and agents (but only to the extent that they are acting in their capacity as employees or agents of Kāinga Ora); or 20
 - (b) a registered community housing provider, including its employees (but only to the extent that they are acting in their capacity as employees of the registered community housing provider); or
 - (c) a landlord (or any employee of the landlord) in relation to any residential property management services carried out by that landlord or employee in respect of the residential property of the landlord. 25

Part 2 Licences

Subpart 1—Key provisions

Requirement to be licensed 30

9 RPMO must be licensed or exempt

Every person who carries on a business that provides residential property management services (whether or not in connection with any other services) must—

- (a) hold an RPMO licence; or
- (b) be exempt from holding an RPMO licence under the regulations.

10 Residential property manager must be licensed or exempt

Every person who carries out residential property management services must—

- (a) hold a residential property manager licence and act within the scope of that licence when carrying out those services; or 5
- (b) be exempt, under the regulations, from holding a licence.

Classes of residential property manager licence

11 Classes of residential property manager licence

There are 3 classes of residential property manager licence, as follows: 10

- (a) supervisory residential property manager licence:
- (b) standard residential property manager licence:
- (c) provisional residential property manager licence.

Offences relating to requirement to be licensed

12 Offence to hold out

15

- (1) A person that does not hold an RPMO licence must not, without reasonable excuse, directly or indirectly hold out that they are a licensed RPMO.
- (2) A person that does not hold a residential property manager licence must not, without reasonable excuse, hold out that they are a licensed residential property manager. 20
- (3) A person that contravenes **subsection (1) or (2)** commits an offence and is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$40,000:
 - (b) in any other case, to a fine not exceeding \$100,000.

13 Offence to carry on business providing residential property management services unless licensed or exempt

25

- (1) A person commits an offence if the person, without reasonable excuse, carries on a business that provides residential property management services without holding an RPMO licence or being exempt from holding an RPMO licence.
- (2) A person that commits an offence against **subsection (1)** is liable on conviction,— 30
 - (a) in the case of an individual, to a fine not exceeding \$40,000:
 - (b) in any other case, to a fine not exceeding \$100,000.

- 14 Offence to carry out residential property management services unless licensed or exempt**
- (1) A person commits an offence if the person, without reasonable excuse, carries out residential property management services without holding a residential property manager licence or being exempt from holding a residential property manager licence. 5
- (2) A person that commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$40,000;
- (b) in any other case, to a fine not exceeding \$100,000. 10
- 15 Offence to employ or contract unlicensed or non-exempt person for certain purposes**
- (1) An RPMO (**person A**) commits an offence if person A employs or contracts a person (**person B**) as a residential property manager when person B—
- (a) is not licensed as a residential property manager; and 15
- (b) is not exempt from the requirement to hold a residential property manager licence.
- (2) In proceedings for an offence against **subsection (1)**, person A has a defence if they believed, on reasonable grounds, that person B—
- (a) was licensed as a residential property manager; or 20
- (b) was exempt from the requirement to hold a residential property manager licence.
- (3) A person that commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$40,000: 25
- (b) in any other case, to a fine not exceeding \$100,000.
- 16 Offence to provide false or misleading information**
- (1) A person commits an offence if the person, for the purposes of any application for a licence or for renewal of a licence under this Act, supplies to the Registrar any false or misleading information. 30
- (2) It is a defence to a charge under **subsection (1)** that the person to whom the charge relates did not know that the person was providing false or misleading information and had exercised all reasonable care and due diligence to ensure that the information provided was not false or misleading.

Subpart 2—Issue of licences

*How to become licensed***17 Eligibility to hold licence**

- (1) An individual may be licensed as a residential property manager if the individual satisfies the Registrar that they— 5
- (a) are at least 18 years old; and
 - (b) are not prohibited under **section 18** from holding the licence; and
 - (c) are a fit and proper person to hold the licence; and
 - (d) have the qualifications and experience— 10
 - (i) prescribed by the regulations; or
 - (ii) obtained overseas that the Registrar considers, applying the regulations, to be the equivalent of the qualifications and experience prescribed by the regulations.
- (2) A person may be licensed as an RPMO if,— 15
- (a) in the case where the applicant is an individual, they would be eligible to be licensed as a supervisory residential property manager:
 - (b) in the case where the applicant is an entity, at least 1 officer of the entity would be eligible to be licensed as a supervisory residential property manager.
- (3) An entity may not be licensed as a residential property manager. 20

18 Persons and entities prohibited from being licensed

- (1) The following individuals are not eligible to hold a licence as a residential property manager:
- (a) a person who has been convicted, whether in New Zealand or another country, of a crime involving any of the following (or of a crime that, if committed in New Zealand, would be a crime involving any of the following) within the 10 years preceding the person's licence application: 25
 - (i) dishonesty:
 - (ii) a serious violent offence (within the meaning of section 2(1) of the Crimes Act 1961): 30
 - (iii) violence against, or neglect of, a child under 14, in circumstances where section 9A of the Sentencing Act 2002 applies:
 - (b) a person—
 - (i) who, within the 5 years preceding the person's licence application,— 35
 - (A) has had a licence cancelled under **section 34(c), (f), (g), or (h)**; or

- (B) has been convicted of an offence against section 12A, 13, 14, 21, or 23 of the Fair Trading Act 1986:
- (C) has had a licence granted under the Real Estate Agents Act 2008 cancelled under section 110(2)(b) of that Act:
 - (ii) whose licence is currently suspended under **section 92 or 94(2)(c)**: 5
- (c) a person subject to an order made, or a notice given, under the law of a country, State, or territory outside New Zealand within the 5 years preceding the person's licence application who is prohibited from acting as a residential property manager (or equivalent) in that country, State, or territory, unless the person satisfies the Authority that the person is a fit and proper person to hold a licence: 10
- (d) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993. 15
- (2) An entity is not eligible to hold a licence as an RPMO if any of its officers are disqualified from being licensed in their own right under **subsection (1)(a)**.
- (3) A person is not eligible to hold a licence as an RPMO or a registered property manager if they are an undischarged bankrupt or are subject to subpart 4 of Part 5 of the Insolvency Act 2006. 20

19 Application for licence

- (1) An application for a licence must—
 - (a) contain the matters (if any) prescribed by the regulations, and be in a form approved by the Authority; and 25
 - (b) be sent to the Registrar.
- (2) In the case of an application for a residential property manager licence, the applicant must indicate what class of licence is being applied for (*see section 11*).
- (3) An application for a licence must be accompanied by— 30
 - (a) a declaration, made in the form prescribed in the Oaths and Declarations Act 1957, that the individual or entity (as the case requires)—
 - (i) meets all of the applicable criteria listed in **section 17(1) or (2)**, as the case requires, to be eligible to be issued with the licence; and 35
 - (ii) is not prohibited by **section 18** from holding a licence; and
 - (b) the fee (if any) set by notice by the Authority.
- (4) *See section 16* (offence to provide false or misleading information).

Compare: 2008 No 66 s 38

20 Applicant must publicly notify application

- (1) An applicant for a licence must publicly notify the application in the manner (if any) prescribed by the regulations.
- (2) *See section 24* (objections to issue of licence).

Compare: 2008 No 66 s 39

5

21 When licence must be granted

- (1) The Registrar must grant a licence to an individual who applies for a licence if the Registrar is satisfied that the individual—

(a) is eligible to be granted the licence under **section 17**; and

(b) is not prohibited by **section 18** from holding a licence.

10

- (2) The Registrar must grant a licence to an entity who applies for a licence if the Registrar is satisfied that—

(a) the entity is eligible to be granted the licence under **section 17**; and

(b) the entity is not prohibited by **section 18** from holding a licence; and

(c) every officer of the entity is, by reason of both their personal character and their financial position, a proper person to be an officer of a licensed entity.

15

- (3) If the Registrar has received a notice of objection to the application for the licence, *see section 26* (how Registrar determines licence application and objection).

20

22 Issue of licence

- (1) The Registrar, on granting a licence, must—

(a) issue to the applicant 1 or more of the following licences:

(i) an RPMO licence;

(ii) a residential property manager licence of the appropriate class; and

25

(b) send to the applicant evidence of the issue of that licence in the form approved by the Authority; and

(c) enter the applicant's name in the register; and

(d) issue a registration number to the applicant and notify the applicant of the registration number.

30

- (2) The Registrar may, in the case of an application for a residential property manager licence, grant a licence of a different class to that applied for if the Registrar is not satisfied that the person, under **section 17(1)(d)**, is eligible for the class of residential property manager licence applied for, but is eligible to be granted another class of that licence.

35

23 When licence must be declined

- (1) This section applies if, in relation to an applicant for a licence, the Registrar is not satisfied that the person is eligible to hold the licence under **section 17** or the Registrar determines that the person is prohibited from holding a licence under **section 18**. 5
- (2) The Registrar must—
- (a) decline the application; and
 - (b) notify the applicant of the Registrar’s decision and the reasons for it; and
 - (c) notify the applicant of their right of review by the Tribunal against the decision. 10
- (3) This section is subject to **section 22(2)**.

*How to object to issuing of licence***24 Objections to issue of licence**

- (1) A person may give written notice to the Registrar of their desire to object to the issue of a licence to an applicant for the licence. 15
- (2) No objection may be made under **subsection (1)** except on 1 or more of the following grounds:
- (a) that the applicant is not eligible to be issued the licence under **section 17**;
 - (b) that **section 18** prohibits the applicant from holding the licence: 20
 - (c) if the applicant is an entity, that 1 or more officers of the entity are not, by reason of their personal character or financial position, proper persons to be officers of a licensed entity.
- (3) The notice of objection must—
- (a) state the grounds relied on, and any other matters (if any) prescribed in the regulations; and 25
 - (b) be given in the time and in the manner (if any) prescribed in the regulations; and
 - (c) be in a form approved by the Authority.
- (4) The notice of objection may include a request for a hearing under **section 26(4)**. 30
- (5) The Registrar must send a copy of the notice to the applicant.

Compare: 2008 No 66 s 40

25 Written submission in response by applicant

- (1) An applicant to whom a notice of objection is sent may give a written submission to the Registrar in response to the notice of objection. 35

- (2) The written submission in response must be given in the time prescribed by the regulations.
- (3) The written submission in response may include a request for a hearing under **section 26(4)**.
- (4) The Registrar must send a copy of the submission in response (if any) to the person who gave the notice of objection. 5

Compare: 2008 No 66 s 41

26 How Registrar determines licence application and objection

- (1) The Registrar must hold a hearing if a request for a hearing has been made under **section 24(4) or 25(3)**. 10
- (2) Otherwise, the Registrar may consider the application and notice of objection to the application on the papers or by holding a hearing.
- (3) If the Registrar considers the application and notice of objection on the papers, the Registrar must consider the applicant's written submission in response given under **section 25(1)** (if any). 15
- (4) If the Registrar must, or decides to, hold a hearing to consider the application and notice of objection, the Registrar must,—
- (a) as soon as practicable, appoint a time and place for the hearing; and
 - (b) give at least 14 days' notice of the hearing to the applicant and to the person objecting to the issue of the licence; and 20
 - (c) hear the applicant and the person objecting to the issue of the licence; and
 - (d) consider the evidence put before the Registrar, including the applicant's written submission in response (if any) given under **section 25(1)**; and
 - (e) make a decision on the application under **section 21 or 23**. 25

Subpart 3—Effect of licence and status of licensees

27 RPMO licence

- (1) An RPMO licence authorises the licensee to—
- (a) enter into agreements with landlords to provide residential property management services; and 30
 - (b) carry out work to deliver those residential property management services through licensed residential property managers; and
 - (c) operate a trust account.
- (2) A condition of holding an RPMO licence is that the holder of the licence must— 35
- (a) engage or employ for the purposes of conducting the business the holder of a supervisory residential property manager's licence; or

- (b) if the holder of the RPMO licence is an individual, also hold a supervisory residential property manager's licence.

28 Residential property manager licences

A residential property manager licence of any class authorises the licensee to carry out work to deliver residential property management services for and on behalf of a licensed RPMO. 5

29 Provisional residential property managers must be supervised

- (1) An RPMO must ensure that a provisional residential property manager, in carrying out residential property management services on behalf of that organisation, is properly supervised and managed by a supervisory residential property manager. 10
- (2) In this section, **properly supervised and managed** means that the services are carried out under the direction and control of the supervisory residential property manager in a manner that ensures that the services—
- (a) are performed competently; and 15
- (b) comply with the requirements of this Act and any other relevant legislation.

Compare: 2008 No 66 s 50

30 Licence may not be transferred

A licence may not be transferred and may not vest by operation of law in any person other than the person to whom the licence was granted. 20

Compare: 2008 No 66 s 47

Subpart 4—Term, renewal, and expiry of licence

31 Term of licence

- (1) A licence continues in force for a period of 12 months that starts on the date on which the Registrar enters the applicant's name in the register, unless— 25
- (a) the licence is cancelled under **section 34**; or
- (b) the licence is suspended under **section 38, 92, or 94(2)(c)**; or
- (c) the licence is surrendered under **section 41(1)**; or
- (d) the licence is renewed under **subsection (2)**. 30
- (2) A licence may be renewed for further periods of 12 months in accordance with **section 32**.

Compare: 2008 No 66 s 46

32 Renewal of licence

- (1) An application for renewal of a licence must be made, either before the date on which the licence expires or within a period of 12 months or less after the date on which the licence expires, to the Registrar—
- (a) in a form approved by the Authority; and 5
 - (b) accompanied by the fee (if any) set by the Authority.
- (2) Subject to **subsection (3), sections 17, 18, and 21 to 23** apply, with any necessary modifications, to an application for renewal of a licence.
- (3) The Registrar must, in addition to the matters specified in **section 17(1)**, be satisfied that the applicant for renewal of a licence has complied with requirements about continuing education set out in practice rules made by the Authority under **section 108**. 10
- (4) If an application for renewal of a licence has been made but not determined before the date on which the licence is due to expire, the licence continues in force until the application is determined. 15
- (5) The grant of a renewal of a licence takes effect,—
- (a) in a case where the application for renewal was made before the expiry of the licence, from the date of expiry of the previous licence:
 - (b) in a case where the application for renewal was made after the expiry of the previous licence but within a period of 12 months or less after that date, on the date on which the Registrar enters the applicant's name on the register. 20

Compare: 2008 No 66 s 52

33 Expiry of licence

If no application for the renewal of a licence is made on or before the date on which the licence would otherwise expire, the Registrar must record the expiry of the licence in the register as soon as practicable after that date. 25

Compare: 2008 No 66 s 53

Subpart 5—Cancellation, suspension, and surrender of licence*Cancellation of licence* 30**34 Cancellation of licence**

The Registrar must cancel a person's licence and remove that person's name from the register if any of the following circumstances apply:

- (a) in the case of an individual, the person dies:
- (b) the person gives written notice to the Registrar requesting that the Registrar cancel the person's licence: 35

- (c) the person has failed to maintain the qualifications prescribed by the regulations:
 - (d) the person becomes a person prohibited from holding a licence under **section 18**:
 - (e) the person has failed to complete any continuing education required by practice rules made by the Authority under **section 108**: 5
 - (f) the person has failed to pay a fine or costs in accordance with **section 80**:
 - (g) the licence is cancelled by order of the Disciplinary Tribunal under **section 94(2)(b)**: 10
 - (h) the licence was granted on the basis of any false or fraudulent representation or declaration made orally or in writing:
 - (i) the person has failed to pay any fees or levies set by notice by the Authority.
- Compare: 2008 No 66 s 54 15
- 35 Process for cancellation**
- (1) **Subsection (2)** sets out the process for cancellation of a licence other than by order of the Disciplinary Tribunal under **section 94** or at the request of the licensee under **section 34(b)**.
 - (2) The process is as follows: 20
 - (a) the Registrar must give the licensee written notice of the Registrar's intention to cancel the licence; and
 - (b) the notice must—
 - (i) contain or be accompanied by a statement of the Registrar's reasons for the cancellation; and 25
 - (ii) state that the licensee has 10 working days within which to make written representations to the Registrar as to why the licence should not be cancelled; and
 - (c) if any written representations are made by the licensee in accordance with **paragraph (b)(ii)**, the Registrar must take those representations into account when deciding whether to cancel the licence; and 30
 - (d) the Registrar must then decide whether to cancel the licence, and must notify the licensee of the Registrar's decision as soon as practicable.
 - (3) If the Registrar decides to cancel the licence, the Registrar must—
 - (a) include in the notice referred to in **subsection (2)(d)** the grounds for the decision and the date on which the cancellation takes effect; and 35
 - (b) specify in the notice that the licensee has a right of appeal to the Tribunal under **section 88**; and

(c) record the cancellation on the register as soon as practicable.

Compare: 2008 No 66 s 55

36 Effective date of cancellation

(1) The cancellation takes effect on the date specified by the Registrar in the notice given to the licensee under **section 35(2)(d)**. 5

(2) The date of cancellation must be a date after the date of that notice.

Compare: 2008 No 66 s 56

Suspension of licence

37 Recording of suspension of licence

(1) This section applies if the Registrar receives notice from the Disciplinary Tribunal that a licence has been suspended under **section 92 or 94(2)(c)**. 10

(2) On receiving that notice, the Registrar must record the suspension on the register for the period specified in the notice.

Compare: 2008 No 66 s 57

38 Voluntary suspension of licence 15

(1) A licensee may, by written notice to the Registrar, request that the Registrar suspend the licensee's licence for a period specified in the notice.

(2) The Registrar must suspend the person's licence and record the suspension in the register for that specified period.

(3) A person whose licence is suspended under this section may, by written notice to the Registrar, request that the Registrar reinstate that person's licence. 20

(4) The Registrar must then reinstate that person's licence unless there is some other ground for cancellation or suspension of that person's licence under **section 34, 92, or 94(2)(b) or (c)**.

Compare: 2008 No 66 s 58

25

39 Effect of suspension of licence

(1) A person is not licensed as an RPMO or as a residential property manager for the purposes of this Act for the period during which the person's licence of that class is suspended.

(2) At the end of the period of suspension, the person's licence is immediately reinstated unless there is some other ground for cancellation or suspension of the licence under **section 34, 92, or 94(2)(b) or (c)**. 30

Compare: 2008 No 66 s 59

40 Effective date of suspension

(1) The suspension of a licence under **section 92 or 94** takes effect on the date notified in the Tribunal's decision communicated under **section 91**. 35

- (2) The suspension of a licence under **section 38(2)** takes effect on the date on which the suspension is recorded in the register.

Compare: 2008 No 66 s 60

Surrender of licence

41 Voluntary surrender of licence 5

- (1) A licensee may, by written notice to the Registrar, surrender their licence.
- (2) The written notice must be accompanied by evidence of the issue of the licence to the licensee.
- (3) The Registrar must cancel the person's licence and record the cancellation in the register. 10
- (4) The cancellation takes effect on the date the cancellation is recorded in the register.
- (5) The surrender of a licence under this section does not affect the licensee's liability—
- (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: 15
- (b) to perform any obligation required to be performed by the licensee by or under this Act on or before the date on which the cancellation is recorded in the register: 20
- (c) for any act done or default made before the date on which the licence ceased to have effect.

Compare: 2008 No 66 s 61

Temporary licences

42 Temporary RPMO licence 25

- (1) A reference in this section to a licensee is a reference to a licensee who is an RPMO.
- (2) Any of the following persons may apply to the Registrar in the manner and form approved by the Authority for permission to carry on, or appoint some other person to carry on, the licensee's business as an RPMO for a period specified by the Registrar: 30
- (a) in the case of a licensee who is a person subject to a property order under the Protection of Personal and Property Rights Act 1988, the manager of the person's estate; or
- (b) in the case of a licensee who is deceased, their personal representative; 35
or

- (c) in the case of a licensee who has been adjudicated bankrupt, their assignee in bankruptcy; or
- (d) in the case of a licensee that is an entity that is in liquidation or receivership, the liquidator or receiver of that entity, as the case may be; or
- (e) in the case of a licensee who is sick, absent, or is otherwise temporarily prevented from carrying on business as an RPMO, the licensee's nominated representative. 5
- (3) If, under **subsection (2)**, a person mentioned in that subsection has applied to the Registrar for permission to carry on a licensee's business, then, until the application has been determined, the Registrar may, in writing, authorise the applicant to carry on the licensee's business, either personally or by an agent, for any period not exceeding 2 months. 10
- (4) Despite **subsection (3)**, an authority given under that subsection in any event ceases to have effect when the application for the Registrar's permission under **subsection (2)** is determined. 15
- Compare: 2008 No 66 s 62

43 Temporary supervisory residential property manager licence

- (1) A reference in this section to a licensee is a reference to a licensee who holds a standard residential property manager licence.
- (2) Any licensee may apply to the Registrar in the manner and form approved by the Authority for permission to be appointed or to act as a supervisory residential property manager on a temporary basis, on the grounds that the supervisory residential property manager who usually acts for an entity— 20
- (a) has had their licence suspended or cancelled; or
- (b) is unavailable to act for any reason. 25
- (3) A licensee need not satisfy the general requirements for appointment as a supervisory residential property manager (whether specified in the regulations or in practice rules) in order to be appointed as a temporary supervisory residential property manager under this section.
- (4) If, under **subsection (2)**, a licensee mentioned in that subsection has applied to the Registrar for permission to carry on, or to appoint some other person to carry on, a licensee's business, then, until the application has been determined, the Registrar may, in writing, authorise the applicant to carry on the licensee's business, either personally or by an agent, for any period not exceeding 2 months. 30
- (5) Despite **subsection (4)**, an authority given under that subsection in any event ceases to have effect when the application for the Registrar's permission under **subsection (2)** is determined. 35

Part 3 Duties of licensees and register of licences

Subpart 1—Duties of licensees

- 44 Licensee must comply with practice rules and continuing education rules** 5
A licensee must comply with any rules made under **section 107 or 108** that apply to the licensee.
- 45 Licensee must produce evidence of issue of licence** 10
A licensee must, if asked by any person, produce for inspection by that person either—
- (a) the evidence of the issue of a licence sent to that person under **section 22**; or
 - (b) a copy of that evidence.
- Compare: 2008 No 66 s 45
- 46 Applicant and licensee must notify Registrar of change in circumstances** 15
- (1) Each applicant for a licence, and each licensee, must give written notice to the Registrar of any change in circumstances within 10 working days after the change.
 - (2) In this section, **change of circumstances** means—
 - (a) any change in the information recorded in the register; and
 - (b) any material change in the RPMO for which the residential property manager works (if any); and
 - (c) any other change that may be prescribed.
- Compare: 2008 No 66 s 67
- 47 Duties of certain licensees in relation to trust accounts** 25
- (1) The holder of an RPMO licence must hold all money received as a consequence of the provision of residential property management services in the organisation's trust account.
 - (2) The holder of an RPMO licence must deal with that money in accordance with the regulations.
 - (3) The holder of an RPMO licence who, without reasonable excuse, contravenes **subsection (1)** commits an offence and is punishable on conviction,—
 - (a) in the case of an individual, by a fine not exceeding \$40,000;
 - (b) in any other case, by a fine not exceeding \$100,000.

Subpart 2—Register of licensees

48 Register of licensees

- (1) The Registrar must establish, keep, and maintain a register of licensees.
- (2) The Registrar must enter in the register—
- (a) the name of every licensee; and 5
 - (b) the information about that licensee that is specified in **section 51** to the extent that the information is relevant to that person.
- (3) The Registrar must make any other entries in the register that may be required, permitted, or directed to be entered by or under this Act or the regulations. 10
- Compare: 2008 No 66 s 63

49 Purpose of register

The purpose of the register is—

- (a) to enable the public to—
 - (i) determine whether a person holds a licence as an RPMO, or as a residential property manager, and, if the latter, which class of licence they hold; and 15
 - (ii) choose a suitable RPMO or residential property manager from a list of licensed RPMOs and residential property managers; and
 - (iii) know how to contact the RPMO or residential property manager; and 20
 - (iv) know which licensees have been disciplined within the last 3 years; and
- (b) to facilitate the administrative, disciplinary, and other functions of the Authority, Registrar, and Disciplinary Tribunal under this Act. 25

Compare: 2008 No 66 s 64

50 Form of register

- (1) The register may—
- (a) be an electronic register; or
 - (b) be kept in any other manner that the Registrar thinks fit.
- (2) Despite **subsection (1)**, the register must be available to the public on an Internet site maintained by or on behalf of the Authority. 30
- (3) The register must be operated at all times unless the Registrar suspends its operation (in whole or in part)—
- (a) for maintenance purposes; or
 - (b) in response to technical difficulties; or 35
 - (c) to ensure the security or integrity of the register.

51 Matters to be contained in register

- (1) The register must contain all of the following information for each licensee whose name is entered in the register:
- (a) their full name and business address or, if the licensee is registered on the New Zealand Business Number Register, the licensee's New Zealand Business Number: 5
 - (b) any trading names:
 - (c) the registration number issued by the Registrar:
 - (d) the address for communications under this Act:
 - (e) any information about the status and history of the person's licence, particularly— 10
 - (i) the class of licence held by the person (if applicable); and
 - (ii) the date on which the person's name was entered in the register; and
 - (iii) the date of expiry of the person's licence or, as the case may be, the date of renewal of the licence; and 15
 - (iv) the date on which the term of renewal of the licence expires; and
 - (v) any action taken on a disciplinary matter in respect of the person in the last 3 years:
 - (f) whether the licensee has complied with any requirement concerning continuing education in practice rules made by the Authority under **section 108**: 20
 - (g) any other information that the Registrar considers necessary for the purposes of the register.
- (2) The register must also show— 25
- (a) whether a licence was suspended in the last 3 years; and
 - (b) if **paragraph (a)** applies,—
 - (i) the ground under this Act for the suspension; and
 - (ii) the period of the suspension; and
 - (iii) any conditions for termination of the suspension. 30

52 Search of register

A person may search the register for a purpose set out in **section 49**.

Compare: 2008 No 66 s 69

53 When search constitutes interference with privacy of individual

A person who searches the register for a purpose that is not a purpose set out in **section 49** must be treated, for the purposes of Parts 5 and 6 of the Privacy 35

Act 2020, as having breached an information privacy principle under section 69(2)(a)(i) of that Act.

Compare: 2008 No 66 s 70

54 Changes to register

The Registrar may at any time make any alterations to the register that are necessary to— 5

- (a) reflect any changes in the name of the licensee or the information specified in **section 51**; or
- (b) correct a mistake caused by any error or omission on the part of the Registrar or any person to whom the Registrar has delegated their functions, duties, or powers. 10

Compare: 2008 No 66 s 68

Part 4 Complaints and discipline

Subpart 1—Interpretation 15

55 Meaning of licensee in this Part

In this Part, unless the context otherwise requires, **licensee** has the meaning given to it by **section 4(1)** and includes—

- (a) a former licensee; and
- (b) a person who is or has been an officer of an entity that is, or has been, a licensee. 20

Compare: 2008 No 66 s 71

Unsatisfactory conduct and misconduct

56 Unsatisfactory conduct

For the purposes of this Act, a licensee is guilty of **unsatisfactory conduct** if the licensee— 25

- (a) conducts themselves in a way that would reasonably be regarded by licensed residential property managers or licensed RPMOs (as applicable) as unacceptable; or
- (b) contravenes a provision of this Act or of any regulations or rules made under this Act; or 30
- (c) delivers residential property management services or operates an RPMO in a manner that is incompetent or negligent; or

- (d) delivers residential property management services in a way that falls short of the standard that a reasonable member of the public is entitled to expect from a reasonably competent licensee.

Compare: 2008 No 66 s 72

57 **Misconduct** 5

For the purposes of this Act, a licensee is guilty of **misconduct** if the licensee's conduct—

- (a) would reasonably be regarded by licensed residential property managers, licensed RPMOs, or reasonable members of the public, as disgraceful; or
- (b) constitutes seriously incompetent or seriously negligent residential property management services; or 10
- (c) constitutes a wilful or reckless contravention of—
- (i) this Act; or
- (ii) other Acts that apply to the conduct of licensees; or
- (iii) regulations or rules made under this Act; or 15
- (d) constitutes an offence for which the licensee has been convicted and that is an offence that reflects adversely on the licensee's fitness to be a licensee.

Compare: 2008 No 66 s 73

Subpart 2—How to complain about licensee's conduct 20

58 **Complaints about licensees**

- (1) Any person may, in accordance with the requirements (if any) in the regulations, complain in writing to the Authority about the conduct of a licensee.
- (2) When the Authority receives a complaint under this section, the Authority must— 25
- (a) refer the complaint to the Registrar, who must consider whether to deal with the complaint under **subsection (3)**; and
- (b) if the Registrar decides not to deal with the complaint under that subsection, refer the complaint to a Committee for determination and notify the person complained about of the reference. 30
- (3) The Registrar may determine that—
- (a) the complaint discloses only a matter that is insufficiently serious to justify disciplinary action, and for that reason need not be pursued;
- (b) the complaint is frivolous or vexatious or not made in good faith, and for that reason need not be pursued; 35
- (c) the complaint should be referred to another agency, and refer it accordingly:

- (d) the complaint has been resolved to the complainant's satisfaction and no further action is needed.

Compare: 2008 No 66 s 74

Subpart 3—Complaints Assessment Committees

Constitution and procedures of Committees 5

59 Authority to appoint Complaints Assessment Committees

- (1) The Authority must appoint as many Complaints Assessment Committees as, in its opinion, are required to deal effectively with complaints and allegations about licensees.
- (2) Each Committee consists of 3 members appointed from the Panel maintained under **section 60**. 10
- (3) One of the members of each Committee must be a lawyer of not less than 7 years' legal experience.
- (4) The Authority must designate one of the members as the chairperson of the Committee, and another member as the deputy chairperson. 15

Compare: 2008 No 66 s 75

60 Panel

- (1) The Authority must maintain a panel of up to 20 persons who are suitable to serve as members of Complaints Assessment Committees.
- (2) In considering the suitability of any person for inclusion on the panel, the Authority must have regard not only to the person's personal attributes but also to the person's knowledge and experience of matters likely to come before a Committee. 20
- (3) The knowledge and experience referred to in **subsection (2)** include, without limitation, experience and knowledge of— 25
- (a) the law and, in particular, the Residential Tenancies Act 1986 and regulations made under that Act;
 - (b) the residential property management industry;
 - (c) consumer affairs.
- (4) Members of the panel may also be members of the panel maintained under section 76 of the Real Estate Agents Act 2008. 30
- (5) The name of a person must be removed from the panel when 5 years have elapsed since the Authority approved the inclusion of the person's name on the panel or if the person resigns from the panel.

- (6) If **subsection (5)** applies, the name of the person must not be removed from the panel until any current matters that the person is considering as a member of a Committee have been disposed of by the Committee.
Compare: 2008 No 66 s 76
- 61 Functions of Committees** 5
- The functions of each Committee are—
- (a) to inquire into and investigate complaints made under **section 58**:
 - (b) on its own initiative, to inquire into and investigate any other allegations about any licensee:
 - (c) to promote, in appropriate cases, the resolution of complaints by negotiation, conciliation, or mediation: 10
 - (d) to make final determinations in relation to complaints, inquiries, or investigations:
 - (e) to lay, and prosecute, charges before the Disciplinary Tribunal:
 - (f) in appropriate cases, to refer the complaint to another agency: 15
 - (g) to inform the complainant and the person complained about of its decision, reasons for the decision, and appeal rights:
 - (h) to publish its decisions.
- Compare: 2008 No 66 s 78
- 62 Procedure on receipt of complaint** 20
- (1) As soon as practicable after receiving a complaint about a licensee, a Committee must consider the complaint and determine whether to inquire into it.
 - (2) The Committee may—
 - (a) determine that the complaint alleges neither unsatisfactory conduct nor misconduct and dismiss it accordingly: 25
 - (b) determine that the complaint discloses only an inconsequential matter, and for that reason should not be pursued:
 - (c) determine that the complaint is frivolous or vexatious or not made in good faith, and for that reason should not be pursued:
 - (d) determine that the complaint should be referred to another agency, and refer it accordingly: 30
 - (e) determine to inquire into the complaint.
- 63 Notice of decision**
- (1) If a Committee decides to take no action on a complaint, the Committee must promptly give written notice of that decision to— 35
 - (a) the complainant; and
 - (b) the person complained about.

- (2) The notice must—
- (a) state the decision and the reasons for it; and
 - (b) describe the right of appeal conferred by **section 88**.
- Compare: 2008 No 66 s 81
- 64 Inquiry by Committee** 5
- (1) If a Committee decides to inquire into a complaint or into matters raised by allegations about a licensee, it must inquire into the complaint or those matters as soon as practicable.
- (2) The Committee may authorise any person to assist it with its inquiry. 10
- Compare: 2008 No 66 s 82
- 65 Notice to licensee**
- If a Committee decides to inquire into a complaint, the Committee—
- (a) must send particulars to the licensee, and invite the licensee to make a written explanation in relation to the complaint (if any):
 - (b) may require the licensee to appear before it to make an explanation in relation to the inquiry: 15
 - (c) may, by written notice served on the licensee, request that specified information be supplied to the Committee in writing.
- Compare: 2008 No 66 s 83
- 66 Procedure of Committee** 20
- (1) A Committee must exercise its powers and perform its duties and functions in a way that is consistent with the rules of natural justice.
- (2) A Committee may, subject to **subsection (1)**, direct any publication of its decisions under **section 69, 73, or 74** that it considers necessary or desirable in the public interest. 25
- (3) A Committee may regulate its procedure in any manner that it thinks fit as long as it is consistent with this Act and the regulations.
- Compare: 2008 No 66 s 84
- 67 Application of provisions in Real Estate Agents Act 2008**
- (1) The following provisions of the Real Estate Agents Act 2008 apply, with all necessary modifications, in relation to Committees and complaints about licensees under this Act: 30
- (a) section 77 (constitution of Committees for consideration of matters before it):
 - (b) section 85 (powers to call for information or documents): 35
 - (c) section 87 (negotiation, conciliation, and mediation):
 - (d) section 88 (evidence):

- (e) section 95 (members of Committee not personally liable).
- (2) The necessary modifications include that—
- (a) references to Committees, licensees, licences, and unsatisfactory conduct are references to those terms as defined in this Act:
- (b) a reference to a right of appeal is a reference to a right of appeal given by **section 100**: 5
- (c) a reference to the performance or exercise of a person’s functions, duties, or powers is a reference to the performance or exercise of their functions, powers, or duties under this Act: 10
- (d) a reference to proceedings is a reference to proceedings under this Act: 10
- (e) a reference to notices given is a reference to notices given under this Act. 10
- (3) In section 88(5) of the Real Estate Agents Act 2008 (as applied by **subsection (1)(d)**), the reference to section 84(1) of that Act is treated as a reference to **section 66(1)** of this Act. 15
- 68 Compliance with requirement to provide information or document**
- (1) A person who receives a notice under section 85 of the Real Estate Agents Act 2008 (as applied by **section 67(1)(b)** of this Act) must, without charge, comply with the requirement stated in the notice in the manner and within the period (which must be not less than 10 working days after the notice is given to the person) specified in the notice. 20
- (2) **Subsection (1)** does not require a person to provide any information or produce any document that would be privileged in a court of law.
- (3) No person is required to produce to the Committee any papers, records, documents, or things if compliance with that requirement would be in breach of an obligation of secrecy or non-disclosure imposed on the person by an enactment (other than this Act, the Official Information Act 1982, or the Privacy Act 2020). 25
- (4) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement to produce any papers, documents, records, or things in accordance with a notice given under section 85 of the Real Estate Agents Act 2008. 30
- (5) A person who commits an offence against this section is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$10,000; or 35
- (b) in any other case, to a fine not exceeding \$50,000.

Compare: 2008 No 66 s 86

- 69 Power of Committee to determine complaint or allegation**
- (1) A Committee may make 1 or more of the determinations described in **subsection (2)** after both inquiring into a complaint or allegation and conducting a hearing with regard to that complaint or allegation.
- (2) The determinations that the Committee may make are as follows: 5
- (a) a determination that the complaint or allegation be considered by the Disciplinary Tribunal:
- (b) a determination that it has been proved, on the balance of probabilities, that the licensee has engaged in unsatisfactory conduct:
- (c) a determination that the Committee take no further action with regard to the complaint or allegation or any issue involved in the complaint or allegation. 10
- (3) Nothing in this section limits the power of the Committee to make, at any time, a decision under **section 73** with regard to a complaint. 15
- Compare: 2008 No 6 s 89
- 70 Hearings on papers**
- (1) A hearing conducted under **section 69(1)** by a Committee is to be a hearing on the papers, unless the Committee otherwise directs.
- (2) If the Committee conducts the hearing on the papers, the Committee must make its determination on the basis of the written material before it. 20
- (3) The Committee may consider the written material in any manner that it thinks fit.
- Compare: 2008 No 66 s 90
- 71 Reference of complaint to Disciplinary Tribunal**
- If a Committee makes a determination that the complaint or allegation be determined by the Disciplinary Tribunal, the Committee must— 25
- (a) frame an appropriate charge and lay it before the Disciplinary Tribunal by submitting it in writing to the Tribunal; and
- (b) give written notice of that determination and a copy of the charge to the person to whom the charge relates and to the complainant. 30
- Compare: 2008 No 26 s 91
- 72 Application for suspension of licence**
- If, under **section 71**, a Committee lays before the Disciplinary Tribunal a charge against a licensee, the Committee may apply to the Tribunal for an order that, pending the determination of the charge, the licence of the licensee be suspended. 35
- Compare: 2008 No 26 s 92

*Powers of Committees***73 Decision to take no action on complaint**

- (1) A Committee may, in its discretion, decide to take no action or, as the case may require, no further action on any complaint if, in the opinion of the Committee,— 5
- (a) the length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made is such that an investigation of the complaint is no longer practicable or desirable; or
 - (b) the subject matter of the complaint is insufficiently serious to justify disciplinary action. 10
- (2) Despite anything in **subsection (1)**, the Committee may, in its discretion, decide not to take any further action on a complaint if, in the course of the investigation of the complaint, it appears to the Committee that, having regard to all the circumstances of the case, any further action is unnecessary or inappropriate. 15

Compare: 2008 No 66 s 80

74 Power of Committee to make orders

- (1) If a Committee makes a determination under **section 69(2)(b)**, the Committee may do 1 or more of the following: 20
- (a) make an order censuring or reprimanding the licensee:
 - (b) order that all or some of the terms of an agreed settlement between the licensee and the complainant are to have effect, by consent, as all or part of a final determination of the complaint:
 - (c) order the licensee to apologise to the complainant: 25
 - (d) order the licensee to undergo training or education:
 - (e) order the licensee to reduce, cancel, or refund fees charged for residential property management services where those services are the subject of the complaint:
 - (f) order the licensee— 30
 - (i) to rectify, at the licensee's own expense, any error or omission; or
 - (ii) where it is not practicable to rectify the error or omission, to take steps to provide, at the licensee's own expense, relief, in whole or in part, from the consequences of the error or omission:
 - (g) order the licensee to pay to the Authority,— 35
 - (i) in the case of an individual, a fine not exceeding \$10,000:
 - (ii) in any other case, a fine not exceeding \$20,000.

- (h) order the licensee, or the RPMO for whom the person complained about works, to make their business (including any records, accounts, and assets) available for inspection or take advice in relation to management from persons specified in the order:
- (i) order the licensee to pay the complainant any costs or expenses incurred in respect of the inquiry, investigation, or hearing by the Committee. 5
- (2) An order under this section may be made on and subject to any terms and conditions that the Committee thinks fit.
- Compare: 2008 No 66 s 93
- 75 Power of Committee to make additional orders** 10
- (1) This section applies in addition to the power of a Committee to make orders under **section 74** if the Committee makes a determination that it has been proved, on the balance of probabilities, that the licensee has engaged in unsatisfactory conduct.
- (2) If the Committee is satisfied that the unsatisfactory conduct involves more than a minor or technical breach of this Act or of any regulations or rules made under this Act, the Committee may make an order referring the matter to the Disciplinary Tribunal for the Tribunal to consider whether to make a compensation order under **section 94(5)**. 15
- (3) The order may be made subject to any terms and conditions that the Committee thinks fit. 20
- Compare: 2008 No 66 s 93(1)(ha)
- 76 Notice of determination**
- (1) When a Committee makes a determination under **section 69**, the Committee must promptly give written notice of that determination to the complainant and to the licensee. 25
- (2) The notice must—
- (a) state the determination and the reasons for it; and
- (b) specify any orders made under **sections 74 and 75** and be accompanied by copies of those orders; and 30
- (c) describe the right of appeal given by **section 88**.
- Compare: 2008 No 66 s 94

Related matters

- 77 Protection and privileges of witnesses**
- Every person has the same privileges and immunities as a witness has in a court of law in relation to— 35
- (a) the giving of information to a Committee; and

- (b) the giving of evidence to, or the answering of questions put by, the Committee; and
- (c) the production of papers, documents, records, or things to the Committee.
- Compare: 2008 No 66 s 96 5
- 78 Privileges and immunities of counsel**
- Every counsel appearing before a Committee has the same privileges and immunities as counsel in a court of law.
- Compare: 2008 No 66 s 97
- 79 Enforcement of orders** 10
- An order made by a Committee may be enforced in all respects as if it were an order of the District Court on the filing of a sealed copy in that court.
- Compare: 2008 No 66 s 98
- 80 Non-payment of fines or costs**
- (1) This section applies if money payable by a person under an order by a Committee or by the Disciplinary Tribunal remains unpaid for 60 days or longer after the date of the order. 15
- (2) The Committee may suspend the person's licence until the person pays the money.
- (3) If the person does not pay the money within 12 months, the Committee may cancel the person's licence and direct the Registrar to remove the person's name from the register. 20
- Compare: 2008 No 66 s 99
- Subpart 4—Real Estate Agents Disciplinary Tribunal**
- Disciplinary Tribunal and its procedures* 25
- 81 Functions of Disciplinary Tribunal under this Act**
- The functions of the Disciplinary Tribunal under this Act are—
- (a) to hear and determine any application made by a Complaints Assessment Committee for the suspension of the licence of a licensee granted under this Act pending the determination of a charge that the Committee has laid against the licensee: 30
- (b) to hear and determine any charge against a licensee brought by the Committee:
- (c) to hear any appeal under **section 88** against a determination by the Committee (including a determination to take no action): 35

(d) to conduct any review, under **section 90**, of a determination of the Registrar:

(e) any other functions conferred by this Act.

Compare: 2008 No 26 s 102

- 82 Proceedings before Disciplinary Tribunal** 5
- (1) The Disciplinary Tribunal may regulate its procedures as it thinks fit.
- (2) **Subsection (1)** is subject to the rules of natural justice, this Act, any regulations made under this Act, and any practice notes issued under **section 95**.
- 83 Representation before Disciplinary Tribunal**
- (1) Every person whose rights may be affected by a proceeding of the Disciplinary Tribunal (other than a review under **section 90**) is entitled to appear and be heard at the hearing of that proceeding and to be represented by counsel or otherwise. 10
- (2) A charge made by the Committee against a licensee is, at the hearing, to be prosecuted by the Committee, which, for that purpose, may be represented by counsel or otherwise. 15
- 84 Hearings**
- (1) Every hearing of the Disciplinary Tribunal must be held in public.
- (2) **Subsection (1)**—
- (a) does not apply to reviews under **section 90**; and 20
- (b) is subject to **subsections (3) and (4)** and to **section 86**.
- (3) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may hold a hearing or part of a hearing in private. 25
- (4) The Disciplinary Tribunal may, in any case, deliberate in private on its decision or on any question arising in the course of a hearing.
- (5) The hearing of a matter, or any part of it, may be conducted by telephone, audiovisual link, or other remote access facility if the chairperson or the Tribunal considers it appropriate and the necessary facilities are available. 30
- Compare: 2008 No 66 s 107
- 85 Hearing on papers**
- (1) Despite anything in this Act to the contrary, the Disciplinary Tribunal may determine a proceeding under this Act on the papers if the Tribunal considers it appropriate. 35

- (2) Before doing so, the Tribunal must give the parties a reasonable opportunity to comment on whether the proceeding should be dealt with in that manner.

Compare: 2008 No 66 s 107A

86 Restrictions on publication

- (1) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may make 1 or more of the following orders: 5
- (a) an order prohibiting the publication of any report or account of any part of any proceedings under this Act before it, whether held in public or in private: 10
- (b) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at any hearing:
- (c) an order prohibiting the publication of the name or any particulars of the affairs of the person charged or any other person. 15
- (2) Unless it is reversed or modified in respect of its period in force by the High Court on appeal under **section 99**, an order made under **subsection (1)** continues in force as specified in the order, or, if no time is specified, until the Disciplinary Tribunal, in its discretion, revokes it on the application of any party to the proceedings in which the order was made or of any other person. 20
- (3) **Subsection (1)(c)** does not apply to any communications between the Disciplinary Tribunal and the Authority.
- (4) A person who breaches an order made under this section commits an offence and is liable on conviction to a fine not exceeding \$3,000.
- (5) A defendant has a defence to a charge under **subsection (4)** if the defendant proves that they did not know or could not reasonably have known that the information published was suppressed. 25

Compare: 2008 No 66 s 108

87 Application of provisions of Real Estate Agents Act 2008

The following provisions of the Real Estate Agents Act 2008 apply with all necessary modifications in relation to proceedings before the Disciplinary Tribunal under this Act: 30

- (a) section 109 (evidence):
- (b) section 110A (costs):
- (c) Schedule 1. 35

88 Appeal to Tribunal against determination by Committee

- (1) A person affected by a determination of a Committee may appeal to the Disciplinary Tribunal against the determination within 20 working days after the day

on which notice of the relevant decision was given under **section 63 or 76**, except that no appeal may be made against a determination under **section 69(2)(a)** that a complaint or an allegation be considered by the Disciplinary Tribunal.

- (2) The Disciplinary Tribunal may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if it is satisfied that exceptional circumstances prevented the appeal from being made in time. 5
- (3) The appeal is by way of written notice to the Tribunal of the appellant's intention to appeal, accompanied by—
 - (a) a copy of the notice given to the person under **section 63 or 76**; and 10
 - (b) the prescribed fee, if any; and
 - (c) any other information that the appellant wishes the Tribunal to consider in relation to the appeal.
- (4) The appeal is by way of rehearing.
- (5) After considering the appeal, the Tribunal may confirm, reverse, or modify the determination of the Committee. 15
- (6) If the Tribunal reverses or modifies a determination of the Committee, it may exercise any of the powers that the Committee could have exercised.

89 Constitution of Tribunal for hearings under this Act

For the purposes of each hearing under this Act, the Tribunal consists of— 20

- (a) the chairperson of the Tribunal or, if the chairperson is absent from duty for any reason, the deputy chairperson of the Tribunal; and
- (b) 2 other members.

Compare: 2008 No 26 s 101

90 Application to Tribunal to review determination by Registrar 25

- (1) An applicant may apply to the Tribunal to review a determination of the Registrar (including a determination under **section 58**) that adversely affects the applicant within 20 working days after the date on which the applicant is notified of the determination.
- (2) The application must be made by way of written notice to the Tribunal of the applicant's intention to apply, accompanied by— 30
 - (a) a copy of the notification; and
 - (b) the prescribed fee, if any; and
 - (c) any other information that the applicant wishes the Tribunal to consider in relation to the review. 35
- (3) The review must be conducted on the papers unless the applicant requests to be heard.

- (4) After conducting the review, the Tribunal may confirm, reverse, or modify the determination of the Registrar.
- (5) If the Tribunal reverses or modifies a determination of the Registrar, it may exercise any of the powers that the Registrar could have exercised.
Compare: 2008 No 66 s 112 5
- 91 Notification by Tribunal**
- When the Tribunal determines a matter in a proceeding, the Tribunal must notify every person involved in the proceeding, the Authority, and the Registrar of the determination in writing, setting out the reasons for the decision and the right of appeal to the High Court under **section 100**. 10
Compare: 2008 No 26 s 113
- 92 Suspension of licence pending outcome of hearing**
- (1) The Tribunal may suspend the licence of a licensee if—
- (a) a licensee has been charged under **section 71**;
- (b) the Tribunal considers that it is necessary or desirable to suspend the licence having regard to the interests of the public. 15
- (2) The process for suspending a licence under this section is as follows:
- (a) the Tribunal must give a licensee written notice of its intention to suspend the licence; and
- (b) the notice must— 20
- (i) contain the Tribunal’s reasons for the intended suspension; and
- (ii) state that the licensee has 10 working days within which to make written representations to the Tribunal as to why the licence should not be suspended; and
- (iii) state the proposed period, or otherwise describe the proposed duration, of the suspension; and 25
- (c) if the licensee makes any written representations within the period referred to in **paragraph (b)(ii)**, the Tribunal must take those representations into account in deciding whether to suspend the licence and the period of any suspension; and 30
- (d) the Tribunal must then decide whether to suspend the licence, and notify the licensee accordingly, as soon as practicable.
- (3) If the Tribunal decides to suspend the licence, it must give the licensee and the Registrar written notice of its decision and—
- (a) include in the notice the grounds for the decision, the date on which the suspension takes effect, and the period or duration of the suspension; and 35

- (b) specify in the notice the right of the licensee to appeal to the High Court under **section 99**.

Compare: 2008 No 26 s 115

Powers of Disciplinary Tribunal

- 93 Disciplinary Tribunal may strike out, determine, or adjourn proceeding** 5
- (1) The Disciplinary Tribunal may strike out, in whole or in part, a proceeding if satisfied that it—
- (a) discloses no reasonable cause of action; or
- (b) is likely to cause prejudice or delay; or
- (c) is frivolous or vexatious; or 10
- (d) is otherwise an abuse of process.
- (2) If a party is neither present nor represented at the hearing of a proceeding, the Disciplinary Tribunal may,—
- (a) if the party is required to be present, strike out the proceeding; or
- (b) determine the proceeding in the absence of the party; or 15
- (c) adjourn the hearing.
- 94 Determination of charges under this Act and orders that may be made if charge proved**
- (1) If the Disciplinary Tribunal, after hearing any charge against a licensee, is satisfied that it has been proved on the balance of probabilities that the licensee has been guilty of misconduct, it may, if it thinks fit, make 1 or more of the orders specified in **subsection (2)**. 20
- (2) The orders are as follows:
- (a) 1 or more of the orders that can be made by a Committee under **section 74**: 25
- (b) an order cancelling the licence of the licensee and, in the case of a licensee that is an entity, also cancelling the licence of any officer of the entity:
- (c) an order suspending the licence of the licensee for a period not exceeding 24 months and, in the case of a licensee that is an entity, also suspending the licence of any officer of the entity for a period not exceeding 24 months: 30
- (d) an order that a licensee not perform any supervisory functions until authorised by the Authority to do so:
- (e) an order, in the case of a licensee who is an employee or independent contractor, or a former employee or former independent contractor, that any current employment or engagement of that person by a licensee be 35

- terminated and that no RPMO employ or engage that person in connection with the provision of residential property management services:
- (f) an order that a licensee,—
 - (i) in the case of an individual, pay a fine not exceeding \$15,000:
 - (ii) in any other case, pay a fine not exceeding \$30,000: 5
 - (g) where it appears to the Tribunal that any person has suffered loss by reason of the licensee’s misconduct and the order is one that a court of competent jurisdiction could make in relation to a similar claim in accordance with principles of law, an order that the licensee pay to that person by way of compensation a specified sum not exceeding \$100,000. 10
- (3) The making of an order under this section for the payment of compensation to any person does not affect the right (if any) of that person to recover damages in respect of the same loss, but any sum ordered to be paid under this section, and the effect of any order made under this section for the reduction, cancellation, or refund of fees, must be taken into account in assessing any such damages. 15
- (4) If the Disciplinary Tribunal, after hearing any charge against a licensee, is satisfied that, although not guilty of misconduct, the licensee has engaged in unsatisfactory conduct, it may do either or both of the following:
- (a) make 1 or more of the orders that a Committee may make under **section 74**: 20
 - (b) if it appears to the Tribunal that any person has suffered loss by reason of the licensee’s unsatisfactory conduct, make an order that the licensee pay to that person a sum not exceeding \$100,000 by way of compensation, but only if— 25
 - (i) the unsatisfactory conduct is more than a minor or technical contravention of this Act or of any regulations or rules made under this Act; and
 - (ii) the order is one that a court of competent jurisdiction could make in relation to a similar claim in accordance with principles of law. 30
- (5) If a Committee refers a matter to the Disciplinary Tribunal under **section 75(2)**, the Tribunal may, if satisfied that the requirements of **subsection (4)(b)** (except **paragraph (b)(i)**) are met, make a compensation order under that subsection.
- (6) For the purposes of **subsection (5)**, the Disciplinary Tribunal— 35
- (a) must apply, and must not overturn, a Committee determination that there was unsatisfactory conduct involving more than a minor or technical contravention of this Act or of any regulations or rules made under this Act; and

- (b) must apply, and must not overturn, a Committee determination of any substantive matter in the case; and
- (c) has no jurisdiction to inquire into a determination described in **paragraph (a) or (b)**.

Related matters

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95 Practice notes

- (1) The chairperson of the Disciplinary Tribunal may issue practice notes as they think fit.
 - (2) The practice notes must not be inconsistent with this Act or any regulations made under it, and are for the guidance of the members of the Disciplinary Tribunal, officers of the Disciplinary Tribunal, and parties before the Tribunal. 10
- Compare: 2008 No 66 s 115A

96 Enforcement of orders

An order made by the Disciplinary Tribunal may be enforced in all respects as if it were an order of the District Court on the filing of a sealed copy in that court. 15

Compare: 2008 No 66 s 114

97 Online publication of information about procedures, time frames, and progress of decisions

The following information must be published on an Internet site maintained by or on behalf of the chief executive of the Ministry of Justice: 20

- (a) information about the purpose of the Disciplinary Tribunal and how to commence a proceeding under this Act:
- (b) any requirements that must be met to bring a proceeding:
- (c) guidelines on how and when parties may obtain information on the progress of their case and when a decision may be expected. 25

Compare: 2008 No 66 s 115B

98 Offence to fail to comply with summons

- (1) A person commits an offence if the person, after being summoned to attend to give evidence before the Tribunal or to produce to it any document, information, or thing, without sufficient cause— 30
 - (a) fails to attend in accordance with the summons; or
 - (b) refuses to be sworn or to give evidence, or having been sworn refuses to answer any question that the person is lawfully required by the Tribunal or any member of it to answer; or 35
 - (c) fails to produce any such document, information, or thing.

- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$1,000.
- (3) No person summoned to attend the hearing may be convicted of an offence against **subsection (1)** unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required to attend, there was made to that person a payment or tender of the amount fixed in accordance with clause 7 of Schedule 1 of the Real Estate Agents Act 2008. 5
- Compare: 2008 No 66 s 153A
- 99 Contempt of Tribunal** 10
- (1) A person commits an offence if the person—
- (a) wilfully insults or obstructs the Tribunal or any member of it, a witness, or an officer of the Tribunal during a sitting of the Tribunal or while a member, a witness, or an officer is going to, or returning from, a sitting of the Tribunal; or 15
- (b) wilfully insults or obstructs any person in attendance at a sitting of the Tribunal; or
- (c) wilfully obstructs or hinders the Tribunal or any member of it in any inspection or examination of any document, information, or thing; or
- (d) wilfully interrupts, or otherwise misbehaves at, a sitting of the Tribunal; or 20
- (e) wilfully and without lawful excuse disobeys any order or direction of the Tribunal in the course of the hearing of any proceedings; or
- (f) without sufficient cause, fails to comply with any other requirement of the Tribunal. 25
- (2) A person who commits an offence against **subsection (1)** is liable on conviction to a fine not exceeding \$1,000.
- (3) The Tribunal may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in the opinion of the Tribunal, constitutes an offence against **subsection (1)**, whether or not the person is charged with the offence; and any officer of the Tribunal or constable may take any steps that are reasonably necessary to enforce the exclusion. 30
- Compare: 2008 No 66 s 153B

Appeals

- 100 Right of appeal** 35
- A person who is affected by a decision of the Tribunal may appeal to the High Court against the decision.
- Compare: 2008 No 66 s 116

101 Time for appeal to High Court

(1) An appeal to the High Court must, subject to **subsection (2)**, be made in the prescribed manner to the court within 20 working days after the day on which notice of the relevant decision is given to the appellant.

(2) The court may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if the court is satisfied that exceptional circumstances prevented the appeal from being made in time. 5

Compare: 2008 No 66 s 116A

102 High Court may make interim order

(1) At any time before the final determination of an appeal, the High Court may make an interim order allowing an appellant who is a licensee to carry out residential property management services until the close of the day on which the High Court finally determines the appeal. 10

(2) An interim order may be subject to any conditions that the High Court thinks fit. 15

Compare: 2008 No 66 s 117

103 Duties of Registrar if interim order made

(1) If an interim order is made allowing a an appellant who is a licensee to carry out residential property management services,—

(a) that person is to be treated for the purposes of this Act as if the person were licensed; and 20

(b) the Registrar must, as appropriate, enter, retain, or restore the person's name on the register and enter any conditions contained in the interim order.

(2) To enable the Registrar to fulfil the duties imposed by this section, the registrar of the court in which the interim order is made must send a copy of the order to the Registrar as soon as practicable. 25

Compare: 2008 No 66 s 118

104 Determination of appeal

(1) The High Court's decision in the determination of an appeal is final. 30

(2) This section is subject to the right of a party to appeal to the Court of Appeal on a question of law under **section 105**.

Compare: 2008 No 66 s 119

105 Appeal to Court of Appeal on question of law

(1) If dissatisfied with a decision of the High Court on the ground that it is erroneous in law, a party to an appeal under this Part may appeal to the Court of Appeal on a question of law only. 35

- (2) An appeal to the Court of Appeal must, subject to **subsection (3)**, be made in the prescribed manner to the court within 20 working days after the day on which notice of the relevant decision is given to the appellant.
- (3) The court may accept a late appeal no later than 60 working days after the day on which notice was given to the appellant if the court is satisfied that exceptional circumstances prevented the appeal from being made in time. 5
- (4) In deciding whether to accept a late appeal, the court must have regard to whether the appellant made a late appeal against the original decision and the appellant's reason for that late appeal.
- (5) The appeal must be heard and determined in accordance with the rules of court. 10
- (6) The decision of the Court of Appeal on any appeal under this section is final.
- Compare: 2008 No 66 ss 120, 120A

Part 5

Real Estate Agents Authority

Subpart 1—Functions of Authority 15

106 Functions of Authority under this Act

- (1) The functions of the Authority under this Act are to—
- (a) administer the licensing regime for RPMOs and residential property managers, including the granting of renewal of licence applications; and
- (b) appoint a Registrar of the register of licensees; and 20
- (c) ensure that the register of licensees is established, kept, and maintained; and
- (d) develop practice rules for the Minister's approval and maintain those rules for licensees; and
- (e) set fees and levies; and 25
- (f) appoint Complaints Assessment Committees and maintain a panel of persons suitable to serve as members of Complaints Assessment Committees; and
- (g) develop and provide to the public consumer information on matters relating to the provision of residential property management services, including how to make a complaint; and 30
- (h) set professional standards for licensees; and
- (i) investigate and initiate proceedings in relation to offences under this Act and any other enactment; and
- (j) investigate of its own motion any act, omission, allegation, practice, or other matter that indicates or appears to indicate unsatisfactory conduct or misconduct by a licensee; and 35

- (k) provide procedures for lodging complaints; and
 - (l) receive complaints relating to the conduct of licensees; and
 - (m) carry out any other function that the Minister may direct the Authority to perform in accordance with section 112 of the Crown Entities Act 2004; and 5
 - (n) carry out any other functions that are conferred on the Authority by this Act.
- (2) The Authority may, if it considers it appropriate to do so, consult representatives of the residential property management industry about any matter that relates to the functions of the Authority. 10
- (3) To avoid doubt, nothing in **subsection (1)** affects the role of a workforce development council established under section 363 of the Education and Training Act 2020 for the residential property management industry.

Subpart 2—Practice rules

- 107 Code of professional conduct and client care** 15
- (1) The Authority may make any practice rules to enable it to discharge the duty imposed on it by **subsection (2)**.
 - (2) The Authority must have rules that include or provide for a code of professional conduct and client care that will be a reference point for discipline and that will focus on, but need not be limited to, the duties of licensees to their customers. 20
 - (3) Practice rules made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
Compare: 2008 No 66 s 14
- 108 Continuing education** 25
- (1) The Authority may make practice rules that require licensees to undertake continuing education—
 - (a) at specified times or as frequently as specified; and
 - (b) on specified topics.
 - (2) These rules may— 30
 - (a) require the undertaking of particular types of continuing education:
 - (b) require that the continuing education, or the particular type of continuing education, comply with specified requirements:
 - (c) exempt, or provide for the exemption of, any licensee from any requirements of the rules referred to in **paragraphs (a) and (b)**. 35

- (3) Practice rules made under this section and any rules exempting or providing for the exemption of a class of licensee are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2008 No 66 s 15

109 Consultation before making practice rules 5

- (1) Practice rules may be made by the Authority only after the Minister has approved, and the following people have been consulted on, the proposed rules:
- (a) all significantly affected parties, including RPMOs and residential property managers that the Authority considers to be representative of the residential property management industry; and 10
- (b) any other persons or groups that the Minister may direct.

- (2) However, the consultation obligations in **subsection (1)** do not apply to an amendment to a rule if the Minister is satisfied that the amendment is technical or of minor effect or to correct an error. 15

Compare: 2008 No 66 s 16

110 Criteria for Minister's approval of practice rules

- (1) This section applies to the Minister in deciding whether to approve any practice rules.
- (2) Matters to which the Minister must have regard include— 20
- (a) the principle that it may be necessary or desirable to impose duties or restrictions on RPMOs or residential property managers in order to protect the interests of residential property owners or tenants:
- (b) the principle that the burden of a duty or restriction should be proportionate to the benefits that are expected to result from the imposition of the duty or restriction: 25
- (c) the consistency of the rules with New Zealand's international obligations:
- (d) the extent to which the Authority has considered Māori perspectives in the development of the practice rules: 30
- (e) the provisions of this Act, and all rights and obligations of licensees under the law.

Compare: 2008 No 66 s 17

111 Power of Minister to amend practice rules

- (1) This section applies if the Minister considers any practice rules made under this Act to be deficient in any respect. 35
- (2) The Minister may issue a notice amending those rules.
- (3) The Minister's power to amend the rules under this section is limited to—

- (a) amendments necessary to remedy the deficiency referred to in **subsection (1)**;
- (b) matters in respect of which practice rules may be made under this Act.
- (4) In deciding whether to issue a notice under this section, the Minister—
- (a) must consult the Authority; and 5
- (b) may consult licensees and any other persons that the Minister considers should be consulted.
- (5) A notice issued under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- 112 Further provision relating to practice rules and notices** 10
- (1) This section applies to—
- (a) practice rules made under **section 107 or 108**; and
- (b) notices issued under **section 111**.
- (2) The rules and notices come into force on a date specified in them, which must be not less than 28 days after the date of their publication in accordance with the Legislation Act 2019. 15
- Compare: 2008 No 66 s 19

Subpart 3—Powers to require documents and powers of intervention

Power to require documents

- 113 Authority may require persons to provide documents** 20
- (1) The Authority may require, by notice, any RPMO or residential property manager to supply any documents to which **section 114** refers, in order to monitor that person's compliance with the provisions of this Act, the regulations, and the practice rules.
- (2) **Subsection (3)** applies if the Authority has reasonable grounds to suspect that any person is providing residential property management services and that that person is unlicensed and not exempt from the provisions of this Act, or is otherwise in breach of this Act, the regulations, or the practice rules. 25
- (3) If this subsection applies, the Authority may require, by notice, that person to supply the Authority with any documents to which **section 114** refers that the Authority considers relevant to establishing whether there has been a breach of this Act, the regulations, or the practice rules. 30
- 114 Documents to which section 113 applies**
- Section 113** applies in respect of any document that—
- (a) belongs to the organisation, entity, or person that is the subject of the requirement under that section; or 35

- (b) in the course of the organisation's, entity's, or person's business, is or has been in the possession or control of—
 - (i) the organisation, entity, or person; or
 - (ii) any officer, employee, or person acting on behalf of that organisation, entity, or person.

5

Powers of intervention

115 Grounds for intervention

The grounds for the Authority exercising a power conferred by **sections 116 to 122** in respect of any licensed RPMO are—

- (a) that there are reasonable grounds to believe that the licensee, or, if the licensee is an entity, any officer of the entity, has been guilty of theft or of any improper conduct in relation to the money or other property of any other person; or 10
- (b) that there are reasonable grounds to believe that any money or other property entrusted to the licensee has been stolen by an employee of the licensee or a person acting on behalf of the licensee, or, if the licensee is an entity, by any officer, employee, or person acting on behalf of the entity; or 15
- (c) that the licensee is unable to properly administer its trust account, or, if the licensee is an entity, no officer of the entity is, owing to physical or mental disability, able to properly administer the trust account; or 20
- (d) that the licensee has died, or, if the licensee is an entity, that there is no living officer of the entity; or
- (e) that the licensee or, if the licensee is an entity, any officer of the entity has been adjudicated bankrupt or has been subject to subpart 4 of Part 5 of the Insolvency Act 2006; or 25
- (f) that the licensee has been placed in receivership or liquidation; or
- (g) that the licensee's licence has been cancelled or suspended; or
- (h) that there are reasonable grounds to believe that the licensee has ceased to carry on business and has neglected to wind up the licensee's trust account after the Authority has given reasonable notice to the licensee requiring the licensee to do so; or 30
- (i) that there are reasonable grounds to believe that the licensee is operating without a trust account; or
- (j) that there are reasonable grounds to believe that the licensee has not administered the trust account in accordance with this Act and the regulations; or 35

- (k) that there are reasonable grounds to believe that the licensee operates a trust account that has been administered fraudulently or recklessly.

Compare: 2008 No 66 s 25

116 Power to require supply of documents

If the Authority is satisfied that 1 or more of the grounds specified in **section 115** apply to a licensed RPMO, the Authority may, if in its opinion it is appropriate to do so, by notice, require any person to supply the Authority with copies of any documents that—

- (a) belong to the organisation; or
- (b) in the course of the organisation's business, are, or have been, in the possession or control of—
 - (i) the organisation; or
 - (ii) if the organisation is an entity, any officer, employee, or person acting on behalf of the entity.

Compare: 2008 No 28 s 26

117 Administration of trust account in certain cases

- (1) If the Authority is satisfied that 1 or more of the grounds specified in **section 115** apply to a licensed RPMO, the Authority may, if in its opinion it is appropriate to do so, make an order appointing a suitable person as the administrator of the organisation's trust account for a period specified by the Authority.
- (2) A copy of every order made by the Authority under this section must be served on the organisation's relevant bank, and on receipt of that copy the bank in which the trust account is kept must allow the person appointed by the order to administer the trust account.

Compare: 2008 No 28 s 27

118 Appointment of interim administrator in certain cases

- (1) The Authority may make an order appointing an appropriate person as an interim administrator of the trust account of a licensed RPMO if the Authority—
 - (a) reasonably suspects that any money entrusted to the organisation may be at risk; and
 - (b) is satisfied that 1 or more of the grounds specified in **section 115** apply to that organisation.
- (2) The function of the interim administrator is to preserve the assets until the termination of the order under **subsection (1)**.
- (3) An order under **subsection (1)** is terminated when the Authority—
 - (a) notifies the organisation concerned that the Authority no longer considers that money entrusted to the organisation is at risk; or

- (b) makes an order under **section 117**.
- (4) **Section 117(2)** applies, with all necessary modifications, to an order made under this section.
Compare: 2008 No 66 s 28
- 119 Authority may direct audit of organisation’s trust account** 5
- (1) The Authority may direct an audit of the trust account of a licensed RPMO at any time and appoint an auditor to carry out that audit.
- (2) No person is qualified for appointment as an auditor of the trust account unless the person is a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013). 10
Compare: 2008 No 66 s 29
- 120 Authority may inspect certain financial records**
- (1) This section applies if the Authority has reasonable grounds to believe that any money entrusted to a licensed RPMO or to any person acting on behalf of the organisation has been stolen by any of the following persons: 15
- (a) a residential property manager or any other person who is, or has been, employed or engaged by the organisation:
- (b) in the case of an organisation that is an entity, a person who is, or has been, an officer of the entity.
- (2) The Authority may, by notice, require any person (including, without limitation, any bank) that has possession or control of financial records or other records that relate to any money received by any person specified in **subsection (1)** to supply those records to a person authorised by the Authority and to permit that person to inspect and copy those records. 20
Compare: 2008 No 26 s 30 25
- 121 District Court Judge may order Authority to return documents**
- (1) On taking possession of any document under **section 116**, the Authority must, without delay, serve on the organisation concerned a notice giving particulars of the document and the date on which it was taken into the Authority’s possession. 30
- (2) Within 14 days after the notice has been served, the organisation, or any of its partners, may apply to a District Court Judge for an order directing the Authority to return any document specified in the order to the person from whom it was received, or for any other order that the District Court Judge thinks fit. 35
Compare: 2008 No 66 s 31

- 122 High Court Judge may give directions to administrator of trust account or cancel appointment**
- (1) If the Authority makes an order under **section 117 or 118** appointing an administrator or interim administrator, the Authority must, without delay, serve a copy of the order on— 5
- (a) the organisation concerned; and
 - (b) any person who, to the knowledge of the Authority, is or may be entitled to any money held in the trust account administered by the administrator.
- (2) A person on whom a copy of the order is served may, within 14 days after service of the order, apply to the High Court for an order under **subsection (4)**. 10
- (3) The following persons may, at any time while an order under **section 117 or 118** is in force, apply for an order under **subsection (4)**:
- (a) the administrator or interim administrator:
 - (b) the bank with which the trust account is kept: 15
 - (c) a person who claims to be entitled to any money held in the trust account, but who has not been served a copy of the order under **subsection (1)(b)**.
- (4) On an application under this section, a High Court Judge may, by order,—
- (a) direct the administrator, the interim administrator, or the bank on the action to be taken in relation to the administration of the trust account (including the winding-up of that account): 20
 - (b) rescind or vary the order of the Authority by which the administrator or interim administrator was appointed. 25

Compare: 2008 No 26 s 32

Offences relating to Authority's powers in relation to documents

- 123 Failure to comply with section 113 an offence**
- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a requirement to give the Authority documents in accordance with a notice given under **section 113**. 30
- (2) A person who commits an offence under **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$30,000:
 - (b) in any other case, to a fine not exceeding \$80,000.
- 124 Offence to fail to comply with requirement to supply documents** 35
- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a requirement to supply the Authority with documents in accordance with a notice given under **section 120**.

- (2) A person who commits an offence under **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$30,000;
- (b) in any other case, to a fine not exceeding \$80,000.

Compare: 2008 No 66 s 146

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125 Offence to fail to permit person to inspect and copy financial records

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a requirement stated in a notice given under **section 120** to permit a person authorised by the Authority to inspect and copy financial records.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$30,000;
- (b) in any other case, to a fine not exceeding \$80,000.

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Subpart 4—Registrar

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126 Authority to appoint Registrar

The Authority must appoint one of its employees as Registrar of the register of licensees.

Compare: 2008 No 66 s 33

127 Functions of Registrar

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The functions of the Registrar are to—

- (a) establish, keep, and maintain the register; and
- (b) perform the functions relating to licensing conferred on the Registrar by **Part 2**; and
- (c) provide administrative support for the board of the Authority sufficient to enable the board to carry out efficiently and effectively its functions under this Act and regulations made under this Act; and
- (d) carry out any other function conferred on the Registrar by this Act or other legislation.

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Compare: 2008 No 66 ss 34, 63(1)

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128 Power of Registrar to delegate

- (1) Except as provided in **subsection (2)**, the Registrar may delegate to any person (whether an employee of the public service or not), either generally or particularly, any of the Registrar's functions, duties, and powers.
- (2) The Registrar—
- (a) must not delegate the Registrar's general power of delegation; and

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- (b) must not, without the prior approval of the Authority, delegate any of the Registrar's functions, duties, and powers to—
- (i) make decisions about whether persons meet the requirements for licensing or continued licensing; or
 - (ii) issue, cancel, and suspend licences, and to perform the other functions relating to licensing under **Part 2**. 5
- (3) A delegation—
- (a) must be in writing; and
 - (b) may be made subject to any restrictions and conditions that the Registrar thinks fit; and 10
 - (c) is revocable at any time, in writing; and
 - (d) does not prevent the performance of a function or duty or exercise of any power by the Registrar.
- (4) A person to whom any functions, duties, or powers are delegated may perform those functions and duties and exercise those powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation. 15
- (5) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.
- (6) For the purpose of this section, **public service** has the same meaning as in section 10 of the Public Service Act 2020. 20
- Compare: 2008 No 66 ss 35, 63(1)

Part 6 Miscellaneous

- 129 Regulations** 25
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) providing for anything this Act says may or must be provided for by regulations;
 - (b) exempting any person or class of persons from the requirement to be licensed under this Act or from any specified requirements in relation to licensing under this Act and prescribing any terms and conditions of such an exemption: 30
 - (c) prescribing—
 - (i) the qualifications and experience necessary to be entitled to different licences and different classes of licence under this Act; and 35

- (ii) rules about whether and what qualifications and experience obtained overseas can be taken into account in assessing whether the applicant has the necessary qualifications and experience:
- (d) prescribing the period for which, and the manner in which, applications for licences must be advertised: 5
- (e) prescribing the period for lodging with the Registrar objections to applications for licences:
- (f) prescribing the period for filing a written submission under **section 25(2)**:
- (g) requiring RPMOs to have insurance of a specified kind and to a specified level of cover: 10
- (h) requiring RPMOs to establish and use trust accounts in the prescribed manner:
- (i) prescribing records that must be kept by RPMOs:
- (j) prescribing changes of circumstances referred to in **section 46(2)(c)**: 15
- (k) prescribing the manner and form in which complaints may be made to the Authority about licensees or former licensees:
- (l) prescribing any action or thing necessary to supplement or make more effective the provisions of this Act relating to the conduct of proceedings before the Disciplinary Tribunal: 20
- (m) prescribing fees in relation to proceedings before the Disciplinary Tribunal or other matters related to the Tribunal:
- (n) providing for the appointment of auditors and for auditing requirements, including the power of inspection of trust accounts and other documents or records that are necessary or desirable for carrying out an audit: 25
- (o) prescribing offences in respect of the contravention of, or non-compliance with, the regulations, and setting the maximum penalty for each offence, which,—
- (i) in the case of an individual, may not exceed \$25,000; or
- (ii) in any other case, may not exceed \$50,000: 30
- (p) prescribing periods of time for giving notices, making submissions, and other matters under this Act:
- (q) prescribing the manner of serving documents and giving notices under this Act:
- (r) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act. 35
- (2) The Minister may make a recommendation under **subsection (1)(b)** only if the Minister—
- (a) is satisfied that—

- (i) the exemption will not have any negative impact on property owners or tenants that is material; and
 - (ii) there are sufficient processes in place to ensure competent and ethical conduct by the person or persons who benefit from the exemption; and 5
- (b) has consulted representatives of organisations that, in the opinion of the Minister, have an interest in the proposed exemption.
- (3) Any regulations made under **subsection (1)(c)** may, without limitation,—
 - (a) set different qualifications for holding an RPMO licence, and the different classes of residential property manager licence: 10
 - (b) set different levels of experience within a specified range of industries for holding the different classes of a residential property manager licence:
 - (c) set different qualifications that meet the standard for granting the same class of licence: 15
 - (d) provide for an increase in the prescribed level of qualifications and the length of required experience for the same kind of licence or the same class of licence over time:
 - (e) provide for the recognition by the Registrar of overseas qualifications and experience. 20
- (4) The Minister may make a recommendation under **subsection (1)(c)** only if the Minister—
 - (a) is satisfied that the qualifications to be prescribed are consistent with the New Zealand Qualifications Framework; and
 - (b) has consulted the appropriate workforce development council and other significantly affected parties. 25
- (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Fees and levies

- 130 Authority may prescribe fees** 30
- (1) The Authority may from time to time, by notice, prescribe the fees payable for any action that a person wishes the Registrar to perform under this Act.
 - (2) Different fees may be prescribed under this section for different kinds of action and for different classes of person, depending on the kind of licence that they have, or wish to obtain or renew. 35
 - (3) Any notice prescribing any fee under this section may exempt any class or classes of person from liability to pay any such fee, and may provide for the waiver or refund of any such fee.

- (4) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

131 Operational levy

- (1) The Authority may from time to time, by notice, impose on every licensee or class of licensees an operational levy of any amount that the Authority thinks fit for the purpose of funding the costs arising from any or all of the following: 5
- (a) the performance of the functions of the Authority under this Act:
 - (b) the performance of the functions of the Registrar:
 - (c) any investigation by, or proceeding of, a Complaints Assessment Committee under this Act. 10
- (2) Any notice imposing any levy under this section may do either or both of the following:
- (a) prescribe different amounts as the levy payable by different classes of licensee: 15
 - (b) exempt from liability to pay that levy, in whole or in part, any class or classes of licensee, and may provide for the waiver or refund of the whole or part of that levy.
- (3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

132 Disciplinary levy 20

- (1) The Authority may from time to time, by notice, impose on every licensee or class of licensees a disciplinary levy of any amount that the Authority thinks fit for the purpose of funding the costs arising from any proceeding of the Disciplinary Tribunal under this Act.
- (2) Any notice imposing any levy under this section may do either or both of the following: 25
- (a) prescribe different amounts as the levy, in whole or in part, payable by different classes of licensee:
 - (b) exempt from liability to pay that levy, in whole or in part, any class or classes of licensee, and may provide for the waiver or refund of the whole or part of that levy. 30
- (3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

133 Commencement of fees and levies notices

Every notice under any of **sections 130 to 132** comes into force on a date specified in the notice, being not less than 28 days after the date of publication of the notice under the Legislation Act 2019. 35

134 Further provisions relating to fees and levies

- (1) Every levy imposed by the Authority under **sections 130 to 132** is payable, and recoverable as a debt due, to the Authority.
- (2) The Authority receives any levies imposed under **section 132** as agent for the chief executive of the Ministry of Justice. 5
- (3) If any fee is payable to the Authority under this Act, the Registrar may decline to do any act, to permit any act to be done, or to receive any document in respect of which that fee is payable, until the fee is paid.
- (4) All fees and levies required to be paid under this Act are payable to the Registrar or the Authority, except fees paid under regulations made under **section 129(1)(m)**, which must be paid to the Ministry of Justice. 10
- (5) All fines imposed on a person by a Complaints Assessment Committee or by the Disciplinary Tribunal are payable to the Registrar.

Compare: 2008 No 66 ss 23(4) to (6), 24

Further offences 15**135 Offence to provide false accounts**

- (1) A person commits an offence if the person provides an account purporting to be an account for any money the person receives in their capacity as a licensee, knowing the account to be false in any material particular.
- (2) A person who commits an offence against this section is liable on conviction,— 20
- (a) in the case of an individual, to a fine not exceeding \$40,000; or
- (b) in any other case, to a fine not exceeding \$100,000.

Compare: 2008 No 66 s 152

136 Offence to resist, obstruct, etc 25

A person commits an offence if the person—

- (a) knowingly resists, obstructs, deceives, or attempts to deceive any person who is exercising or attempting to exercise any power or perform any function under this Act; or
- (b) gives to any person who is exercising or attempting to exercise any power or perform any function under this Act any particulars knowing those particulars are false or misleading in any material respect. 30

Compare: 2008 No 66 s 153

*General penalty***137 General penalty** 35

A person who commits an offence against this Act for which no penalty is provided elsewhere in this Act is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$40,000; and
- (b) in any other case, to a fine not exceeding \$100,000.

Service

138 Service of notices and other documents

- (1) Any notice or other document required or authorised by this Act to be given to or served on any person is sufficiently given or served if— 5
- (a) it is delivered to that person; or
 - (b) it is left at that person’s usual or last known place of residence or business or at an address specified for that purpose in any document received from that person; or 10
 - (c) it is posted in a letter addressed to that person by name at that person’s place of residence or business or address; or
 - (d) it is transmitted to an electronic address or a fax number provided by the person; or
 - (e) it is sent in the prescribed manner (if any). 15
- (2) Any notice or other document required or authorised by this Act to be given to or served on the Authority is sufficiently given or served if—
- (a) it is delivered to the Registrar; or
 - (b) it is left at the office of the Authority; or
 - (c) it is posted in a letter addressed to the Authority at the office of the Authority; or 20
 - (d) it is sent in the prescribed manner (if any).
- (3) Any notice or other document required or authorised by this Act to be given or served on a business partnership is taken to be given or served on the partnership if, in accordance with **subsection (1)**, it is given or served on any one of the partners. 25
- (4) If any notice or other document is sent by post, it is, unless the contrary is shown, treated to have been served 5 working days after it was posted, and, in proving service of the notice, it is sufficient to prove that the letter was properly addressed and posted. 30
- (5) If a notice or any other communication is served in electronic form under **subsection (1)(d)**, then, unless the contrary is shown,—
- (a) the notice or any other communication is served at the time the electronic communication containing the notice or communication first enters an information system outside the control of its originator; and 35
 - (b) in proving service, it is sufficient to prove that the electronic communication was properly addressed and sent.

- (6) This section does not apply to notices or other documents served or given in any proceedings in any court.
- (7) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications. 5
- Compare: 2008 No 66 s 154

Civil remedies

139 Civil remedies not affected

- (1) Nothing in this Act affects any civil remedy that a person may have against a licensee. 10
- (2) **Subsection (1)** is subject to **section 94(3)**.

Part 7

Amendments to other Acts

Subpart 1—Real Estate Agents Act 2008

- 140 Principal Act** 15
This subpart amends the Real Estate Agents Act 2008.
- 141 Section 12 amended (Authority’s functions)**
- (1) In the heading to section 12, after “**functions**”, insert “**under this Act**”.
- (2) In section 12(1), after “**functions**”, insert “**under this Act**”.
- 142 Section 13 amended (Membership of Authority)** 20
- (1) In section 13, replace “**Minister**” with “**joint Ministers**” in each place.
- (2) Replace section 13(4) with:
- (4) The joint Ministers must appoint at least 3 members who have experience in the real estate and wider residential property management industries.
- (3) After section 13(6), insert: 25
- (7) The joint Ministers must appoint members to the board who, collectively, have knowledge and experience of, and capability in, perspectives of Māori and te Tiriti o Waitangi/ the Treaty of Waitangi.
- (8) In this section, **joint Ministers** means the Minister and the Minister responsible for the administration of the Residential Property Managers Act 2023. 30
- 143 Section 100 amended (Real Estate Agents Disciplinary Tribunal established)**
- (1) Replace section 100(2)(b) with:

- (b) at least 3 other members,—
- (i) at least 1 of whom must be a licensee; and
 - (ii) at least 1 of whom must hold a current licence as a residential property manager (of a class other than provisional residential property manager) under the Residential Property Managers Act **2023**. 5
- (2) Repeal section 100(4).
- 144 Section 102 amended (Functions of Tribunal)**
- After section 102(d), insert:
- (da) the functions given by **section 81** of the Residential Property Managers Act **2023**: 10
- Subpart 2—Residential Tenancies Act 1986
- 145 Principal Act**
- This subpart amends the Residential Tenancies Act 1986.
- 146 New section 109AA inserted (Tribunal may make orders requiring use of licensed residential property manager)** 15
- After section 109A, insert:
- 109AA Tribunal may make orders requiring use of licensed residential property manager**
- (1) The Tribunal may make an order of a kind specified in **subsection (2)** in relation to a landlord for any period that the Tribunal determines to be appropriate. 20
 - (2) The Tribunal may make an order under **subsection (1)** requiring a landlord to use a licensed residential property manager to provide residential property management services for any tenancies granted by that landlord, if the Tribunal is satisfied that— 25
 - (a) the landlord committed an unlawful act under any of the following provisions:
 - (i) section 45(1A) or 66I(4) (landlord’s responsibilities: cleanliness, maintenance, smoke alarms, healthy homes standards, and buildings, health, and safety requirements): 30
 - (ii) section 45(1AB) or 66I(5) (landlord’s responsibilities: contaminated premises):
 - (iii) section 54(3) (retaliatory notice of termination):
 - (iv) section 60AA (acting to terminate without grounds):
 - (v) section 137(2) (contracting to contravene or evade the provisions of this Act); and 35

- (b) **subsection (3)** applies.
- (3) The Tribunal may not make an order under **subsection (1)** unless—
- (a) the Tribunal is satisfied that the landlord has committed an unlawful act on at least 2 separate occasions (being unlawful acts established within a period of 5 years in 2 or more cases before the Tribunal or the District Court); and 5
- (b) each of the unlawful acts is of a kind referred to in **subsection (2)(a)(i) to (v)**.
- (4) For the purposes of **subsection (3)** the commission of an unlawful act that is associated with the giving of an enforceable undertaking must be disregarded. 10
- (5) This section does not apply to—
- (a) Kāinga Ora; or
- (b) a registered community housing provider (within the meaning of section 2(1) of the Public and Community Housing Management Act 1992).
- (6) For the purposes of this section, **Kāinga Ora** means Kāinga Ora–Homes and Communities established by section 8 of the Kāinga Ora–Homes and Communities Act 2019. 15

Schedule 1
Transitional, savings, and related provisions

s 6

Part 1
Provisions relating to this Act as enacted

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There are no transitional, savings, or related provisions in this Act as enacted.