

Reprint
as at 29 October 2019



**Real Estate Agents (Complaints and Discipline)
Regulations 2009**
(SR 2009/280)

Rt Hon Sir Peter Blanchard, Administrator of the Government

Order in Council

At Wellington this 28th day of September 2009

Present:

His Excellency the Administrator of the Government in Council

Pursuant to section 156(1)(f), (g), and (n) of the Real Estate Agents Act 2008, His Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

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Regulations**1 Title**

These regulations are the Real Estate Agents (Complaints and Discipline) Regulations 2009.

2 Commencement

These regulations come into force on 17 November 2009.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Real Estate Agents Act 2008

chairperson means the chairperson of the Disciplinary Tribunal or the deputy chairperson acting for the time being in the capacity of the chairperson

licensee has the same meaning as in section 71 of the Act

person charged means the person against whom the charge is laid

proceedings means proceedings before the Disciplinary Tribunal.

- (2) Unless the context otherwise requires, terms used in these regulations have the same meaning as in the Act.

Part 1 Complaints about conduct of licensees

4 Content and form of complaint

- (1) Any complaint made to the Authority about the conduct of a licensee must—
 - (a) identify the complainant and include the complainant's name and contact details; and
 - (b) identify the licensee to whom the complaint relates and any contact details known to the complainant; and
 - (c) state the subject matter of the complaint; and
 - (d) state the steps (if any) already taken to resolve the complaint; and
 - (e) be supported with any appropriate documentation held by, or available to, the complainant.
- (2) The Authority must give reasonable assistance to any person who wishes to make a complaint to meet the requirements of subclause (1).
- (3) A complaint may be submitted by delivering it to the office of the Authority by hand or by post or by sending it to the Authority by electronic transmission (whether by way of fax, email, or other similar means of communication) or by any other method agreed by the Authority.

Part 2 Dealing with applications, determining charges, hearing appeals, conducting reviews, and functions of chairperson

5 Laying charge

A charge laid under section 91 of the Act by a Complaints Assessment Committee must—

- (a) identify the person to whom the charge relates and the class of licence held or formerly held, as the case may be, by that person; and
- (b) if the charge relates to a complaint, identify the complainant; and
- (c) state the charge; and
- (d) be supported by any appropriate documentation held by, or available to, the Committee; and
- (e) identify the Complaints Assessment Committee laying the charge and the name and position of the person signing the charge; and
- (f) specify an address for service and telephone number in accordance with regulation 12; and
- (g) be filed with the Disciplinary Tribunal.

6 Notifying charge

- (1) The Complaints Assessment Committee laying the charge must ensure that the person charged is, without delay, given—
 - (a) a copy of the charge; and
 - (b) written notice of the Committee's determination that the complaint or allegation should be considered by the Disciplinary Tribunal; and
 - (c) the form approved by the chief executive of the Ministry of Justice after consultation with the chairperson for responding to the charge.
- (2) If the charge relates to a complaint, the Committee must also, without delay, ensure the complainant is given—
 - (a) a copy of the charge; and
 - (b) written notice of the Committee's determination that the complaint should be considered by the Disciplinary Tribunal.

Regulation 6(1)(c): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

7 Response to charge

- (1) A person against whom a charge is laid under section 91 of the Act must, within 10 working days of being given the information specified in regulation 6(1),—
 - (a) file a written response to the charge (or each charge if more than 1) in the form approved by the chief executive of the Ministry of Justice after consultation with the chairperson for responding to the charge; and
 - (b) give the response to the Complaints Assessment Committee that laid the charge.
- (2) The response must state—
 - (a) the name of the person responding to the charge; and
 - (b) which Complaints Assessment Committee laid the charge; and
 - (c) which of the facts alleged in the charge (or each charge if more than 1) are admitted and which are denied; and
 - (d) in relation to the charge (or each charge if more than 1), whether the charge itself is admitted or denied; and
 - (e) whether the person wishes to be heard by the Disciplinary Tribunal (whether in person or by his or her legal counsel or agent).

Regulation 7(1)(a): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

8 Application for interim suspension of licence

- (1) An application by a Complaints Assessment Committee under section 92 of the Act for the suspension of a licence pending the determination of a charge must—
 - (a) be in writing; and
 - (b) identify the licensee to whom the application relates; and
 - (c) attach the charge to which the application relates; and
 - (d) be supported with any appropriate documentation held by, or available to, the Committee; and
 - (e) be filed with the Disciplinary Tribunal.
- (2) The application may be made without notice.

9 Appeal against determination of Complaints Assessment Committee

- (1) A notice of an appeal under section 111 of the Act by an appellant against the determination of a Complaints Assessment Committee notified under section 81 or 94 of the Act must be—
 - (a) in the form approved by the chief executive of the Ministry of Justice after consultation with the chairperson; and
 - (b) accompanied by the notice of determination of the Complaints Assessment Committee and any other document required by the form to be attached; and
 - (ba) accompanied by a fee of \$30; and
 - (c) filed with the Disciplinary Tribunal.
- (2) The notice of appeal must state—
 - (a) the name of the appellant; and
 - (b) the name of the licensee to whom the appeal relates; and
 - (c) the ground of the appeal.
- (3) A copy of the notice of appeal must be given, without delay, by the Disciplinary Tribunal to—
 - (a) the Complaints Assessment Committee that made the determination; and
 - (b) any other person who has been notified under section 81 or 94 of the Act of the determination appealed against.

Regulation 9(1)(a): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Regulation 9(1)(ba): inserted, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

10 Application to review determination of Registrar

- (1) An application to the Disciplinary Tribunal under section 112 of the Act to review a determination of the Registrar must be—

- (a) in the form approved by the chief executive of the Ministry of Justice after consultation with the chairperson; and
 - (b) accompanied by any document required by the form to be attached; and
 - (ba) accompanied by a fee of \$30; and
 - (c) filed with the Disciplinary Tribunal.
- (2) The application must state—
- (a) the name of the applicant; and
 - (b) the ground on which the application is made; and
 - (c) whether the applicant wishes to be heard by the Disciplinary Tribunal (whether in person or by his or her legal counsel or agent).
- (3) A copy of the application must be given, without delay, by the Disciplinary Tribunal to the Registrar.

Regulation 10(1)(a): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Regulation 10(1)(ba): inserted, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

11 Notice of hearing

- (1) The chairperson must fix the date, time, and place for the hearing of any of the following:
- (a) a charge laid under section 91 of the Act;
 - (b) an application to suspend a licence under section 92 of the Act;
 - (c) an appeal under section 111 of the Act;
 - (d) an application under section 112 of the Act for which the applicant has requested a hearing.
- (2) The chairperson must ensure that notice of the hearing is given no later than 10 working days before the day of the hearing to the Complaints Assessment Committee and all parties to the matter.

12 Address for service

- (1) The first document filed by any party must state that party's address for service and telephone number.
- (2) A party may change that party's address for service and telephone number by giving written notice to the Disciplinary Tribunal and to all parties to the matter.

13 Amendment or addition of charge

- (1) At the hearing of a charge, the Disciplinary Tribunal may, of its own motion or on the application of any party, amend or add to the charge if the Tribunal considers it appropriate to do so.

- (2) The Disciplinary Tribunal must adjourn the hearing if it considers that the amendment or addition would—
- (a) take the person charged by surprise; or
 - (b) prejudice the conduct of the case.

14 Service of witness summons

A summons issued under clause 6 of Schedule 1 of the Act must be in the form approved by the chief executive of the Ministry of Justice after consultation with the chairperson of the Tribunal.

Regulation 14: amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

15 Failure to appear

[Revoked]

Regulation 15: revoked, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

16 Power to waive certain omissions

- (1) This regulation applies if a person has neglected or omitted to do any act or thing in the precise manner or within the precise time prescribed by these regulations.
- (2) The chairperson may, if it appears just to do so, waive any requirement in these regulations on any terms the chairperson thinks equitable.

17 Responsibilities of chairperson

The chairperson is responsible for—

- (a) making such arrangements as are practicable to ensure the orderly and expeditious discharge of the functions of the Disciplinary Tribunal:
- (b) furnishing, within 3 months after the end of each financial year, an annual report to the Minister on the performance of the chairperson's functions under the Act including details of both the number of determinations and the nature of those determinations made by the Disciplinary Tribunal during the period to which it relates.

**Schedule
Form**

[Revoked]

r 14

Schedule: revoked, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

**Form
Witness summons**

[Revoked]

r 14

Schedule form: revoked, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Michael Webster,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 1 October 2009.

Reprints notes

1 *General*

This is a reprint of the Real Estate Agents (Complaints and Discipline) Regulations 2009 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): section 340(3)