

A Bill for an Act
ENTITLED
REAL ESTATE AGENTS ACT 2013

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A BILL FOR AN ACT

ENTITLED

DRAFT REAL ESTATE AGENTS ACT 2013

An Act to regulate the conduct and licensing of real estate agents in Uganda, and for related purposes.

PART 1 — PRELIMINARY

BE IT ENACTED by Parliament as follows:

1 Name of Act

This Act is the Real Estate Agents Act 2013.

2 Purpose of Act

The purpose of this Act is to regulate real estate agents and real estate salespersons in Uganda, in order to ensure honesty, integrity, transparency and professionalism in the provision of real estate agent services in Uganda.

3 Notes and Examples

A Note or Example in this Act is explanatory only and is not part of this Act.

4 Definitions

AFI business day— see section 72.

agent means a person who carries on business as a real estate agent;

buyer includes a prospective buyer.

carries on business as a real estate agent— see [section 6](#);

carry on business as a real estate agent— see [section 6](#);

Commissioner means {to complete – which person or Dept?}

employ includes:

- (a) engaging a person on a contract of service; and
- (b) for a corporation, having a person as director or other member of its governing body.

employee means:

- (a) any person employed, regardless of how remunerated; and
 - (b) a person engaged on a contract of service;
- and for a corporation, includes a director or other member of its governing body.

former licensed agent— see **former licensed real estate agent**;

former licensed real estate agent (or **former licensed agent**), means a person who once was, but is no longer, a licensed real estate agent.

former registered salesperson means a person who once was, but is no longer, a registered real estate salesperson.

freezing direction— see [section 95](#);

land includes any interest in land;

law includes legislation and subsidiary or delegated legislation;
lessee includes prospective lessee.
licence means a licence under this Act.
licence— see **real estate agent’s licence**;
licensed agent— see **licensed real estate agent**;
licensed real estate agent means a person who holds a licence as a real estate agent.
licensed real estate agent (or licensed agent) means a person who holds a real estate agent’s licence;
licensee means a person who holds a real estate agent’s licence;
principal, of a person, does not include the person’s employer.
real estate agent service— see section 6(2);
real estate agent’s licence (or licence) means a licence issued under this Act;
records includes documents and information in electronic form.
register means the register under section 107;
registered real estate salesperson (or registered salesperson) means a person registered under this Act as a real estate salesperson.
registered salesperson— see **registered real estate salesperson**;
registration means registration under this Act.
rules of conduct means rules of conduct prescribed under section 112.
salesperson means a person who, as an employee, provides a real estate agent service;
seller includes prospective seller.

Tribunal means {to complete}

5 Application of Act

Except to the extent that this Act otherwise provides, this Act does not apply to the following persons when performing functions incidental to their office:

- (a) an executor or trustee of a deceased estate;
- (b) the public trustee;
- (c) an administrator, receiver or liquidator of a corporation;
- (d) a bailiff;
- (e) a sheriff;
- (f) a court officer;
- (g) a Minister;
- (h) a person prescribed by regulation.

PART 2 — KEY CONCEPTS

6 Carrying on business as a real estate agent

- (1) A person carries on business as a real estate agent if the person provides, or offers to provide, a real estate agent service for a principal, whether or not for reward.
- (2) Each of the following is a real estate agent service:

- (a) buying, selling, exchanging, leasing, assigning or otherwise disposing of land;
- (b) negotiating with, or inducing or attempting to induce, a person to:
 - (i) buy, sell, exchange, lease, assign or otherwise dispose of land; or
 - (ii) enter into, or make or accept an offer to enter into, a contract to buy, sell, exchange, lease, assign or otherwise dispose of land;
 - (iii) provide any other service prescribed by regulation for the purposes of this section.

Example: Under para (b)(iii), services such as collecting rental payments under a lease, or collecting payments under a mortgage, could be prescribed as real estate agent services.

7 Employees, business partners and advertisers not necessarily to be taken as carrying on business as a real estate agent

For the avoidance of doubt, a person does not carry on business as a real estate agent merely because:

- (a) the person is an employee of a person who carries on business as a real estate agent;
- (b) the person is member of a partnership that carries on business as a real estate agent; or
- (c) on behalf of another person, the person publishes an advertisement about:
 - (i) a business carried on, or to be carried on, by that other person; or
 - (ii) a service provided, or to be provided, by that other person.

PART 3 — REAL ESTATE AGENT'S LICENCE

Division 1 — Need for licence

8 Real estate agent must be licensed

- (1) A person must not carry on business as a real estate agent without a current real estate agent's licence.
Penalty: to be prescribed.
- (2) A licence is not current if it is suspended.

9 Prohibition on recovering fees

A person who breaches section 8 is not entitled to recover any commission, fee or reward for any work for which a current real estate agent's licence is required.

Division 2 – Eligibility and qualifications for licence, and disqualification

10 Eligibility for licence

- (1) An individual is eligible to apply for a real estate agent's licence if the Commissioner is satisfied that the individual:
 - (a) has the qualifications under section 11 for a licence; and
 - (b) is not disqualified under section 12 or section 33.
- (2) A corporation is eligible to apply for a real estate agent's licence if the Commissioner is satisfied that:
 - (a) at least one director of the corporation holds a current real estate agent's licence; and
 - (b) no director of the corporation is disqualified from being licensed under section 12.

11 Qualifications for licence

- (1) The regulations may prescribe qualifications for the holding of a real estate agent's licence.
- (2) Without limiting subsection (1), the qualifications may include requiring:
 - (a) the completion of a course of study;
 - (b) the completion of a period of training;
 - (c) continuing professional development courses or training.

12 Persons disqualified from holding licence

- (1) A person is disqualified from holding a real estate agent's licence if the person:
 - (a) has been convicted (in Uganda or elsewhere) of an offence involving dishonesty;
 - (b) is, or at any time in the previous 5 years has been, an undischarged bankrupt;
 - (c) is, or at any time in the previous 5 years has been, involved in the management of a corporation when:
 - (i) the corporation was wound up; or
 - (ii) a receiver or administrator was appointed;

- (d) is, in the Commissioner's opinion, mentally incapable of holding a licence;
 - (e) is disqualified by the Commissioner from holding a licence;
 - (f) is in partnership with a person disqualified by the Commissioner from holding a licence;
 - (g) is a corporation that is the subject of a winding-up order;
 - (h) is a corporation for which a receiver or administrator has been appointed;
 - (i) is applying for a real estate agent's licence or the renewal of a real estate agent's licence and has contravened, or is contravening, a condition of the licence; or
 - (j) has contravened, or is contravening, a provision of this Act prescribed by regulation as a disqualifying breach.
- (2) However, a person is not disqualified from being licensed merely because of subsection (1) (b) or (c), if the Commissioner is satisfied that the person took all reasonable steps to avoid the bankruptcy, winding-up or appointment concerned.
- (3) Also, a person is not disqualified from being licensed merely because the person has contravened, or is contravening, a licence condition, if the Commissioner considers that the contravention should be disregarded for the purposes of this section.

Division 3 – Licence procedures

13 Advertising intended licence applications

- (1) A person who intends to apply for a real estate agent's licence must give public notice of their intention to apply for the licence in a daily newspaper circulating in the area in which they propose to carry on business as a real estate agent.
- (2) The notice must include any information prescribed by regulation.

14 Licence applications

- (1) An application for a real estate agent's licence must be made to the Commissioner.
- (2) An application may be made only:
 - (a) by a person who has published a notice under section 13 in relation to the application; and
 - (b) within 10 business days after the day the notice is published.
- (3) An application must be accompanied by:
 - (a) a statement setting out the applicant's proposed main place of business; and

- (b) a consent signed by all of the following persons to allow the Commissioner (and, if the Commissioner considers it appropriate, a police officer) to make enquiries about their business backgrounds and any criminal records:
 - (i) the applicant;
 - (ii) any partners of the applicant; and
 - (iii) if the applicant is a corporation, all the directors of the applicant.

15 Objections to licences

- (1) Within 10 business days after publication of the notice under section 13, any person may, by written objection to the Commissioner, object to the issue of the licence.
- (2) The written objection:
 - (a) may only be made on the basis that the applicant does not meet the criteria for eligibility under section 10; and
 - (b) must give reasons.
- (3) The objector must give a copy of the objection to the applicant within 10 business days after the day the notice under section 13 is published.
- (4) The Commissioner may consider the objection only if satisfied that subsection (3) has been complied with.

16 Further information for licence applications

- (1) The Commissioner may, by written notice given to an applicant for a licence, require the applicant to provide further information, or a document, that the Commissioner considers necessary or appropriate to consider the application.
- (2) The Commissioner may refuse to consider the application until the requirement is complied with.

17 Information about licence applications

The Commissioner may seek information about a licence application or an applicant in any way the Commissioner considers appropriate.

18 Decisions on licence applications

- (1) Within 12 weeks after receiving the application, the Commissioner must:
 - (a) issue the licence; or
 - (b) refuse to issue the licence.

- (2) The Commissioner must issue the licence if satisfied that the applicant meets the criteria for eligibility under section 10.
- (3) If a requirement for information or a document relating to an application is made under section 16, the 12-week period in subsection (1) is extended by the period beginning on the day when the requirement is made and ending on the day when the requirement is complied with.

19 Licence conditions

- (1) A real estate agent's licence is subject to any conditions:
 - (a) prescribed by regulation; or
 - (b) imposed on the licence under this section.
- (2) The Commissioner may impose on a licence conditions in relation to all or any of the following matters:
 - (a) restricting the size or kind of business that may be operated;
 - (b) geographic limitations;
 - (c) requiring the licensee to obtain stated qualifications.
- (3) The Commissioner:
 - (a) may impose the conditions when the licence is issued or at any other time;
 - (b) may at any time amend or delete a condition imposed on a licence; and
 - (c) must impose a condition on a licence, or amend or delete a condition, if directed to do so by the Tribunal.
- (4) The Commissioner may impose a condition on a person's licence, or amend a condition, under subsection (3)(a) or (b) only if:
 - (a) the Commissioner has given the person written notice of the proposed condition or amendment;
 - (b) the notice states that written comments on the proposal may be made to the Commissioner within a stated period of at least 10 business days after the day the notice is given to the person; and
 - (c) the Commissioner has considered any comments made within the period.
- (5) Subsection (4) does not apply if the person asked for, or agreed in writing to, the proposed condition or amendment.

20 Term of licences

A real estate agent's licence is issued for the period of up to one year stated in the licence.

21 Renewal of licences

- (1) The holder of a real estate agent's licence may apply to the Commissioner to renew the licence.
- (2) Within 6 weeks after receiving an application, the Commissioner must:
 - (a) renew the licence; or
 - (b) refuse to renew the licence.
- (3) The Commissioner must renew the licence if satisfied that the applicant:
 - (a) meets the criteria for eligibility under section 10; and
 - (b) has complied with any requirements prescribed by regulation and any conditions imposed on the licence.

22 Continuation of existing licences until the renewal applications decided

- (1) If the holder of a licence applies to renew a licence under section 21, the licence remains in force until the application is decided (even if it causes the existing licence to be in force for longer than one year).
- (2) If the licence is renewed:
 - (a) the term of the renewed licence is backdated to the day the term of the licence ended; and
 - (b) any services the person provided from the day the term of the licence ended to the day the licence was renewed are taken to have been provided by the person as a licensed agent.

23 Licence certificates

- (1) If the Commissioner decides to issue a licence to a person or renew a person's licence, the Commissioner must give the person a licence certificate.
- (2) The Commissioner may issue a replacement licence certificate if satisfied that the original certificate has been lost, stolen, damaged or destroyed.

24 Surrender of licence

The holder of a licence may at any time surrender the licence by written notice given to the Commissioner.

Division 4 – Disciplinary action against licensees

25 Meaning of “licensee” in this Division

In this Division, “licensee” means a person who holds a current real estate agent’s licence, and also a former licensee.

26 Grounds for disciplinary action

- (1) Each of the following is a ground for disciplinary action in relation to a licensee:
 - (a) the licensee has been convicted or found guilty of an offence arising out of or in connection with the sale of, or dealings with, land;
 - (b) the licensee has contravened, or is contravening, a rule of conduct;

Note: For rules of conduct, see section 112.
 - (c) the licensee has contravened, or is contravening, a condition of the licence;
 - (d) the licensee has become ineligible for a licence under section 10 or for registration under section 31;
 - (e) the licensee has contravened, or is contravening, an order of the Tribunal;
 - (f) the licence was obtained by fraud or mistake;
 - (g) a ground prescribed by regulation for the purposes of this section.
- (2) However, subsection (1) a) to (d) applies to a former licensee only in relation to anything that happened while the person was licensed.

27 Commissioner may refer matter to Tribunal

If the Commissioner considers that a ground for disciplinary action exists in relation to a licensee, the Commissioner may apply to the Tribunal for the Tribunal to take disciplinary action against the licensee.

28 Disciplinary action Tribunal may take

- (1) On application by the Commissioner, the Tribunal may:
 - (a) cancel or suspend the licence; and
 - (b) take any other disciplinary action that is within its powers.

- (2) Regulations may prescribe disciplinary action the Tribunal may take for the purposes of this section.
- (3) If the Tribunal cancels a licence, the Tribunal may also disqualify the holder from being licensed for a stated period or indefinitely.

Note: The Tribunal may review a period of disqualification under section 113.

PART 4 — REGISTRATION OF SALESPERSONS

Division 1 — Registration of salespersons

29 Salesperson must be registered

- (1) A person must not provide a real estate agent service as an employee of a licensed real estate agent unless the person is registered as a real estate salesperson.
- (2) A person is not registered as a real estate salesperson if their registration is suspended.

30 Prohibition on recovering fees

A person who breaches 29 is not entitled to recover any commission, fee or reward for any work for which registration as a real estate salesperson is required.

Division 2 — Eligibility and qualifications for registration, and disqualification

31 Eligibility for registration

A person is eligible to be registered as a real estate salesperson if the Commissioner is satisfied that the person:

- (a) has the qualifications under section 32 for registration; and
- (b) is not disqualified under section 12 or section 33.

32 Qualifications for registration

- (1) The regulations may prescribe qualifications for a person to be registered as a real estate salesperson.
- (2) Without limiting subsection (1), the qualifications may include requiring:
 - (a) the completion of a course of study;
 - (b) the completion of a period of training;
 - (c) continuing professional development courses or training.

33 Persons disqualified from being registered

- (1) A person is disqualified from registration as a real estate salesperson if the person:
 - (a) has been convicted (in Uganda or elsewhere) of an offence involving dishonesty;
 - (b) is, or at any time in the previous 5 years has been, an undischarged bankrupt;
 - (c) is, in the Commissioner's opinion, mentally incapable of being registered;
 - (d) is registered and has contravened or is contravening an order of the Tribunal;
 - (e) holds a registration that is suspended;
 - (f) is disqualified by the Tribunal from holding a real estate agent's licence or from being a registered real estate salesperson; or
 - (g) has contravened, or is contravening, a provision of this Act prescribed by regulation as a disqualifying breach.
- (2) However, a person is not disqualified from being registered merely because of subsection (1)(b), if the Commissioner is satisfied that the person took all reasonable steps to avoid the bankruptcy.
- (3) Also, a person is not disqualified from being registered merely because the person has contravened, or is contravening, a registration condition, if the Commissioner considers that the contravention should be disregarded for the purposes of this section.

Division 3 — Registration procedures

34 Advertising intended registration applications

- (1) A person who intends to apply for registration as a real estate salesperson must give public notice of their intention to apply for registration in a daily newspaper circulating in the area in which they propose to be employed.
- (2) The notice must include any information prescribed by regulation.

35 Registration applications

- (1) An application for registration must be made to the Commissioner.
- (2) An application may only be made:
 - (a) by a person who has published a notice under section 34 in relation to the application; and
 - (b) within 10 business days after the day the notice is published.

- (3) An application must be accompanied by the applicant's consent to allow the Commissioner (and, if the Commissioner considers it appropriate, a police officer) to make enquiries about the applicant's business background and any criminal record.

36 Objections to registration

- (1) Within 10 business days after publication of the notice under section 34, any person may, by written objection to the Commissioner, object to the registration application.
- (2) The written objection:
 - (a) may only be made on the basis that the applicant does not meet the criteria for eligibility under section 31; and
 - (b) must give reasons.
- (3) The objector must give a copy of the objection to the applicant within 10 business days after the day the notice under section 34 is published.
- (4) The Commissioner may consider the objection only if satisfied that subsection (3) has been complied with.

37 Further information for registration applications

- (1) The Commissioner may, by written notice given to an applicant for registration, require the applicant to provide further information, or a document, that the Commissioner considers necessary or appropriate to consider the application.
- (2) The Commissioner may refuse to consider the application until the requirement is complied with.

38 Information about registration applications

The Commissioner may seek information about a registration application or an applicant in any way the Commissioner considers appropriate.

39 Decisions on registration applications

- (1) Within 12 weeks after receiving the application, the Commissioner must:
 - (a) register the applicant; or
 - (b) refuse to register the applicant.
- (2) The Commissioner must register the applicant if satisfied that the applicant meets the criteria for eligibility under section 31.

- (3) If a requirement for information or a document relating to an application is made under section 37, the 12-week period in subsection (1) is extended by the period beginning on the day when the requirement is made and ending on the day when the requirement is complied with.

40 Registration conditions

- (1) A real estate salesperson's registration is subject to any conditions:
 - (a) prescribed by regulation; or
 - (b) imposed on the registration under this section.
- (2) The Commissioner:
 - (a) may impose on a registration a condition requiring the applicant to obtain stated qualifications;
 - (b) may at any time amend or delete a condition imposed under paragraph (a); and
 - (c) must impose on a registration any condition directed by the Tribunal.
- (3) The Commissioner may impose a condition on a person's registration under subsection (2)(a), or amend a condition under subsection (2)(b), only if:
 - (a) the Commissioner has given the person written notice of the proposed condition or amendment;
 - (b) the notice states that written comments on the proposal may be made to the Commissioner within a stated period of at least 10 business days after the day the notice is given to the person; and
 - (c) the Commissioner has considered any comments made within the period.
- (4) Subsection (4) does not apply if the person asked for, or agreed in writing to, the proposed condition or amendment.

41 Term of registration

Registration as a real estate salesperson is for the period of up to one year stated in the registration certificate issued under section 44.

42 Renewal of registrations

- (1) A registered real estate salesperson may apply to the Commissioner to renew the registration.
- (2) Within 6 weeks after receiving the application, the Commissioner must:

- (a) renew the registration; or
 - (b) refuse to renew the registration.
- (3) The Commissioner must renew the registration if satisfied that the applicant:
- (a) meets the criteria for registration under section 31; and
 - (b) has complied with any requirements prescribed by regulation and any conditions imposed on the registration.

43 Continuation of existing registrations until renewal applications decided

- (1) If a registered real estate salesperson applies to renew a registration under section 42, the registration remains in force until the application is decided (even if it causes the existing registration to be in force for longer than 1 year).
- (2) If the registration is renewed:
 - (a) the term of the renewed registration is backdated to the day the term of the registration ended; and
 - (b) any services the person provided from the day the term of the registration ended to the day the registration was renewed are taken to have been provided by the person as a registered real estate salesperson.

44 Registration certificates

- (1) If the Commissioner decides to register a person as a real estate salesperson or renew a person’s registration, the Commissioner must give the person a registration certificate.
- (2) The Commissioner may issue a replacement registration certificate if satisfied that the original certificate has been lost, stolen, damaged or destroyed.

45 Surrender of registration

A registered real estate salesperson may at any time surrender the registration by written notice given to the Commissioner.

Division 4 – Disciplinary action against registered real estate salespersons

46 Meaning of “registered salesperson” in this Division

In this Division, “registered salesperson” means a person who is currently registered as a real estate salesperson, and also means a former registered salesperson.

47 Grounds for disciplinary action

- (1) Each of the following is a ground for disciplinary action in relation to a registered salesperson:
 - (a) the salesperson has been convicted or found guilty of an offence arising out of or in connection with the sale of, or dealings with, land;
 - (b) the salesperson has contravened, or is contravening, a rule of conduct;

Note: For rules of conduct, see section 112.
 - (c) the salesperson has contravened, or is contravening, a condition of the registration;
 - (d) the salesperson has become ineligible for registration under section 31;
 - (e) the salesperson has contravened, or is contravening, an order of the Tribunal;
 - (f) the salesperson's registration was obtained by fraud or mistake;
 - (g) a ground prescribed by regulation for the purposes of this section.
- (2) However, subsection (1)(a) to (d) applies to a former registered salesperson only in relation to anything that happened while the person was registered.

48 Commissioner may refer matter to Tribunal

If the Commissioner considers that a ground for disciplinary action exists in relation to a registered salesperson, the Commissioner may apply to the Tribunal for the Tribunal to take disciplinary action against the salesperson.

49 Disciplinary action Tribunal may take

- (1) On application by the Commissioner, the Tribunal may:
 - (a) cancel or suspend the salesperson's registration; and
 - (b) take any other disciplinary action that is within its powers.
- (2) Regulations may prescribe disciplinary action the Tribunal may take for the purposes of this section.
- (3) If the Tribunal cancels a registered salesperson's registration, the Tribunal may also disqualify the salesperson from being registered for a stated period or indefinitely.

Note: The Tribunal may review a period of disqualification under section 113.

PART 5 — CONDUCT OF LICENSED REAL ESTATE AGENTS AND REGISTERED SALESPERSONS

Division 1 — Licensee's main place of business

50 Main place of business to be entered in register

- (1) On the issue of a real estate agent's licence, the Commissioner must enter in the register as the licensee's main place of business, the main place of business as shown in the statement under section 14.
- (2) The licensee must notify the Commissioner in writing of any change in the main place of business.
- (3) The Commissioner must enter in the register any change notified under subsection (2).

Division 2 — Management of licensee's business

51 Each place of business to have licensed real estate agent in charge

A person must not carry on business as a real estate agent unless each place in which the business is carried on is under the day-to-day management and control of a person who holds a current real estate agent's licence.

Penalty: to be prescribed.

52 Licensee to be in charge of one place of business only

A licensee must not have the day-to-day management and control of more than one place of business.

Penalty: to be prescribed.

53 Exemptions to sections 51 and 52

- (1) The Commissioner may exempt a licensee from section 51 or section 52.
- (2) An exemption may be absolute or conditional, and may be amended or revoked.
- (3) The regulations may prescribe matters to be considered by the Commissioner when granting exemptions.

54 Licensee must not share commission with unlicensed person

- (1) A licensee must not enter into an agreement or arrangement with a person to share a commission in relation to, or pay a reward or fee for, the provision of real estate agent services unless the person is:
 - (a) a licensed real estate agent; or
 - (b) a registered real estate salesperson.

Penalty: to be prescribed.

- (2) Subsection (1) does not apply to an agreement or arrangement with a person who:
 - (a) is a partner of the licensee; and
 - (b) does not carry on business as a real estate agent.
- (3) A person is not entitled to bring proceedings to recover a commission, reward or fee under an agreement or arrangement that contravenes subsection (1).

Division 3 – Employment of salespersons

55 Licensed agent may employ only licensed agent or registered salesperson

A licensed real estate agent must not employ a person to perform a real estate agent service unless the person is either a licensed real estate agent or a registered real estate salesperson.

Penalty: to be prescribed.

56 Employee must disclose disqualification

An employee of a licensed real estate agent who is disqualified under section 12 or section 33 must notify the agent within 5 business days of finding out about the disqualification.

Penalty: to be prescribed.

Division 4 – Disclosure of interest and conflicts of interest on sale of land

57 Agent must disclose personal interest

- (1) When acting for a buyer or a seller in relation to a sale of land, a licensed real estate agent must disclose to the client any personal interest the agent has in relation to or arising out of the sale.

Penalty: to be prescribed.
- (2) The disclosure must be made:
 - (a) in writing; and
 - (b) before the buyer or seller enters into a contract for the sale or purchase.
- (3) A written acknowledgement by the seller or buyer (as the case may be) that the disclosure was made before the contract for sale was entered into is evidence that subsection (1) was complied with.
- (4) For the purposes of subsection (1), personal interest includes (but is not limited to) any of the following:
 - (a) the amount that any person (other than the buyer or seller) has received, will receive, or expects to receive, for promoting the

sale or purchase or for providing a service in relation to the sale or purchase;

Examples within para (a): amounts that are to be received, or may be received, by finance brokers, property valuers, lawyers, or other real estate agents.

- (b) any relationship the agent has with anyone to whom the agent has referred, or expects to refer, the buyer or seller for services in relation to the sale or purchase;

Examples within para (b): business relationships, family relationships, fiduciary relationships.

- (c) the amount or value of any benefit the agent will receive, or expects to receive, from any person to whom the agent has referred, or expects to refer, the seller or buyer for professional services in relation to the sale or purchase.

Examples within para (c): amounts paid or benefits received for referrals to lawyers, financial planners, mortgage brokers, banks, insurance companies.

- (5) For the purpose of subsection (4)(c), benefit includes the payment of money or the receipt of any other benefit, including the grant of an interest in land.

58 Salesperson must disclose personal interest

- (1) When employed by a licensed real estate agent who is acting for a buyer or a seller in relation to a sale of land, a registered real estate salesperson must disclose to the client any personal interest the agent or the salesperson has in relation to or arising out of the sale.

Penalty: to be prescribed.

- (2) The disclosure must be made:
- (a) in writing; and
- (b) before the buyer or seller enters into a contract for the sale or purchase.
- (3) A written acknowledgement by the seller or buyer (as the case may be) that the disclosure was made before the contract for sale was entered into is evidence that subsection (1) was complied with.
- (4) For the purposes of subsection (1), personal interest includes (but is not limited to) any of the following:
- (a) the amount that any person (other than the buyer or seller) has received, will receive, or expects to receive, for promoting the sale or purchase or for providing a service in relation to the sale or purchase;

Examples within para (a): amounts that are to be received, or may be received, by finance brokers, property valuers, lawyers, or other real estate agents.

- (b) any relationship the salesperson or the licensee has with anyone to whom the salesperson or licensee has referred, or expects to refer, the buyer or seller for services in relation to the sale or purchase;

Examples within para (b): business relationships, family relationships, fiduciary relationships.

- (c) the amount or value of any benefit the salesperson or the licensee will receive, or expects to receive, from any person to whom the salesperson or licensee has referred, or expects to refer, the seller or buyer for professional services in relation to the sale or purchase.

Examples within para (c): amounts paid or benefits received for referrals to lawyers, financial planners, mortgage brokers, banks, insurance companies.

- (5) For the purpose of subsection (4)(c), benefit includes the payment of money or the receipt of any other benefit, including the grant of an interest in land.

59 Agent must not obtain beneficial interest in land

- (1) When acting for a seller of land, a licensed real estate agent must not obtain a beneficial interest in the land or be involved in allowing any other person (except the buyer) to obtain a beneficial interest in the land.

Penalty: to be prescribed.

- (2) For the purposes of subsection (1), a beneficial interest includes (but is not limited to):
- (a) a lease of the land;
 - (b) an option to purchase or to lease the land;
 - (c) a power of appointment over the land.
- (3) Subsection (1) does not apply if, before obtaining the interest:
- (a) the agent fully discloses to the seller the circumstances surrounding the obtaining of the interest; and
 - (b) the seller agrees in writing to the obtaining of the interest.

60 Salesperson must not obtain beneficial interest in land

- (1) When employed by a licensed real estate agent acting for a seller of land, a registered real estate salesperson must not obtain a beneficial interest in the land or be involved in allowing any other person (except the buyer) to obtain a beneficial interest in the land.

Penalty: to be prescribed.

- (2) For the purposes of subsection (1), a beneficial interest includes (but is not limited to):
- (a) a lease of the land;
 - (b) an option to purchase or to lease the land;
 - (c) a power of appointment over the land.
- (3) Subsection (1) does not apply if, before obtaining the interest:
- (a) the salesperson fully discloses to the seller the circumstances surrounding the obtaining of the interest; and
 - (b) the seller agrees in writing to the obtaining of the interest.

61 Agent must not act for both buyer and seller

- (1) A licensed real estate agent must not act for both the buyer and seller of the same land at the same time.

Penalty: to be prescribed.

- (2) The Commissioner may exempt a licensee or a class of licensees from subsection (1).
- (3) An exemption may be absolute or conditional, and may be amended or revoked.
- (4) The regulations may prescribe matters to be considered by the Commissioner when granting exemptions.

62 Salesperson must not act for both buyer and seller

- (1) A registered real estate salesperson must not act for both the buyer and seller of the same land at the same time.

Penalty: to be prescribed.

- (2) The Commissioner may exempt a salesperson or a class of salespersons from subsection (1).
- (3) An exemption may be absolute or conditional, and may be amended or revoked.
- (4) The regulations may prescribe matters to be considered by the Commissioner when granting exemptions.

63 False representations to sellers or buyers

(1) A licensed real estate agent, when acting for a seller of land, must not make a dishonest representation about the agent's estimate of the selling price of the land:

- (a) to the seller;
- (b) to a buyer;
- (c) in an advertisement or other publication.

Penalty: to be prescribed.

(2) A registered real estate salesperson, when employed by a licensed real estate agent acting for a seller of land, must not make a dishonest representation about the salesperson's estimate of the selling price of the land:

- (a) to the seller;
- (b) to a buyer;
- (c) in an advertisement or other publication.

Penalty: to be prescribed.

64 Commissioner may require agent or salesperson to substantiate estimate of selling price

(1) The Commissioner may, by written notice to a licensed real estate agent or a registered real estate salesperson, require the agent or salesperson to give to the Commissioner the evidence on which the agent or salesperson relied in making a representation about the agent's or salesperson's estimate of the selling price of land:

- (a) to a seller of the land; or
- (b) to a buyer of the land; or
- (c) in an advertisement or other publication.

(2) The notice must state a reasonable period for complying with the notice.

(3) An agent or salesperson must comply with a notice given under this section within the stated period.

Penalty: to be prescribed.

65 Regulations may require agent or salesperson to provide information or documents to prospective buyers

(1) Regulations may require licensed real estate agents or registered real estate salespersons to provide prospective buyers of land with specified information.

- (2) The regulations may add conditions or qualifications in relation to the information, or may allow exemptions.

Example: Under subsection (1), the regulations could introduce a degree of “vendor disclosure”, by requiring agents or salespersons to provide prospective buyers with information about the condition of a building, or planning information; or they could require the provision of a copy of the proposed contract for sale of the land. Under subsection (2), the obligation to provide the information might be limited (for example) to residential properties.

66 Regulations may authorise agent or salesperson to take steps in relation to formation of contract for sale

- (1) Regulations may authorise licensed real estate agents or registered real estate salespersons to take specified steps in relation to the formation of a binding contract for the sale of land.
- (2) The regulations may add conditions or qualifications to the authority, or may allow exemptions.

Example: Under subsection (1), the regulations could authorise agents or salespersons to insert into a draft contract for sale information such as: details of the buyer and the buyer’s lawyer; the purchase price; details of inclusions; and the date of the contract. The regulations could also authorise agents or salespersons to take part in the exchange of contracts or other means of entry into a binding contract.

Under subsection (2), the regulations could (for example) limit the power to agents only, and not salespersons; and could exclude authority where the agent or salesperson knows that the buyer or seller has a lawyer acting for them. The regulations could also prohibit agents or salespersons charging a fee for exercise of the authority.

Division 5 – Advertisements

67 False or misleading advertisements

- (1) A licensed real estate agent or a registered real estate salesperson must not publish a statement in relation to a real estate agent service that:
 - (a) is false or misleading; or
 - (b) omits material without which it is false or misleading.
- (2) A statement or omission does not breach subsection (1) if it is merely of minor significance in relation to the real estate agent service.
- (3) In this section, publish includes (but is not limited to) any of the following:
 - (a) included in a newspaper or other publication;
 - (b) publicly exhibited;

- (c) contained in a document given to someone or left on or near premises where someone lives or works;
- (d) broadcast by radio or television;
- (e) electronically disseminated (including by means of a website).

Division 6 — Prohibited acts in relation to licence or registration

68 Agent must not allow others to use licence

- (1) A licensed real estate agent must not allow any other person to use the licence.
- (2) If an agent breaches subsection (1), the licence is automatically cancelled under this section.

69 Salesperson must not allow others to use registration

- (1) A registered real estate salesperson must not allow any other person to use the registration.
- (2) If a salesperson breaches subsection (1), the registration is automatically cancelled under this section.

PART 6 — AGENCY AGREEMENTS

70 No commission without written agency agreement

- (1) A licensed real estate agent is not entitled to commission or expenses from a principal for the provision of real estate agent services unless:
 - (a) the services were carried out under a written agency agreement between the agent and the principal;
 - (b) the agency agreement:
 - (i) identifies the rebates, discounts, commissions and expenses the agent may receive; and
 - (ii) estimates the amount of any such rebates, discounts, commissions and expenses;
 - (c) the agency agreement complies with the regulations (if any); and
 - (d) a copy of the agreement is given to the principal within 24 hours after the principal signed it.
- (2) A court in which an agent takes proceedings to recover commission or expenses from the principal may order that commission or expenses be paid despite a breach of subsection (1)(d), if the court is satisfied that:
 - (a) failure to provide the copy within the 24 hours was inadvertent or caused by circumstances beyond the principal's control;

- (b) the commission or expenses to be recovered if the order is made are fair and reasonable; and
- (c) failure to make the order would be unjust.

PART 7 — TRUST ACCOUNTS

Division 1 — Definitions

71 **Authorised financial institutions**

- (1) Regulations may prescribe that specified financial institutions which receive moneys for holding or investment are authorised financial institutions for the purposes of this Part.
- (2) Unless the regulations specify otherwise, a bank or building society operating in Uganda is an authorised financial institution for the purposes of this Part

72 **Definitions for Part 7**

- (1) In this Part:
 - (a) **AFI business day**, in relation to a trust account, means a day when the branch of the authorised financial institution where the trust account is kept is open for business.
 - (b) **licensed real estate agent** or **licensed agent** includes the following:
 - (i) a person who is no longer a licensed agent but holds trust money received while licensed;
 - (ii) the personal representative of a licensed agent who died while holding trust money, if the representative holds the trust money;
 - (iii) the liquidator of a corporation which went into liquidation while being a licensed agent and holding trust money, if the corporation holds the trust money.
 - (c) **trust money** is money that a licensed agent receives:
 - (i) in relation to the licensed agent's business on behalf of another person; and
 - (ii) on the basis that the money is to be paid to the other person or as the other person directs.
 - (d) **details**, in relation to a trust account, means the following details:
 - (i) the name and address of the authorised financial institution where the trust account is kept;

- (ii) the title of the account; and
- (iii) the identifying number the institution has given the account.

Division 2 — Trust money and trust accounts

73 Opening trust accounts

- (1) A licensed real estate agent must keep a trust account at an authorised financial institution in Uganda under a name that includes:
 - (a) the name of the licensed agent or, if the licensed agent carries on business under a business name or in partnership, the business name or the name of the partnership; and
 - (b) the words “trust account”.
- (2) A licensed agent may keep more than one trust account.
- (3) When opening a trust account, a licensed agent must tell the authorised financial institution, in writing, that the account is a trust account for the purposes of this Act.
- (4) A licensed agent must give to the Commissioner, in writing, the details of each trust account held by the agent and, if the agent opens a new trust account, of each new trust account.
- (5) The details must be given to the Commissioner within two business days after the day the agent becomes a licensed agent or the agent opens the new trust account.
- (6) A licensed agent must ensure that the words “trust account” appear in every mention of a trust account in the records of the agent and every cheque drawn on a trust account.

74 Closing trust accounts

If a licensed agent closes a trust account, the agent must tell the Commissioner, in writing, of the closure within 10 business days after the day the account is closed.

Penalty: to be prescribed.

75 Dealing with trust money

- (1) A licensed agent must not deal with trust money otherwise than as directed by the person for whom the money is held on trust.
Penalty: to be prescribed.
- (2) A licensed agent who receives trust money must pay the money into a trust account kept by the agent by the next AFI business day after the day the agent receives the money.

Penalty: to be prescribed.

- (3) A licensed agent to whom trust money is paid by direct deposit or electronic funds transfer into another account kept by the agent must pay the money into a trust account on the next AFI business day after becoming aware of the payment.

Penalty: to be prescribed.

- (4) A licensed agent must not pay an amount out of a trust account except:
 - (a) by electronic transfer; or
 - (b) by a non-negotiable cheque that is expressed to be payable to a person specified in the cheque.

Penalty: to be prescribed.

- (5) Trust money held by a licensed agent:
 - (a) is not available for payment of the agent's debts; and
 - (b) must not be attached, or taken in execution, under a court order or court process at the request of a creditor of the agent.
- (6) An authorised financial institution with which a trust account is kept must not enforce any liability that the licensed agent may have towards the institution against any amount held in the account, whether by way of claim, counterclaim, set-off, charge or otherwise.

76 Agents to notify of overdrawn trust accounts

- (1) This section applies where a licensed agent finds out that the agent's trust account has become overdrawn.
- (2) The agent must, within five business days after finding out, tell the Commissioner in writing that the account has become overdrawn and provide:
 - (a) details of the overdrawn account;
 - (b) the amount by which the account is overdrawn; and
 - (c) the reason for the account being overdrawn.

Penalty: to be prescribed.

77 Quarterly statements by agents

- (1) A licensed real estate agent must, within 15 business days after the end of each quarter, prepare a quarterly statement for the quarter.
- (2) The quarterly statement must be made up as at the close of business on the last business day of the quarter to which the statement relates.
- (3) The quarterly statement must set out all of the following information:

- (a) the name of each person on whose behalf the agent held trust money;
 - (b) the amount of trust money held in the agent's trust accounts on behalf of the person;
 - (c) the amount of trust money held in cash by the agent on behalf of the person;
 - (d) the total amount in each trust account kept by the agent.
- (4) In working out an amount for subsection (3)(d), a cheque drawn on an account but not presented is taken to have been paid.
 - (5) The agent must keep the quarterly statement for 5 years after the end of the quarter to which the statement relates.
 - (6) The agent must give the quarterly statement to the auditor who audits the agent's trust account records for the audit period that includes the quarter to which the statement relates.
 - (7) In this section:
 - (a) **quarter** means the three months beginning on the first day of the audit period for the agent and each following period of three months;
 - (b) **audit period** means the period established under section 78.

Division 3 – Audit of trust accounts

78 Audit period

- (1) The Commissioner may, by written notice given to a licensed real estate agent, fix a period as the agent's audit period.
- (2) The audit period for a licensed agent for whom no period is fixed under subsection (1) is each financial year.

79 Qualifications for auditors

Regulations may prescribe the qualifications for auditors under this Act.

80 Requirement for audit

- (1) A licensed real estate agent must ensure that the records relating to any trust money held by the agent during an audit period of the agent are audited by a qualified auditor within three months after the end of the audit period or any longer period allowed by the Commissioner.
Penalty: to be prescribed.
- (2) A former licensed agent, or the personal representative of a licensed agent, who held trust money during an audit period applying to the

agent, must within three months after the end of the audit period or any longer period allowed by the Commissioner, ensure that their records relating to the trust money are audited by a qualified auditor.

Penalty: to be prescribed.

81 If no trust money held during audit period

- (1) A licensed agent who held no trust money during an audit period applying to the agent must give the Commissioner a statutory declaration to that effect within 3 months after the end of the audit period.
- (2) In this section:
licensed agent does not include a former licensed agent, or the personal representative of a licensed agent.

82 Audit obligations of partners

If a provision of this Division is complied with by a licensed agent in relation to the audit of records of a partnership, the provision is taken to have been complied with by each partner.

83 Auditor's report

- (1) An auditor's report of a licensed real estate agent's records must state whether, in the auditor's opinion:
 - (a) the agent has kept the accounting and other records relating to trust money in accordance with this Part;
 - (b) the records were available for the auditor's examination within a reasonable time after the auditor asked for them;
 - (c) the agent complied with the auditor's requirements within a reasonable time;
 - (d) there is any discrepancy relating to a trust account;
 - (e) any records to which the audit relates are kept in a way that does not allow them to be properly audited or are missing;
 - (f) records that are necessary for the proper audit of other records are missing; and
 - (g) there is anything else in relation to the records about which the Commissioner or the agent should be informed.
- (2) As soon as practicable after finishing the audit, the auditor must prepare a report of the result of the audit and give the report to the Commissioner and a copy to the licensed agent.

Division 4 – Unclaimed trust money

84 Unclaimed trust money held by licensed agents

- (1) This section applies if, on 1 July of a year, a licensed real estate agent holds trust money received by the agent more than three years before that day (called in this section “the unclaimed money”).
- (2) The agent must give the Commissioner a statement under section 87, made up as at 1 July, about the unclaimed money by 31 July of the same year.
- (3) The regulations may provide that subsection (2) does not apply in relation to unclaimed money exempted by regulation (“the exempt unclaimed money”).
- (4) The agent must keep a written record of any exempt unclaimed money held by the agent.

85 Trust money held by former licensed agents

- (1) This section applies if:
 - (a) a person ceases to be a licensed agent; and
 - (b) at the time the person ceases to be a licensed agent, the person holds trust money.
- (2) Within three months after ceasing to be a licensed agent, the person must give to the Commissioner a statement under section 87 about the trust money, made up as at the day the person ceased to be a licensed agent.

86 Trust money held by personal representatives of licensed agents

- (1) This section applies to a person who is the personal representative of a licensed real estate agent who held trust money at the time of the agent’s death.
- (2) Within three months after the day the licensed agent died, the person must give to the Commissioner a statement under section 87 about the trust money, made up as at the day of the agent’s death.

87 Content of statements

A statement under this section must contain details of:

- (a) the name and address of each person for whom or on whose behalf trust money is held;
- (b) the amount held for each person; and

- (c) for each person—the purpose for which the money was paid to the person giving the statement or licensed real estate agent by whom the trust account was kept.

88 Commissioner’s duties in relation to unclaimed money in trust accounts

- (1) Within six months after receiving a statement under section 87, the Commissioner must prepare a written notice:
 - (a) containing details of:
 - (i) the name and last-known address of each person on whose behalf money is held; and
 - (ii) the amount of money held on behalf of the person; and
 - (b) stating that, if the money is not paid out of the trust account in which it is held within three months after the day the notice is published, the person holding the money will be required to pay it to the public trustee.
- (2) As soon as practicable after preparing the notice, the Commissioner must publish the notice:
 - (a) in the Uganda Gazette; and
 - (b) in at least one daily newspaper circulating Uganda-wide.

89 Payment of unclaimed money to public trustee

- (1) This section applies if:
 - (a) a notice is published under section 88(2); and
 - (b) three months has elapsed since the publication.
- (2) The Commissioner may, by written notice to a person holding money to which the notice relates, require the person, within a stated period of at least 10 business days:
 - (a) to pay any of the money still being held by the person to the public trustee; and
 - (b) to give the Commissioner a statement containing details of any payments made out of the money since the statement under section 87 relating to the money was given.
- (3) The person to whom a notice is given under subsection (2) must comply with it.

Penalty: to be prescribed.

90 Applications to recover money

A person who claims to be entitled to money paid to the public trustee under section 89 may apply to the Commissioner for payment of the money.

91 Decisions on recovery applications

- (1) On receiving an application under section 90, the Commissioner must consider it and make the inquiries that are reasonable and appropriate.
- (2) If the Commissioner is satisfied that the applicant is entitled to an amount paid to the public trustee under section 89, the Commissioner must decide the amount to be paid to the applicant and direct the public trustee to pay to the applicant the amount decided.
- (3) If the Commissioner is not so satisfied, the Commissioner must reject the application.
- (4) The public trustee must pay the applicant an amount that the Public Trustee has been directed to pay under subsection (2).

PART 8 — RECORDS

Division 1 — Record keeping

92 What records must be kept

- (1) A licensed real estate agent must:
 - (a) keep a record of the material details of every transaction the agent conducts; and
 - (b) keep any other records prescribed by regulation.Penalty: to be prescribed.
- (2) A licensed agent, or a former licensed agent, must keep the records made under subsection (1) for 5 years beginning on 1 January after the date the record is made.
Penalty: to be prescribed.

93 Where records must be kept

- (1) A licensed agent must keep the records kept under section 92:
 - (a) at the agent’s main place of business; or
 - (b) if the Commissioner has agreed in writing that the records may be kept at another place—at that place.Penalty: to be prescribed.
- (2) A former licensed agent must keep the records kept under section 92 at a place the Commissioner directs in writing, either specifically for that agent or for agents generally.

94 Receipts

- (1) A licensed real estate agent who receives trust money must give a receipt for the money.
- (2) The receipt must:
 - (a) be given to the person who gave the licensed agent the money; and
 - (b) describe the subject matter or reason why the money was given to the agent.
- (3) The agent must keep a copy of a receipt given under this section.
- (4) This section does not apply to money that is credited electronically or paid directly to a licensed agent's account.

Division 2 – Freezing accounts

95 Definitions for Division 2

In this Division:

account, in relation to a licensed real estate agent, means:

- (a) a trust account; or
- (b) any other account in which the agent has an interest, including an account that is not a trust account but in which trust money is held.

agent means a licensed real estate agent, a former licensed real estate agent or the personal representative of a licensed real estate agent.

freezing direction means a direction under section 96.

96 Commissioner may freeze accounts

- (1) If the Commissioner considers that trust money may be at risk of being, or may have been, stolen, misappropriated or misapplied, the Commissioner may, in writing, direct that:
 - (a) no amount be withdrawn from a stated account without the Commissioner's written approval; and
 - (b) a stated account be operated only in accordance with stated conditions.
- (2) The direction must:
 - (a) identify each account to which it relates; and
 - (b) be given to:
 - (i) the holder of each account to which it relates; and
 - (ii) the financial institution with which the account is kept.

97 Institutions to comply with directions

A financial institution to which a direction is given under section 96 must comply with the direction.

Penalty: to be prescribed.

98 Accounts to be operated only in accordance with directions

- (1) This section applies where:
 - (a) a person keeps an account in relation to which a freezing direction is in force; and
 - (b) the person has been given a copy of the direction.
- (2) The person must not, in contravention of the direction:
 - (a) write a cheque on the account; or
 - (b) withdraw money from the account.

Penalty: to be prescribed.

99 Commissioner may operate accounts

- (1) The Commissioner may operate an account in relation to which a freezing direction is in force if satisfied that:
 - (a) it is necessary that the Commissioner operate the account; or
 - (b) the account holder is unable or unwilling to operate the account.
- (2) Before operating an account under this section, the Commissioner must give the financial institution with which the account is kept a written notice to the effect that the operation of the account will be under this section.

100 Withdrawal of freezing directions

- (1) The Commissioner may at any time withdraw a freezing direction.
- (2) As soon as possible after withdrawing a freezing direction, the Commissioner must give written notice of the withdrawal to each person or entity the Commissioner had notified of the making of the direction.

101 No liability for complying with freezing directions

A person does not incur liability to anyone else merely because the person complies with a freezing direction.

PART 9 —APPOINTMENT OF ADMINISTRATORS

102 When administrators may be appointed

The Commissioner may, in writing, appoint a person to administer the business of a licensed real estate agent or a former licensed real estate agent, if the agent's licence has been suspended or cancelled.

103 Effect of appointment

While the appointment of an administrator is in force, the licensed agent or former licensed agent must not be involved in the direction, management or conduct of the business unless the administrator otherwise directs in writing.

104 Notice to authorised financial institutions

- (1) On the appointment of an administrator for a licensed agent or former licensed agent, the Commissioner must give the person in charge of the branch of the financial institution with which the agent maintains a trust account a written notice:
 - (a) telling the person about the appointment; and
 - (b) revoking the agent's authority to withdraw money from the account.
- (2) The revocation of the agent's authority to withdraw money from a trust account has the following effect:
 - (a) the agent may no longer withdraw money from the account;
 - (b) any authority given by the agent to someone else to withdraw money from the account ceases to have effect;
 - (c) the only person authorised to withdraw money from the account is the administrator, or a person authorised by the administrator by written notice given to the financial institution; and
 - (d) the financial institution may not pay any money out of the account without the written authority of a person mentioned in paragraph (c).
- (3) The Commissioner must give a copy of a notice under subsection (1) to the agent, but a failure to comply with this subsection does not affect the validity of the notice.
- (4) In this section:
withdraw money, from a trust account, includes sign a cheque drawn on the account.

105 Functions of administrators

- (1) An administrator appointed in relation to a licensed agent:
 - (a) may carry on the agent's business; and
 - (b) must carry out the agent's obligations under this Act.
- (2) Anything done by an administrator appointed in relation to the agent is taken to have been done by the agent.
- (3) An administrator is not liable for anything done or omitted to be done honestly and without negligence in the exercise or purported exercise of a function as administrator.

106 Remuneration of administrators

- (1) An administrator who is not a public servant:
 - (a) is entitled to be paid by the Government of Uganda the remuneration that the Commissioner decides; and
 - (b) is entitled to reimbursement by the Government for the expenses reasonably incurred in carrying out the administration.
- (2) The Government may recover any amount paid under subsection (1), as a debt from the agent in relation to whom the administrator is appointed.
- (3) If an administrator is a public servant, the Commissioner must certify an amount that represents the amount of remuneration and expenses of the administrator that is attributable to carrying out the administration.
- (4) The Government may recover any amount certified under subsection (3), as a debt from the agent in relation to whom the administrator is appointed.

PART 10 — ADMINISTRATION

107 Register

- (1) The Commissioner must maintain a register for the purposes of this Act.
- (2) The register must be available for public inspection at reasonable times.
- (3) The register may be kept in the form of, or as part of, one or more computer databases or in any other form the Commissioner considers appropriate.
- (4) The Commissioner may:
 - (a) correct a mistake or omission in the register, subject to any requirements of the regulations;

- (b) change a detail included in the register to keep the register up-to-date.

108 Register information

The Commissioner must enter and keep in the register details about the following:

- (a) each licence;
- (b) each registration;
- (c) conditions imposed on licences or registrations;
- (d) each application for a licence that is refused;
- (e) each application for registration that is refused;
- (f) the main place of business of each licensed agent;
- (g) any exemption under section 51 or section 52;
- (h) an audit period for a licensed agent fixed by the Commissioner under section 78;
- (i) each prosecution taken under this Act and the result of the prosecution;
- (j) each disciplinary action taken by the Tribunal;
- (k) the appointment of an administrator under this Act;
- (l) anything else prescribed by regulation.

109 Disclosure of information not on register

- (1) In this section:
information means information that is not on the register.
- (2) A person must not disclose information obtained by the person in connection with the administration of this Act.
Penalty: to be prescribed.
- (3) Subsection (1) does not apply in relation to a disclosure made:
 - (a) with the consent of the person who provided the information;
 - (b) as part of the exercise of a function under this Act;
 - (c) for a legal proceeding arising out of this Act or a report of the proceeding;
 - (d) to a regulatory officer or law enforcement officer, to help the officer in the exercise of the officer's functions;
 - (e) as otherwise prescribed by regulation; or
 - (f) under another law.

- (4) This section does not apply to a disclosure:
 - (a) by the Commissioner to a person directly involved in a transaction with a licensed agent, of information that relates to the transaction and directly concerns the person; or
 - (b) to the Commissioner by a law enforcement officer, regulatory officer, prosecutor, or legal adviser helping the Commissioner in the exercise of functions under this Act, if the Commissioner has asked for disclosure of the information.
- (5) The Commissioner may enter into agreements and other arrangements for the sharing or exchange of information relating to the activities of licensed agents.
- (6) This section does not apply to the disclosure of information under an agreement or arrangement within subsection (5).

110 Protection from liability

- (1) The Commissioner does not incur liability for an act or omission done honestly for the purposes of this Act.
- (2) Any civil liability that would, apart from this section, attach to the Commissioner attaches instead to the Government.

PART 11 — MISCELLANEOUS

111 False or misleading statements

- (1) In this section:
relevant matter means any of the following:
 - (a) an application for a licence or registration;
 - (b) the making of an objection to the issue of a licence or the granting of registration;
 - (c) an application for the amendment or deletion of a condition on a licence or registration;
 - (d) an application for renewal of a licence or registration;
 - (e) a response to a requirement by the Commissioner about information or documents in relation to an application for a licence, or registration, or the renewal of a licence or registration;
 - (f) a notification of a change in a licensed agent's main place of business under section 50;
 - (g) an application for an exemption under section 51 or section 52;

- (h) information or a document required or permitted to be given under Part 7.
- (2) A person must not, in relation to a relevant matter, make a statement (whether orally, in a document or in any other way) which the person knows:
 - (a) is false or misleading in a material particular; or
 - (b) omits something without which the statement is misleading in a material particular.

Penalty: to be prescribed.

- (3) Subsection (2) does not apply merely because a person produces a document which is not of the person's making, if the document is accompanied by a signed statement:
 - (a) stating that the document is, to the person's knowledge, false or misleading in a material particular; and
 - (b) setting out, or referring to, the material particular in which the document is false or misleading.
- (4) The statement under subsection (3) must be signed by:
 - (a) the person; or
 - (b) if the person who produces the document is a corporation—by an executive officer of the corporation.
- (5) A person must not, in relation to a relevant matter, make a statement (whether orally, in a document or in any other way) reckless about whether the statement:
 - (a) is false or misleading in a material particular; or
 - (b) omits something without which the statement is misleading in a material particular.

Penalty: to be prescribed.

112 Rules of conduct

- (1) A regulation may prescribe rules of conduct to be observed by licensed real estate agents or registered real estate salespersons.
- (2) A licensed agent must not contravene a rule of conduct applying to the agent.
- (3) A registered salesperson must not contravene a rule of conduct applying to the salesperson.

113 Review of disqualifications

- (1) The Tribunal may review a decision to disqualify a person from being licensed or registered.
- (2) On review, the Tribunal may:
 - (a) for a disqualification for a period—set another period as the disqualification period; or
 - (b) for an indefinite disqualification—set a period as the disqualification period.
- (3) A review under this section may be undertaken on the application of the Commissioner or the disqualified person.

114 Evidentiary certificates

- (1) In a proceeding under this Act, a certificate signed by the Commissioner stating any of the following matters is evidence of the matter so stated:
 - (a) that, on a stated day or during a stated period, a person was, or was not, the holder of a stated licence;
 - (b) that, on a stated day or during a stated period, a person was, or was not, registered as stated;
 - (c) that, on a stated day or during a stated period, a person's licence or registration was, or was not, suspended;
 - (d) that a document mentioned in the certificate is a copy of:
 - (i) a part of the register mentioned in the certificate; or
 - (ii) a document held by the Commissioner under this Act.
- (2) A document purporting to be a certificate under subsection (1) is taken, unless the contrary is proved, to be such a certificate and to be evidence of the matters it states.

115 Determination of fees

The Minister may, in writing, determine fees for this Act.

116 Approved forms

- (1) The Commissioner may, in writing, approve forms for use under this Act.
- (2) If the Commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

117 Regulation-making power

- (1) The Minister may make regulations for the purposes of this Act.
- (2) Without limiting subsection (1), a regulation may make provisions in relation to:
 - (a) applications for licences or registrations;
 - (b) renewals of licences and registrations;
 - (c) the surrender of licences and registrations;
 - (d) the keeping of accounts and other records by licensed agents and registered salespersons; and
 - (e) the transfer of a licensed agent's business to another licensed agent, including the transfer of trust money.
- (3) A regulation may prescribe offences and penalties for contraventions of this Act or of a regulation.

PART 12 — TRANSITIONAL PROVISIONS

118 Definitions for this Part

In this Part:

existing real estate agent means a person who carries on business as a real estate agent at the commencement of this Act;

existing real estate salesperson means a person who is employed as a real estate salesperson at the commencement of this Act.

119 Existing real estate agents and salespersons

- (1) The regulations may provide that:
 - (a) an existing real estate agent may continue in business as a real estate agent for a specified time before needing a licence under this Act; and
 - (b) an existing real estate salesperson may continue to be employed as a real estate salesperson for a specified time before needing to be registered under this Act.
- (2) However, a person is not entitled to continue as an agent or be employed as a salesperson under subsection (1) if the person:
 - (a) has been, or is, convicted (in Uganda or elsewhere) of an offence involving dishonesty; or
 - (b) is, or at any time in the previous 5 years has been, an undischarged bankrupt; or

- (c) has contravened, or contravenes, a requirement prescribed by regulation as a disqualifying breach.
- (3) A person is not disqualified from being registered merely because of subsection (2)(b), if the Commissioner is satisfied that the person took all reasonable steps to avoid the bankruptcy.

120 Educational requirements

- (1) The regulations may require that, as a condition of continuing in business as a real estate agent or being employed as a real estate salesperson, existing real estate agents or existing real estate salespersons acquire within a specified time specified educational qualifications in relation to the provision of real estate agent services.
- (2) The regulations may provide exemptions from subsection (1), either in specific cases or in general.

121 Persons not of good character or not fit and proper

- (1) The Commissioner may, on application by any person or on the Commissioner's own initiative, determine that a continuing real estate agent or continuing real estate salesperson:
 - (a) is not of good character; or
 - (b) is not a fit and proper person to be a continuing real estate agent or continuing real estate salesperson.
- (2) Before making a determination under subsection (1), the Commissioner must consider any submissions from the agent or salesperson.
- (3) If the Commissioner makes a determination under subsection (1):
 - (a) the Commissioner must notify the agent or the salesperson; and
 - (b) the agent or salesperson must, within five business days of the notification, cease to carry on business as a real estate agent or be employed a real estate salesperson.

Penalty: to be prescribed.

- (4) A person against whom the Commissioner makes a determination under subsection (1) may appeal to the Tribunal within 20 business days of the determination.
- (5) On appeal, the Tribunal must either:
 - (a) affirm the Commissioner's determination; or
 - (b) reverse the Commissioner's determination.
- (6) Pending the Tribunal hearing the case, the person must not carry on business as a real estate agent or be employed as a real estate agent.

- (7) The Commissioner may grant the person an exemption from the operation of subsection (6) if the Commissioner considers that no harm will be done to any member of the public by the exemption.

PART 13 —AMENDMENTS TO OTHER ACTS

122 Amendment to Auctioneers Act

The Auctioneers Act cap 270 is amended as follows:

Insert new section 3A:

3A Auctioneer of land to be licensed agent or registered salesperson

No licensed auctioneer shall hold an auction of land unless the auctioneer:

- (a) is a licensed real estate agent or a registered real estate salesperson under the Estate Agents Act 2008; or
- (b) is exempt for the time being from the need to be licensed or registered under Part 12 of that Act.

[END]