



LAWS OF MALAYSIA

Act A1404

**VALUERS, APPRAISERS AND ESTATE AGENTS
(AMENDMENT) ACT 2011**

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LAWS OF MALAYSIA**Act A1404****VALUERS, APPRAISERS AND ESTATE AGENTS
(AMENDMENT) ACT 2011**

An Act to amend the Valuers, Appraisers and Estate Agents Act 1981.

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ENACTED by the Parliament of Malaysia as follows:

Short title

1. This Act may be cited as the Valuers, Appraisers and Estate Agents (Amendment) Act 2011.

Amendment of section 2

2. The Valuers, Appraisers and Estate Agents Act 1981 [*Act 242*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) in the definition of “estate agency practice”—

- (i) by inserting after the word “public” the words “or to any individual or firm”; and
- (ii) by inserting after the words “letting of land and buildings and of any interest therein” the words “including the act of making known of the availability of land, building or any interest therein for such sale or other disposal, purchase or other acquisition, leasing or letting”;

- (b) in the definition of “prescribed”, by inserting after the word “guidelines,” the word “standards,”;
- (c) by inserting after the definition of “Appeal Board” the following definition:
- “applicant” means an individual registered valuer, appraiser or estate agent or a registered valuation, appraisal or estate agency firm, as the case may be;’;
and
- (d) in the definition of “property management” in paragraph (d), by substituting for the words “and purchase” the words “, purchase and lettings”.

Amendment of section 4

3. Section 4 of the principal Act is amended—

- (a) by inserting after subsection (1) the following subsection:
- “(1A) For the purposes of providing research services under paragraph (1)(bc), the Director General may—
- (a) carry out basic or applied research;
- (b) provide advisory or consultation services;
- (c) commission or employ any person to undertake the research;
- (d) disburse any grant; and
- (e) co-ordinate the carrying out of research undertaken by the Director General or any other person.”;
- and

(b) in subsection (4)—

- (i) by inserting after the word “in” the words “paragraph (1)(bc) and”; and
- (ii) by substituting for the words “such fees” the words “any person or class of persons such fees and charges”.

Amendment of section 10

4. Section 10 of the principal Act is amended—

(a) in paragraph (hb), by deleting the word “and” at the end of the paragraph; and

(b) by inserting after paragraph (hb) the following paragraphs:

“(hc) to prescribe the rules concerning the taking out of professional indemnity insurance for valuers, appraisers and estate agents against any class of professional liability;

(hd) to prescribe standards, directives, circulars or guidelines to carry out the provisions of Part III to Part VIII; and”.

New section 10A

5. The principal Act is amended by inserting after section 10 the following section:

“Committee

10A. (1) The Board may appoint such committees as the Board deems fit to assist it in performing its functions under this Act.

(2) A committee shall consist of two or more persons who are members of the Board or any other person as the Board deems fit.

(3) The procedure and functions of any committee appointed under subsection (1) shall be determined by the Board.

(4) The Board may, in writing, delegate to the committee any of its functions other than those which the Minister may by rules expressly require to be performed by the Board.”.

Amendment of section 12

6. Paragraph 12(2)(e) of the principal Act is amended—

- (a) by deleting the words “conducted by the Board”; and
- (b) by inserting after the word “brochures,” the word “directories,”.

Amendment of section 16

7. Section 16 of the principal Act is amended—

- (a) in subsection (1), by inserting after the words “form prescribed by the Board” the words “and subject to such conditions or restrictions as it may deem fit to impose”;
- (b) by inserting after subsection (1) the following subsection:

“(1A) For the purposes of subsection (1), the authority to practise as an individual registered valuer, appraiser or estate agent shall be subject to the condition that the practice is in accordance with section 23.”; and
- (c) in subsection (2), by substituting for the word “Minister” the word “Board”.

Amendment of section 17

8. Subsection 17(1) of the principal Act is amended by inserting after paragraph (aa) the following paragraphs:

- “(ab) he has not made a statement or affirmed or attested a document that is false or misleading in a material particular;
- (ac) he has not dishonestly concealed material facts;
- (ad) he has not furnished false information;”.

New section 17A

9. The principal Act is amended by inserting after section 17 the following section:

“Registration of probationary valuers

17A. (1) Subject to the provisions of this Act, every person shall be entitled to have his name entered as a probationary valuer under the Register of Probationary Valuers/Probationary Estate Agents upon making an application to the Board and proving to its satisfaction that—

- (a) he has attained the age of 21 years and is of sound mind, good character and has not been convicted of any offence involving fraud or dishonesty or moral turpitude during the five years immediately preceding the date of his application;
- (b) he is not an undischarged bankrupt;
- (c) he satisfies the requirements of section 18;
- (d) he has made a declaration in the form and manner prescribed by the Board;
- (e) he has paid the fees prescribed by the Board; and
- (f) he has submitted all documents as may be required by the Board.

(2) The Board may require the applicant to submit any additional documents as it considers relevant in order to be satisfied of any of the matters mentioned in subsection (1).”.

Amendment of section 19

10. Section 19 of the principal Act is amended—

- (a) in paragraph (a)—
 - (i) by inserting after the word “buildings” the words “and all interest therein”; and
 - (ii) by substituting for the words “or machinery” the words “, machinery, equipment”; and
- (b) in paragraph (b), by inserting after the word “buildings” the words “and all interest therein”.

Amendment of section 21

11. Section 21 of the principal Act is amended—

(a) in paragraph (1)(a), by inserting after the words “registered valuer or appraiser” the words “or that he is engaged in the practice or business”; and

(b) by inserting after subsection (3) the following subsection:

“(4) The provisions relating to restrictions on valuation practice in subsection (1) shall apply *mutatis mutandis* to a firm.”.

Amendment of section 22A

12. Subsection 22A(1) of the principal Act is amended by inserting after paragraph (a) the following paragraphs:

“(aa) he has not made a statement or affirmed or attested a document that is false or misleading in a material particular;

(ab) he has not dishonestly concealed material facts;

(ac) he has not furnished false information;”.

Amendment of section 22c

13. Section 22c of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a), by inserting after the word “agent” the words “or that he is engaged in estate agency practice or business”;

(ii) in paragraph (b)—

(A) by inserting after the word “signboard” the words “or poster”; and

(B) by inserting after the word “agent” the words “or that he is engaged in estate agency practice or business”;

(iii) in paragraph (ba)—

(A) by substituting for the words “sale or invite offers to purchase” the words “sale, rent or lease or invite offers to purchase, rent or lease”; and

(B) in the proviso to the paragraph, by inserting after the word “principal” the words “or an estate agent”; and

(iv) in paragraph (d), by inserting after the word “fees,” the word “commissions,”;

(b) in paragraph (2)(a), by inserting after the words “or rent” wherever appearing the words “or lease or sublease”; and

(c) by inserting after subsection (2) the following subsection:

“(3) The provisions relating to estate agency practice in subsections (1) and (2) shall apply *mutatis mutandis* to a firm.”.

New section 22E

14. The principal Act is amended by inserting after section 22D the following section:

“Registration of probationary estate agents

22E. (1) Subject to the provisions of this Act, every person shall be entitled to have his name entered as a probationary estate agent in the Register of Probationary Valuers/

Probationary Estate Agents upon making application to the Board and proving to its satisfaction that—

- (a) he has attained the age of 21 years and is of sound mind, good character and has not been convicted of any offence involving fraud or dishonesty or moral turpitude during the five years immediately preceding the date of his application;
- (b) he is not an undischarged bankrupt;
- (c) he satisfies the requirements of section 22D;
- (d) he has made a declaration in the form and manner prescribed by the Board;
- (e) he has paid the fees prescribed by the Board; and
- (f) he has submitted such documents as may be required by the Board.

(2) The Board may require the applicant to submit any additional documents as it considers relevant in order to be satisfied of any of the matters mentioned in subsection (1).”.

Amendment of section 23

15. Section 23 of the principal Act is amended—

- (a) in subsection (1), by inserting after the word “fee,” the word “commission,”;
- (b) by inserting after subsection (1) the following subsection:

“(1A) A sole proprietorship practising valuation, appraisal or estate agency, as the case may be, shall not be registered by the Board unless—

- (a) the sole proprietor of the sole proprietorship is a registered valuer, appraiser or estate agency, as the case may be;
- (b) the interest in the sole proprietorship is vested solely in the sole proprietor; and

(c) the sole proprietor of the sole proprietorship satisfies all the conditions specified by the Board.”;

(c) in subsection (2)—

(i) in paragraph (a), by substituting for subparagraphs (i), (ii) and (iii) the following subparagraphs:

“(i) in the case of a valuation practice—

- (A) solely registered valuers;
- (B) a combination of registered valuers, registered appraisals and registered estate agents; or
- (C) a combination of registered valuers and any other persons or bodies corporate;

(ii) in the case of an appraisal practice—

- (A) solely registered appraisers;
- (B) a combination of registered appraisals, registered valuers and registered estate agents; or
- (C) a combination of registered appraisers and any other persons or bodies corporate; and

(iii) in the case of an estate agency practice—

- (A) solely registered agents;
- (B) a combination of registered estate agents, registered valuers and registered appraisals; or
- (C) a combination of registered estate agents and any other persons or bodies corporate;”;

(ii) in paragraph (b)—

- (A) in subparagraph (ii), by deleting the word “and” at the end of the subparagraph; and

(B) by inserting after subparagraph (iii) the following subparagraph:

“(iv) in the case of a partnership or body corporate where all partners of the partnership or all directors and shareholders of the body corporate are a combination of registered valuers, registered appraisers and registered estate agents and any other persons or bodies corporate—

(A) in the case of a valuation practice, by a majority of valuers who hold the majority interest and the voting rights;

(B) in the case of an appraisal practice, by a majority of appraisers who hold the majority interest and the voting rights; and

(C) in the case of an estate agency practice, by a majority of estate agents who hold the majority interest and voting rights; and”;

(d) by inserting after subsection (4) the following subsection:

“(4A) Notwithstanding subsection (2) or (4), the Board shall cancel the registration of a firm if the Board finds that—

(a) the firm or any of its partners or directors breaches or fails to comply with or fails to carry out any of the terms, conditions or restrictions imposed by the Board upon granting the approval;

(b) the composition of the partners of the partnership or the directors of the body corporate practicing valuation, appraisal or estate agency does not comply with the requirement in subsection (2);

- (c) the shareholding of the partnership or body corporate practising valuation, appraisal or estate agency does not comply with the requirement in subsection (2);
 - (d) any partner of a partnership or director of a body corporate practising valuation, appraisal or estate agency, whether such a partner or a director is a registered valuer, appraiser or estate agent or otherwise, commits, or contributes to, any of the acts specified in paragraphs (a), (b) or (c); and
 - (e) the firm has contravened any of the provisions of this Act or any of the rules made thereunder.”; and
- (e) by inserting after subsection (6) the following subsections:

“(7) Where a registered valuer, registered appraiser or registered estate agent practising as a sole proprietor is removed from the register of Valuers, Appraisers and Estate Agents or is suspended from practice, he shall within thirty days from the date of such removal or suspension, satisfy the Board that he has made suitable arrangements for making available to his client some other registered valuer, registered appraiser or registered estate agent, as the case may be, during the period of his removal or suspension.

(8) The registered valuer, registered appraiser or registered estate agent shall, when making available to his client some other registered valuer, registered appraiser or registered estate agent under subsection (7)—

- (a) instruct the other registered valuer, registered appraiser or registered estate agent to—
 - (i) take over the management of his firm; and
 - (ii) receive and account for all sums of money due to the firm and held by him or his firm on behalf of his clients; and

(b) hand over to the other registered valuer, registered appraiser or registered estate agent all documents, books of accounts, records and vouchers and any other document in his possession or control.

(9) Where a registered valuer, registered appraiser or registered estate agent practising under a partnership arrangement is removed from the Register of Valuers, Appraisers and Estate Agents or suspended from practice, he shall, within thirty days from the date of such removal or suspension, satisfy the Board that he has made suitable arrangement to hand over all his clients and all relevant documents in his possession to his partner.

(10) Where a registered firm is removed from the Register of Firms or all its partners or directors are suspended from practice, the partners or directors shall, within thirty days from the date of such removal or suspension, satisfy the Board that they have made suitable arrangements for making available to their clients some other registered valuation, appraisal or estate agency firm, as the case may be, during the period of their removal or suspension.

(11) The partners or directors of a registered firm shall, when making available to their clients some other registered valuer, registered appraiser or registered estate agent under subsection (10)—

(a) instruct the other registered valuer, registered appraiser or registered estate agent to—

(i) take over the management of their firm; and

(ii) receive and account for all sums of money due to the firm and held by them or their firm on behalf of their clients; and

(b) hand over to the other registered valuer, registered appraiser or registered estate agent all documents, books of accounts, records and vouchers and any other document in their possession or control.

(12) Where a registered valuer, appraiser or estate agent fails to comply with subsection (7) or (10), the Board may appoint another registered valuer, appraiser or estate agent, as the case may be, to manage his firm if the Board considers that his firm needs to be maintained in the public interest or in the interest of his clients or profession.

(13) A registered valuer, appraiser or estate agent appointed under subsection (12) shall—

- (a) use his best endeavours to carry on and conduct the business in a proper and efficient manner;
- (b) receive and account for all sums of money due to the firm or held by him; and
- (c) make available for the Board's inspection the whole of the accounting or other records of the firm.

(14) Where the registered valuer, appraiser or estate agent practising as a sole proprietor is dead, all rights to operate or otherwise deal with any banking account in the name of the valuer, appraiser or estate agent or his firm shall, notwithstanding anything to the contrary in this Act, vest in the personal representative of the registered valuer, appraiser or estate agent and shall be exercisable as from the death of the registered valuer, appraiser or estate agent to its conclusion subject to the approval and supervision of the Board.

(15) For the purpose of subsection (14), “banking account” means a bank account into which clients' money has been paid.”.

Amendment of section 24

16. Section 24 of the principal Act is amended—

(a) in subsection (1)—

- (i) in paragraph (c), by substituting for the words “or 22A” the words “, 22A or 22B”;

- (ii) in paragraph (e), by inserting after the word “any” the words “conditions or”;
 - (iii) in paragraph (f), by deleting the word “or” at the end of the paragraph;
 - (iv) in paragraph (g), by substituting for the comma at the end of the paragraph a semicolon;
 - (v) by inserting after paragraph (g) the following paragraphs:
 - “(h) has allowed any unauthorized person to carry on valuation, appraisal or estate agency business in his name; or
 - (i) has carried on by himself, directly or indirectly, any profession, trade, business or calling which is incompatible with valuation, appraisal or estate agency practice,”;
 - (vi) in paragraph (iv)—
 - (A) by substituting for the word “five” the word “ten”;
 - (B) by substituting for the words “but without” the word “and”; and
 - (C) by deleting the word “or” at the end of the paragraph;
 - (vii) in paragraph (v)—
 - (A) by substituting for the word “ten” the words “twenty-five”; and
 - (B) by substituting for the full stop the word “; or” at the end of the paragraph; and
 - (viii) by inserting after paragraph (v) the following paragraph:
 - “(vi) prohibiting him from applying to the Board for registration until all the conditions specified by the Board have been complied with.”;
- (b) in subsection (3), by inserting after the words “such newspaper” the words “or any other media including the electronic media”; and

(c) by inserting after subsection (3) the following subsection:

“(3A) Any order made by the Board under paragraphs (1) (iii), (iv) and (v) may be published in such publication as the Board may deem fit if no appeal against the order is lodged under section 27 within forty days of the date of the making of the order.”.

Amendment of section 25

17. Section 25 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for paragraph (c) the following paragraph:

“(c) who has been certified by a government medical officer as being of unsound mind or by reason of some other infirmity of body, mind or any other reason, is incapable of effectively performing the functions of a registered valuer, appraiser or estate agent;”;

(ii) by inserting after paragraph (c) the following paragraph:

“(ca) who has been adjudged a bankrupt;”;
and

(iii) in paragraph (d), by inserting after the word “thereof” the words “or has failed to comply with any of the conditions of renewal”;

(b) in subsection (2), by inserting after the word “practise” the words “or, in the case of a probationary valuer or probationary estate agent, surrender his letter of registration to the Board”; and

(c) in subsection (3)—

(i) in paragraph (a), by deleting the word “or” at the end of the paragraph;

- (ii) in paragraph (b), by substituting for the full stop at the end of the paragraph the word “; or”; and
- (iii) by inserting after paragraph (b) the following paragraphs:
 - “(c) which has been dissolved or deregistered under the law under which it was incorporated or registered; or
 - (d) where any of the circumstances specified in paragraphs (1)(ca), (d) and (e) arises.”.

Amendment of section 29

18. Subsection 29(1) of the principal Act is amended by substituting for the word “writing” the words “the prescribed form”.

Amendment of section 30

19. Section 30 of the principal Act is amended—

- (a) by renumbering the existing section as subsection (1) of that section;
- (b) in subsection (1)—
 - (i) in paragraph (b), by inserting after the word “Register” the words “or Register of Probationary Valuer/Probationary Estate Agent or Register of Firms”;
 - (iii) in paragraph (h), by deleting the word “or” at the end of the paragraph
 - (iii) in paragraph (i)—
 - (A) by inserting after the word “section” the words “21 or”; and
 - (B) by substituting for the comma at the end of the paragraph the word “; or”;
 - (iv) by inserting after paragraph (i) the following paragraph:
 - “(j) aids and abets in the commission of an offence under this Act,”;

- (v) by substituting for the words “twenty-five” the words “three hundred”; and
 - (vi) by substituting for the words “five hundred” the words “one thousand”; and
- (c) by inserting after subsection (1) the following subsections:

“(2) Any person who, without any lawful authority—

- (a) acts as a valuer, appraiser or estate agent for any party or acts in any capacity as a valuer, appraiser or estate agent whether the primary or principal object of his business is valuation, appraisal or estate agency or whether any incidental part of his business is valuation, appraisal or estate agent; or
- (b) wilfully or falsely pretends to be, or takes or uses any name, title, addition or description implying that he is duly qualified or authorized to act as, a valuer, appraiser or estate agent, or that he is by law so qualified or authorized,

commits an offence and is liable on conviction to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(3) No costs, commission, fee, reward or any other consideration in respect of anything done by an unauthorised person in respect of any act which is an offence under subsections (1) or (2) shall be recoverable in any court.”.

Amendment of section 31

20. Subsection 31(1) of the principal Act is amended by substituting for the word “ten” the words “two hundred”.

