

PROVINCE OF BRITISH COLUMBIA
RULE OF THE BC FINANCIAL SERVICES AUTHORITY

Real Estate Services Act

The BC Financial Services Authority orders that, effective July 1, 2024, the Real Estate Services Rules, B.C. Reg. 209/2021, are amended as set out in the attached Schedule.

DEPOSITED

May 15, 2024

B.C. REG. 101/2024

March 8, 2024

Date



Chair, Board of Directors

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Real Estate Services Act*, S.B.C. 2004, c. 42, s. 89.2

Other: OIC 484/2021

R10673243

SCHEDULE

- 1 Section 1 of the Real Estate Services Rules, B.C. Reg. 209/2021, is amended**
- (a) by repealing the definition of “family partner”, and**
- (b) by adding the following definition:**
- “spouse” means a person who
- (a) is married to another person, or
 - (b) is living with another person in a marriage-like relationship; .
- 2 Section 6 (2) (c) (ii) is amended by striking out “or family partner”.**
- 3 Section 26 (1) is amended by striking out “these rules” and substituting “the provisions”.**
- 4 Section 26 (2) is amended**
- (a) by striking out everything before paragraph (a) and substituting “For the purpose of determining the amount of an administrative penalty, designated contraventions are divided into Categories A to F as follows:”;**
- (b) in paragraph (a) by striking out everything before subparagraph (i) and substituting “the following provisions of these rules are in Category A.”;**
- (c) in paragraph (a) by repealing subparagraph (v),**
- (d) in paragraph (b) by striking out everything before subparagraph (i) and substituting “the following provisions of these rules are in Category B.”;**
- (e) in paragraph (b) by adding the following subparagraphs:**
- (iv.1) section 28 (1) [*managing broker responsibilities – general*];
 - (v.1) section 28 (6) [*managing broker responsibilities – notice in writing to parties respecting deposits*];
 - (x) section 52 (3) [*promptly disclose substantive change in information in required disclosure*];
 - (xi) section 54 [*disclosure of representation in trading services*];
 - (xii) section 57 [*disclosure to sellers of expected remuneration*];
 - (xiii) section 58 [*disclosure of benefits – rental property and strata management services*];
 - (xiv) section 64 (3) [*disclosure to superintendent – dual agency in underserved remote location*];
 - (xv) section 73 (3) [*notice to superintendent – negative balance in trust account*]; ,
- (f) by adding the following paragraphs:**
- (b.1) section 7 (3) [*prohibition against providing real estate services outside licensee’s brokerage*] of the Act is in Category B;

(b.2) the following provisions of the Real Estate Services Regulation are in Category B:

- (i) section 8.2 (3) [*include standard terms respecting assignment of contract*];
- (ii) section 10.6 (1) [*controlling individual must meet all requirements to receive remuneration from personal real estate corporation*];
- (iii) section 10.6 (2) [*no engagement of controlling individual by a brokerage*];
- (iv) section 10.7 (1) [*personal real estate corporation must maintain attributes*];,

(g) in paragraph (c) by striking out everything before subparagraph (i) and substituting “the following provisions of these rules are in Category C:”;

(h) in paragraph (c) by adding the following subparagraphs:

- (x.1) section 31 (4) (b) [*no disclosure by brokerage of confidential information respecting a client*];
- (xvii) section 53 [*disclosure of interest in trade*];
- (xviii) section 55 [*disclosure of risks to unrepresented parties*];
- (xix) section 56 [*disclosure of remuneration*];
- (xx) section 57.1 [*disclosure to certain clients of right of rescission*];
- (xxi) section 64 (2) (a) [*disclosure to parties – dual agency in under-served remote location*];
- (xxii) section 65 [*addressing conflicts of interest when acting for multiple clients*];,

(i) by adding the following paragraphs:

(c.1) the following provisions of the Act are in Category C:

- (i) section 27 (1) [*payments to brokerage by licensee*];
- (ii) section 27 (2) [*payments into brokerage trust account by brokerage*];
- (iii) section 27 (5) [*restriction on money that can be paid into brokerage trust account*];
- (iv) section 66 (2) [*notice of court and discipline proceedings*];

(c.2) the following provisions of the Real Estate Services Regulation are in Category C:

- (i) section 8.2 (4) [*notice if licensee aware that buyer’s proposed contract does not include standard term respecting assignment of contract*];
- (ii) section 8.2 (5) [*notice if licensee’s proposed contract does not include standard term respecting assignment of contract*];
- (iii) section 8.2 (6) [*notice requirements if proposed contract does not include standard term respecting assignment of contract*];

- (iv) section 8.2 (7) *[notice by licensee providing trading services to the seller if proposed contract does not include standard term respecting assignment of contract];*,
- (j) in paragraph (d) by striking out everything before subparagraph (i) and substituting “the following provisions of these rules are in Category D:”;**
- (k) in paragraph (d) by adding the following subparagraphs:**
 - (iii.1) section 28 (4) *[managing broker responsibilities – trust accounts];*
 - (xii.31) section 75 *[annual financial statements, accountant’s report and brokerage activity report];*, **and**
- (l) by adding the following paragraphs:**
 - (d.1) the following provisions of the Act are in Category D:
 - (i) section 5 (4) *[brokerage licence required for each branch office];*
 - (ii) section 21 (2) *[brokerage must surrender inoperative, suspended or cancelled licence];*
 - (iii) section 25 *[brokerage records];*
 - (iv) section 26 *[brokerage must maintain trust account in British Columbia];*
 - (v) section 29 *[interest on trust account];*
 - (vi) section 30 (2) *[permitted withdrawals from brokerage trust account that the brokerage holds as stakeholder];*
 - (d.2) section 3.1 *[interest on trust account to foundation]* of the Real Estate Services Regulation is in Category D;
 - (e) the following provisions are in Category E:
 - (i) section 74 (1) *[superintendent review of brokerage accounts and other records]* of these rules;
 - (ii) section 37 (4) *[cooperation with superintendent’s investigation]* of the Act;
 - (f) the following provisions of these rules are in Category F:
 - (i) section 66 (1) *[payment by licensee to unlicensed persons prohibited];*
 - (ii) section 67 *[brokerage acting for unlicensed persons prohibited];*
 - (g) the following provisions of the Act are in Category F:
 - (i) section 3 (1) *[licence required to provide real estate services];*
 - (ii) section 7 (5) (a) *[brokerage relationship with other licensees];*
 - (iii) section 7 (5) (b) *[brokerage relationship with licensee licensed in relation to another brokerage];*
 - (iv) section 20 *[no real estate services if licence is inoperative or suspended];*
 - (v) section 21 (1) *[licensee must surrender inoperative, suspended or cancelled licence and cease holding themselves out as licensee].*

5 Section 27 is amended

- (a) in subsection (1) by striking out “a rule listed in Category A in section 26 (2) (a)” and substituting “a provision in Category A set out in section 26 (2) (a)”**,
- (b) in subsection (2) by striking out “a rule listed in Category B in section 26 (2) (b)” and substituting “a provision in Category B set out in section 26 (2) (b), (b.1) or (b.2)”**,
- (c) in subsection (3) by striking out “a rule listed in Category C in section 26 (2) (c)” and substituting “a provision in Category C set out in section 26 (2) (c), (c.1) or (c.2)”**,
- (d) in subsection (4) by striking out “a rule listed in Category D in section 26 (2) (d)” and substituting “a provision in Category D set out in section 26 (2) (d), (d.1) or (d.2)”**,
- (e) in subsection (4) (b) by striking out “specified rule” and substituting “specified provision” and by striking out “under section 56” and substituting “set out in section 56 (2)”, and**
- (f) by adding the following subsections:**
 - (5) For each contravention of a provision in Category E set out in section 26 (2) (e), the amount of the administrative penalty is as follows:
 - (a) a base penalty amount as follows:
 - (i) \$1 000 for a first contravention;
 - (ii) \$5 000 for a subsequent contravention;
 - (b) an additional \$1 000 for each day or part of a day on which the contravention of the specified provision continues up to the maximum amount set out in section 56 (2) [*designated contraventions and penalty amounts*] of the Act.
 - (6) For each contravention of a provision in Category F set out in section 26 (2) (f) or (g), the range of amounts of the administrative penalty is as follows:
 - (a) between \$5 000 and the maximum amount set out in section 56 (2) of the Act, for a first contravention;
 - (b) between \$10 000 and the maximum amount set out in section 56 (2) of the Act, for a subsequent contravention.

6 Section 51 is amended in the definition of “associate”

- (a) in paragraph (a) (i), (ii) and (iii) by striking out “a spouse or family partner of the licensee” and substituting “a spouse of the licensee”, and**
- (b) in paragraph (a) (ii) by striking out “the licensee, spouse or family partner” and substituting “the licensee or spouse”.**

- 7 ***Section 53 (2) (a) is amended by striking out “a spouse or family partner of the licensee” and substituting “a spouse of the licensee” and by striking out “the licensee, spouse or family partner” and substituting “the licensee or spouse”.***
- 8 ***Section 95 is amended***
- (a) in subsections (1) (a) (i) and 2 (b) (i) and (ii) by striking out “family partner,”, and***
- (b) in subsection (1) (a) (ii) (B) by striking out “or family partner”.***
- 9 ***Section 97 (2) is amended by striking out “or family partner” wherever it appears.***