

Hon Aupito William Sio
Associate Minister of Justice

Proactive release – Documents relating to the Real Estate Authority (Licensing) Amendment Regulations 2021

Date of issue: 23 March 2022

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1	Real Estate Agents (Licensing) Amendment Regulations 2021 <i>Cabinet Paper</i> Office of the Associate Minister of Justice Meeting date: 25/11/2021	All information has been released in full.
2	Real Estate Agents (Licensing) Amendment Regulations 2021 <i>Minute of Decision [LEG-21-MIN-0208]</i> Cabinet Office Meeting date: 25/11/2021	All information has been released in full.
3.	Real Estate Agents (Licensing) Amendment Regulations 2021 <i>Attachment to Cabinet Paper</i> Clerk of the Executive Council Meeting Date: 25/11/2021	All information has been released in full.

In Confidence

Office of the Associate Minister of Justice
Cabinet Legislation Committee

Real Estate Agents (Licensing) Amendment Regulations 2021

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Real Estate Agents (Licensing) Amendment Regulations 2021 (the Amendment Regulations).

Policy

- 2 The Real Estate Agents (Licensing) Amendment Regulations 2021 make two minor and technical policy changes to the Real Estate Agents (Licensing) Regulations 2009, to:
 - 2.1 update the educational prerequisites for agent, branch manager and salesperson licences following a recent review; and
 - 2.2 give the Registrar of the Real Estate Agents Authority (REA) the discretion to accept a prescribed qualification completed outside the period specified in the Regulations.

Updating prescribed qualifications for real estate licensing following review

- 3 In order to apply for a salesperson, branch manager, or agent licence, an applicant must have one of the prescribed qualifications that are listed in the Regulations. The prescribed qualifications were previously amended in 2017.
- 4 Earlier this year, the REA, the Real Estate Institute of New Zealand, and the Skills Organisation completed a review of the suite of qualifications to be used when applying for a licence. New qualifications were developed as part of the review.
- 5 The Regulations therefore need to be updated in order to ensure the new qualifications can be used when applying for a real estate agent licence. The Amendment Regulations update the prescribed qualifications to reflect the findings of the review, by:
 - 5.1 including the New Zealand Certificate in Real Estate, Levels 5 and 6 (new qualifications); and
 - 5.2 removing the New Zealand Diploma in Business (Real Estate) (Level 6) (which has never been developed or delivered).

Creating a discretion for the REA to accept older qualifications

- 6 The Amendment Regulations also give the Registrar of the REA the discretion to accept a prescribed qualification completed by an applicant outside the time period specified in the Regulations, if satisfied that the applicant can demonstrate sufficient knowledge of real estate agency work.
- 7 This change addresses the unintended consequences of the current requirement in the Regulations, which specify a period within which prescribed qualifications must be completed for them to be recognised for a licence application. This requirement may affect applicants wishing to begin work in the industry after time spent elsewhere, such as those who:
 - 7.1 are returning to the workforce after caring for children or other family members, or have been ill;
 - 7.2 have worked in a related industry such as residential property management and would now like to undertake real estate agency work; or
 - 7.3 have completed their Level 5-6 branch manager or agent qualifications recently, but whose qualifications will expire before they obtain the necessary three years' experience to apply for licences.
- 8 The policy intent of the existing rule is to ensure that licensees have a certain level of appropriate knowledge that makes them fit to hold a licence. This acts as a safeguard to protect consumers, which is one of the objectives of the regulatory scheme. The proposed discretion would not affect this policy intent. Applicants with older qualifications would still need to demonstrate competence at the applicable qualification level by fulfilling any additional conditions which may be imposed by the REA.

Timing and 28-day rule

- 9 The Amendment Regulations would come into force on 1 February 2022, which will allow students wishing to enrol in real estate courses in the 2022 academic year to plan accordingly. If agreed by Cabinet, the Amendment Regulations can be submitted to the Executive Council meeting on 29 November for the Governor-General's approval and published in the *Gazette* on 2 December. This will allow for the requisite 28 days between publication and the Regulations coming into force.

Compliance

- 10 These regulatory changes comply with:
 - 10.1 the principles of the Treaty of Waitangi;
 - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 10.3 the principles and guidelines set out in the Privacy Act 2020;

10.4 relevant international standards and obligations;

10.5 the Legislation Guidelines (2018 edition).

Regulations Review Committee

- 11 There are no apparent grounds for the Regulations Review Committee to draw the Amendment Regulations to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

- 12 Parliamentary Counsel has certified the attached Amendment Regulations as being in order for submission to Cabinet.

Impact Analysis

- 13 The Treasury's Regulatory Impact Analysis team has determined that the proposals to amend the Regulations are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that they have no or only minor impacts on businesses, individuals and not-for-profit entities.

Publicity

- 14 The REA will notify relevant industry stakeholders of the changes once the Regulations are notified in the Gazette.

Proactive release

- 15 I propose to proactively release this paper within 30 working days of its consideration, subject to any redactions under the Official Information Act 1982.

Consultation

- 16 The REA have been consulted on the draft regulations and supported the proposed changes. The Real Estate Institute of New Zealand have also been informed of the changes.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** the Associate Minister of Justice has agreed to minor and technical amendments to the Real Estate Agents (Licensing) Regulations 2009, to:
 - 1.1 update the educational prerequisites for agent, branch manager and salesperson licences; and
 - 1.2 give the Registrar of the Real Estate Agents Authority the discretion to accept a prescribed qualification completed outside the period specified in the regulations;

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- 2 **note** that the Real Estate Agents (Licensing) Amendment Regulations 2021 will give effect to the decision referred to in paragraph 1 above;
- 3 **authorise** the submission to the Executive Council of the Real Estate Agents (Licensing) Amendment Regulations 2021;
- 4 **note** that the Real Estate Agents (Licensing) Amendment Regulations 2021 will come into force on 1 February 2022.

Authorised for lodgement

Hon Aupito William Sio
Associate Minister of Justice

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Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Real Estate Agents (Licensing) Amendment Regulations 2021

Portfolio Justice

On 25 November 2021, the Cabinet Legislation Committee:

- 1 **noted** that the Associate Minister of Justice (Hon Aupito William Sio) has agreed to minor and technical amendments to the Real Estate Agents (Licensing) Regulations 2009 to:
 - 1.1 update the educational prerequisites for agent, branch manager and salesperson licences; and
 - 1.2 give the Registrar of the Real Estate Agents Authority the discretion to accept a prescribed qualification completed outside the period specified in the regulations;
- 2 **noted** that the Real Estate Agents (Licensing) Amendment Regulations 2021 will give effect to the decision referred to in paragraph 1 above;
- 3 **authorised** the submission to the Executive Council of the Real Estate Agents (Licensing) Amendment Regulations 2021 [PCO 24053/6.0];
- 4 **noted** that the Real Estate Agents (Licensing) Amendment Regulations 2021 will come into force on 1 February 2022.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Jan Tinetti
Hon Kiri Allan
Hon Dr David Clark
Keiran McAnulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Real Estate Agents (Licensing) Amendment Regulations 2021

Order in Council

At Wellington this day of 2021

Present:
in Council

These regulations are made under section 156 of the Real Estate Agents Act 2008 on the advice and with the consent of the Executive Council.

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Regulations

- 1 Title**
These regulations are the Real Estate Agents (Licensing) Amendment Regulations 2021.
- 2 Commencement**
These regulations come into force on 1 February 2022.

3 Principal regulations

These regulations amend the Real Estate Agents (Licensing) Regulations 2009.

4 Regulation 12 amended (Prescribed qualification to obtain salesperson's, branch manager's, or agent's licence)

- (1) After regulation 12(1)(b)(iii), insert:
(iiia) the New Zealand Certificate in Real Estate (Level 5):
- (2) Replace regulation 12(1)(c)(iii) with:
(iii) the New Zealand Certificate in Real Estate (Level 6):
- (3) After regulation 12(2), insert:
- (3) However, the Registrar may accept a qualification listed in subclause (1) completed outside a period specified in subclause (2) as a prescribed qualification if satisfied that the applicant can demonstrate sufficient knowledge of real estate agency work.

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 February 2022, amend the Real Estate Agents (Licensing) Regulations 2009.

Clause 4 amends regulation 12, which prescribes qualifications necessary before a person is entitled to be licensed as a salesperson, branch manager, or an agent, to—

- prescribe the New Zealand Certificate in Real Estate (Level 5) as a further qualification that may be completed by a person applying to be licensed as a branch manager (see *new regulation 12(1)(b)(iiia)*):
- prescribe the New Zealand Certificate in Real Estate (Level 6) as a qualification that may be completed by a person applying to be licensed as an agent in place of the New Zealand Diploma in Business (Real Estate) (Level 6) (see *new regulation 12(1)(c)(iii)*):
- allow the Registrar of the Real Estate Agents Authority to accept a qualification listed in regulation 12 (1) completed by an applicant outside a period specified in regulation 12(2) as a prescribed qualification if satisfied that the applicant can demonstrate sufficient knowledge of real estate agency work (see *new regulation 12(3)*).

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Justice.

Approval to proactively release documents

To	Hon Aupito William Sio, Associate Minister of Justice
From	Anna Johnston, Policy Manager, Civil Law and Human Rights Policy
Date	18 March 2022
Subject	Proactive release of documents relating to the Real Estate Authority (Licensing) Amendment Regulations 2021

Purpose

1. This paper seeks your approval to publish documents relating to the Real Estate Authority (Licensing) Amendment Regulations 2021 on the Ministry's website on 18 March 2022 in accordance with the Government's policy on proactive release of Cabinet and related material [[CO \(18\) 4](#)].
2. This Cabinet paper states that you intend to proactively release them

Information to be released

(1) Cabinet Paper – *Real Estate Agents (Licensing) Amendment Regulations 2021*

3. We recommend releasing this document in full.

(2) Cabinet Minute - *Real Estate Agents (Licensing) Amendment Regulations 2021*

4. We recommend releasing this document in full

(3) Attachment to Cabinet Paper – *Real Estate Agents (Licensing) Amendment Regulations 2021*

5. We recommend releasing this document in full.

Issues

6. We recommend releasing these documents in full. The Amendment Regulations make two minor and technical changes to real estate licencing requirements and their release is not likely to attract wider media, political or public attention.

Timing

7. It is Government policy to proactively release Cabinet papers and supporting documents within 30 business days after final decisions are taken by Cabinet, unless there is a good reason not to publish all or part of the material, or to delay the release beyond 30 business days.

8. The *Real Estate Agents (Licensing) Amendment Regulations 2021* Cabinet Paper was considered by the Cabinet Legislation Committee on the 29th Nov 2021. The 30th business day following is 4th February 2022.
9. This paper and associated Cabinet minute are therefore overdue for release under the policy.

Consultation

10. We consulted the Real Estate Authority on this proactive release because of the paper's content. They had no concerns with the release of the information relating to the Real Estate Agents (Licensing) Amendments Regulations.

Publication details

11. The proposed publication details are set out in the **appendix**.

Recommendations

12. It is recommended that you **approve publication** of the following documents on the Ministry's website as soon as possible:

No.	Document	Comments	Approval
1	Cabinet Paper: Real Estate Agents (Licensing) Amendment Regulations 2021 <i>25th November 2021</i>	We recommend it is released in full.	Yes / No
2	Cabinet Minute: Real Estate Agents (Licensing) Amendment Regulations 2021	We recommend it is released in full.	Yes / No

No.	Document	Comments	Approval
3	Attachment to Cabinet Paper: Real Estate Agents (Licensing) Amendment Regulations 2021	We recommend it is released in full.	Yes / No



Anna Johnston
Policy Manager, Civil Law and Human Rights

APPROVED

SEEN

NOT AGREED



Hon Aupito William Sio
Minister of Justice

Date 21 / 03 / 2022

Attachments:

- Draft pack for publication

Appendix – publication details

13. The documents will be published as soon as possible.
14. The following table outlines the details for loading the documents onto the external website.

Topic	Cabinet and Related Material OR Policy
Category	For Cabinet topic: All For Policy Topic: Cabinet Papers
Title	Proactive release – Documents relating to the Real Estate Authority (Licensing) Amendment Regulations 2021
Description	The Cabinet paper, attachment and minutes for the Real Estate Authority (Licensing) Amendment Regulations 2021.
Key words	Proactive release: Real Estate Authority (Licensing) Amendment Regulations 2021 Cabinet Paper Minute Attachment
Content owner <i>This must be a person</i>	Elizabeth Hocking, Advisor 2, Civil Law and Human Rights
Business unit and group	Policy Group, Ministry of Justice
Owner's email address <i>Use a generic team address if you have one – eg, teamname@justice.govt.nz</i>	elizabeth.hocking@justice.govt.nz