

# Estate Agents (Amendment) Bill

## NOTES ON CLAUSES

*Clause 1* is a clause in the usual form containing provisions relating to the short title and commencement date of the Act.

*Clause 2* inserts new sub-sections into section 6 of the *Estate Agents Act 1980* (hereinafter called "the Act") the effect of which is to preserve the Public Service rights of the Chairman of the Board should the person appointed to that position have been a Public Servant immediately prior to his appointment.

*Clause 3* amends section 15 (3) and inserts a new sub-section (3A) to clarify that the Board can only impose conditions upon sub-agent directors after the five year period commencing 23 April 1980 has elapsed.

*Clause 4* provides by appropriate amendments to various sections that licence applications need not be lodged in duplicate.

*Clause 5* amends paragraph (a) of section 21 (9) of the Act to take account of the fact that the Act did not become operational prior to July 1980.

*Clause 6* inserts new sub-sections (5) and (5A) into section 23 of the Act to take account of the fact that the Act did not become operational prior to June 1980 and to credit sub-agent licence holders at the time the Principal Act commences with part of the licence fee for the period 1 July 1981 to 31 December 1981.

*Clause 7* inserts new sub-sections into section 30 of the Act which preclude an agent from managing the day to day operation of more than one estate agency office and give the Board a discretion to determine that a person is eligible to apply for approval to manage a specified branch office by virtue of his experience and qualifications notwithstanding that he does not possess the formal criteria.

*Clause 8* inserts a new section 30A into the Act which sets out the procedure to be followed when the manager of an estate agency office is absent on leave.

*Clause 9* simply amends section 36 (9) of the Act by substituting the expression "23 April" for the expression "11 March".

*Clause 10* repeals the proviso in section 37 (1) of the Act.

*Clause 11* substitutes the word "court" for the word "Board" in section 50 (4) of the Act.

*Clause 12* amends section 59 (1) (c) of the Act by removing the requirement that all payments out of an estate agent's trust account have to be in the form of a "crossed" cheque marked "not negotiable".

*Clause 13* amends section 60 (1) of the Act by inserting the word "bank" after the word "trust" (wherever occurring).

*Clause 14* amends section 73 of the Act in a manner such as to ensure the more effective operation and administration of the Estate Agents Guarantee Fund.

*Clause 15* amends section 75 of the Act so as to ensure the more effective operation and administration of the Estate Agents Guarantee Fund.

*Clause 16* simply repeals the word "Account" in section 76 of the Act.

*Clause 17* inserts a new section 86 into the Act. This new section 86 provides for the situations where the Estate Agents Guarantee Fund is insufficient to meet payments required to be made out of the Fund. It does this by providing that the Treasurer may advance money to the Fund or alternatively empowers the Board with the approval of the Treasurer to borrow such moneys as are necessary to meet any required payments. The balance of the new section provides for the return of any moneys advanced and sets out the Treasurer's role in relation to moneys borrowed by the Board.

*Clause 18* substitutes a new section 89 into the Act. This new section, as did the old section 89, provides that the Minister may direct that an estate agent's trust account is to be frozen where a claim has been made against the Fund. The new section also provides that the Minister may direct the freezing of an estate agent's trust account in circumstances where he has reasonable grounds for believing that there has been a contravention on the part of that person of the provisions of Part VI. of the Act.

*Clause 19* repeals section 100 of the Principal Act.

*Clause 20* provides that any moneys advanced by the Treasurer prior to the commencement of the Act for the purposes of setting up the Board or the Fund shall be a charge on the Fund and be repaid in such manner as the Treasurer directs.