

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT
MUZAFFARBAD

Dated the 7th April, 1986.

No. 616/LD/Leg (A)/86. The following Act of the Assembly received the assent of the President on the 6th day of March, 1986, is hereby published for general information.

(ACT XXXVIII OF 1986)

AN
ACT

to regulate the business of real Estate Agents and Motor Vehicles dealers in Azad Jammu and Kashmir

WHEREAS it is expedient to regulate the business of real Estate agent and motor vehicles dealers in Azad Jammu and Kashmir, in the manner hereafter appearing:

It is hereby enacted as follows: -

1. Short title, Extent and Commencement. - (1) This Act may be called the Real Estate Agent and Motor Vehicles Dealers (Regulations of Business) Act, 1986.

(2) It shall extend to the whole of Azad Jammu and Kashmir
(3) It shall come into force at once

2. Definitions: - In this Act unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them.

(a) "Government" means the Azad Government of the State of Jammu and Kashmir

(b) "Motor vehicle" means any propelled vehicle adapted for upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a tractor, a trailer and a chassis to which a body has not been attached;

(c) "Motor vehicles dealer means a person who arranges or negotiates any transaction of sale, exchange, transfer or pledge of a motor vehicle in consideration of some commission or other remuneration in cash or otherwise or who deals in sale or purchase of motor vehicles;

(d) "prescribed" means prescribed by rules;

(e) "real estate" means immovable property, including land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(f) "real estate agent" means a person who arranges or negotiates any transaction of sale, exchange, mortgage, lease or tenancy of a real estate in consideration of some commission or other remuneration in cash or otherwise; and

(g) "registering authority" means the District Excise and Taxation Officer or any other officer notified by the Government for the purpose, in whose jurisdiction the ordinary place of business of the real estate agent or the motor vehicles dealer is situated.

Prohibition of business without registration: - (1) No person shall engage in or carry on the business of a real estate agent or a motor vehicles dealer unless he is registered with the registering authority and holds a valid certificate issued by such authority:

Provided that in the case of a person who is already carrying on the business of a real estate agent or a motor vehicles dealer on the date of commencement of this Act, this provision shall not be applicable until the expiry of a period of ninety days from the date of such commencement.

(2) A person already carrying on the business of a real estate agent or a motor vehicle dealer on the date of commencement of this Act shall apply for a certificate of registration within a period of ninety days from the date of such commencement.

(3) if any person already carrying on the business of a real estate agent or a motor vehicles dealer on the date of commencement of this Act fails to apply for a certificate of registration as required under sub-section (2), the registering authority may, instead of taking action against him under the penal provisions of this Act, entertain his application for grant of a certificate of registration on payment of a penalty which shall be Rupees five hundred if the application is made within a period of six months and Rupees, one thousand if it is made within a period of one year from the date of commencement of this Act.

Disqualification. - No person shall be registered as a real estate agent or a motor vehicles dealer and granted a certificate of registration if he: -

(a) is a minor; or

(b) is found to be of unsound mind by a court of competent jurisdiction; or

(c) is a declared insolvent; or

(d) has been found guilty of criminal misappropriation or criminal breach of trust or cheating or any other offence involving moral

turpitude or an abetment of or attempt to commit any such offence by a court of competent jurisdiction:

Provided that this disqualification will not operate if a period of three years has elapsed since the completion of the sentence imposed on any person in respect of any such offence.

Procedure for registration.- (1) A person who wishes to obtain a certificate of registration to engage in or carry on the business of a real estate agent or a motor vehicles dealer shall make an application to the registering authority concerned in such form and manner and on payment of such fee and furnishing of such security as may be prescribed:

Provided that such fee shall not be more than rupees two thousand.

(2) The registering authority, on being satisfied that this applicant has fulfilled all the requirement and does no suffer from any of the disqualifications laid down in section 4, shall register him as a real estate agent or a motor vehicles dealer, as the case may be, and grant him a certificate in the prescribed form.

Renewal of registration.- (1) A certificate of registration issued under section 5 shall be valid for period of one year only and shall be renewable annually.

(2) A real estate agent or a motor vehicle dealer who wishes to get his certificate of registration renewed shall, within thirty days preceding the date of expiry of his certificate, apply to the registering authority concerned in such form and manner and on payment of such fee as may be prescribed:

Provided that such fee shall not be more than rupees six hundred.

(3) The registering authority, on being satisfied that the applicant has fulfilled all the requirements and does not suffer from any of the disqualifications laid down in section 4, shall grant a certificate of renewal of registration in the prescribed form.

(4) If real estate agent or a motor vehicles dealer fails to apply for the renewal of his certificate of registration within the period provided in sub-section (2), the registering authority may, instead of taking action against him under penal provisions of this Act, entertain his application for renewal of registration on payment of a penalty of rupees one hundred if the application is made within one month and rupees five hundred if it is made within three months of the date when the renewal was due.

Fixation of commission.- Government may prescribe maximum rate of commission or remuneration which a real estate agent or

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a motor vehicles dealer may charge on any transaction of real estate or motor vehicle arranged or negotiated by him.

Maintenance of record and account etc.- (1) A real estate agent and a motor vehicles dealer shall maintain such accounts and other record of the transactions arranged, negotiated or made by him and in such manner as may be prescribed.

(2) A real estate agent and a motor vehicles dealer shall, as and when required to do so, produce the accounts and other record maintained by him under sub-section (1) before such officer or authority as may be prescribed and shall also supply such information and in such form and within such time as may be required by the authority.

Cancellation and suspension of registration. - (1) The registering authority may, by an order in writing, cancel or

suspend a certificate for such period not exceeding three months for a first breach and not exceeding six months for a second or subsequent breach, as may be specified in that order, if it is satisfied that real estate agent or a motor vehicles dealer has committed a breach of any of the conditions of the certificate or has committed any of the following malpractices:-

(i) has maintained or submitted incorrect account of the transactions;

(ii) has arranged or negotiated transaction knowing that there was defect in the title of the real estate or the motor vehicles; or

(iii) has charged commission or remuneration at a rate higher than that prescribed;

Provided that no such order shall be passed without giving the person concerned an opportunity to show cause within fifteen days from the date of issue of show cause notice.

(2) Any person aggrieved by an order passed under sub-section (1) may, within thirty days of the passing of the order, prefer an appeal to the Collector, Excise and Taxation, concerned and the decision of the said Collector shall be final.

Offence.- (1) A person who contravenes any of the provisions of this Act shall be punishable with simple imprisonment which may extend to six months or fine which may extend to Rupees five thousand or both.

(2) No court shall take cognizance of an offence under this Act except on a complaint made in writing by the registering

authority.

(3) The offences under this Act shall be bailable.

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Power to make rules. - (1) Government may make rules for carrying into effect the purposes of this Act.

Sayings.- Notwithstanding any judgment, decree or Order of any court including high Court, every thing done, all actions taken, notifications issued, Orders or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions of the Real Estate Agents and Motor Vehicles Dealers (Regulations of Business) Ordinance, 1980 (Ordinance CCXX of 1980) or its succeeding Ordinances issued from time to time shall be deemed to have been validity done, taken, issued, made initiated or exercised under this Act.

Repeal.- The Real Estate Agent and motor Vehicles Dealer (Regulation of Business) Ordinance, 1986 Ordinance I of 1986 is hereby repealed.

Sd/-
(Syed Atta Mohy-ud-Din Qadri)
Deputy Secretary Law.