

THE [KHYBER PAKHTUNKHWA] REAL ESTATE AGENTS AND
MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS)
ORDINANCE, 1983.

*[KHYBER PAKHTUNKHWA] ORDINANCE NO. VIII OF 1983.

[30 June, 1983]

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AN
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to regulate the business of real estate agents and motor vehicles dealers in the
3[Khyber Pakhtunkhwa].

WHEREAS it is expedient to regulate the business of Preamble.
real estate agents and motor vehicles dealers in the “[Khyber
Pakhtunkhwa], in the manner hereinafter appearing;

AND WHEREAS the Governor of the *[Khyber
Pakhtunkhwa] is satisfied that circumstances exist which
render it necessary to take immediate action.

NOW, THEREFORE, in pursuance of the
Proclamation of the fifth day of July, 1977, and in exercise
of all powers enabling him in that behalf, the Governor of
the °[Khyber Pakhtunkhwa] is pleased to make and
promulgate the following Ordinance:

1. (1) This Ordinance may be called the [Khyber Short title, extent and
Pakhtunkhwa] Real Estate Agents and Motor Vehicles ©™mmencement.
Dealers (Regulation of Business) Ordinance, 1983.

(2) It shall extend to whole of the [Province of
the Khyber Pakhtunkhwa].

- 1 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.
- 2 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.
- 3 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.
- 4 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.
- 5 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.
- 6 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.
- 7 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.
- 8 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

(3) — It shall come into force at once.

2. In this Ordinance, unless the context otherwise Definitions. requires,—

(a) "Government" means the Government of the [Khyber Pakhtunkhwa];

(b) "motor vehicle" means any propelled vehicle adapted for use 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, purchase or rent] of motor vehicles;

(d) — "prescribed" means prescribed by rules made under this Ordinance;

(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;

a) "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

1 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

2 Substituted vide Khyber Pakhtunkhwa Act No. XI of 2009.

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

3. (1) No person shall engage in or carry on the Prohibition of business of a real estate agent or a motor vehicles dealer business without unless he is registered with the registering authority and registration. 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 Ordinance, 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 vehicles dealer on the date of commencement of this Ordinance 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 Ordinance 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 Ordinance, entertain his application for grant of a certificate or registration on payment of a penalty which shall be five hundred rupees if the application is made within a period of six months and one thousand rupees if it is made within a period of one year from the date of the commencement of this Ordinance.

4. No person shall be registered as a real estate agent Disqualification. 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 declared insolvent ; or

(qd) 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.

5. (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 '[] as may be prescribed.

(2) 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 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.

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

(2) A real estate agent or a motor vehicles 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.

1 Omitted vide the Khyber Pakhtunkhwa Act No. XI of 2009.

Procedure for registration.

Renewal of registration.

(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 a 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 the penal provisions of this Ordinance, entertain his application for renewal of registration on payment of a penalty of one hundred rupees if the application is made within one month and five hundred rupees if it is made within three months of the date when the renewal was due.

7. Government may prescribe maximum rate of commission or remuneration which a real estate agent or a motor vehicles dealer may charge on any transaction of real estate or motor vehicle arranged or negotiated by him.

8. (1) A real estate agent and 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.

9. (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 a 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 mal-practices;

Fixation of commission.

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registration.

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

(b) has arranged or negotiated a transaction knowing that there was a defect in the title of the real estate; or

(c) — 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 Director, Excise and Taxation, and the decision of the said Director shall be final.

[Provided that no such decision shall be made without giving the person concerned an opportunity of being heard.]

10. (1) A person who contravenes any of the Offence. provisions of this Ordinance shall be punishable with

simple imprisonment which may extend to six months or with fine which may extend to twenty five thousand rupees or with both.

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

(3) | The offences under this Ordinance shall be bailable.

11. Government may make rules for carrying into effect Power to make rules.

1 Inserted by Khyber Pakhtunkhwa Act No. II of 1985. S.2. read with Schedule-I.

the purposes of this Ordinance.

LIEUTENANT GENERAL FAZLE HAQ
GOVERNOR OF THE KHYBER PAKHTUNKHWA
Peshawar,
dated the
29 June, 1983.