

WORKSHOP ON THE REAL ESTATE (EXEMPTIONS) REGULATIONS 2017

Presenter:

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Objective of Workshop

- What the NZIF exemption under the Real Estate Agents Act will mean for you
- Do you know if you may be breaching the Real Estate Agents Act?
- What is the exemption that NZIF has sought and that has been granted?
- When will it come into force?
- What does it mean for the NZIF registration scheme and for registered members?
- What are the implications for other NZIF members?

Outline of Workshop

- Background
- Application for exemption
- Conditions of Exemption
- Issues to Consider
- Conclusion

Real Estate Agents Act – Section 6

6 Persons may not carry out real estate agency work unless licensed or exempt

- (1) A person must not carry out any real estate agency work unless the person—
 - (a) is licensed under this Act and acts within the scope of that licence; or
 - (b) is exempt from the licensing requirement under any of sections 7 to 9 or under another enactment.
- (2) No person may hold himself or herself out to the public as ready to carry out any agency work if that person is not licensed under this Act or exempt from the licensing requirement under any of sections 7 to 9 or under another enactment.
- (3) For the purposes of this section, it is immaterial whether or not a person carries out any agency work as a business in its own right or as part of, or in connection with, any other business.

Real Estate Agency Work

- (a) means any work done or services provided, in trade, on behalf of another person for the purpose of bringing about a transaction; and
- (b) includes any work done by a branch manager or salesperson under the direction of, or on behalf of an agent to enable the agent to do the work or provide the services described in paragraph (a);

But does not include -

Real Estate Agency Work (ctd)

- (c) does not include—
 - (i) the provision of general advice or materials to assist owners to locate and negotiate with potential buyers; or
 - (ii) the publication of newspapers, journals, magazines, or websites that include advertisements for the sale or other disposal of any land or business; or
 - (iii) the broadcasting of television or radio programmes that include advertisements for the sale or other disposal of any land or business; or
 - (iv) the lending of money on mortgage or otherwise; or
 - (v) the provision of investment advice; or
 - (vi) the provision of conveyancing services within the meaning of the Lawyers and Conveyancers Act 2006

Definition of “Transaction”

means any 1 or more of the following:

- (a) the sale, purchase, or other disposal or acquisition of a freehold estate or interest in land:
 - (b) the grant, sale, purchase, or other disposal or acquisition of a leasehold estate or interest in land (other than a tenancy to which the Residential Tenancies Act 1986 applies):
 - (c) the grant, sale, purchase, or other disposal or acquisition of a licence that is registrable under the Land Transfer Act 1952:
 - (d) the grant, sale, purchase, or other disposal or acquisition of an occupation right agreement within the meaning of the Retirement Villages Act 2003:
 - (e) the sale, purchase, or other disposal or acquisition of any business (either with or without any interest in land).
- (2) To avoid doubt, the sale, purchase, or other disposal or acquisition of shares comes within the definition of transaction in subsection (1) if, and only if, the shares entitle the holder to a licence that is registrable under Part 7A of the Land Transfer Act 1952.

Exemptions

7 Exemption for lawyers and conveyancers

- (1) This section applies to any person who is—
- (a) a lawyer within the meaning of the Lawyers and Conveyancers Act 2006 or a person acting under the supervision of such a lawyer; or
 - (b) a conveyancing practitioner within the meaning of the Lawyers and Conveyancers Act 2006 or a person acting under the supervision of such a conveyancing practitioner; or
 - (c) an incorporated firm within the meaning of the Lawyers and Conveyancers Act 2006.

8 Exemption for licensed auctioneers

A person who is registered as an auctioneer under the Auctioneers Act 2013 may sell or offer to sell any land by auction.

9 Exemption under regulations

A person who is exempted by a regulation made under section 156(1)(a) may, in accordance with that regulation, carry out real estate agency work.

Offences and Penalties

138 General penalty

Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$40,000; or
- (b) in the case of a company, to a fine not exceeding \$100,000.

141 Offence to carry on business of agent, branch manager, or salesperson unless licensed or exempt

A person commits an offence if the person carries out any real estate agency work without—

- (a) being licensed to do so under this Act; or
- (b) being exempt from the requirement to be licensed.

Real Estate Work

means any work done or services provided, in trade, on behalf of another person for the purpose of bringing about a transaction

The five key parts of the definition are:

- Any work done, or
- Services provided;
- In trade (i.e. there is payment for the work &/or services)
- On behalf of another person; and
- For the purposes of bringing about a transaction

Definition of “Transaction”

means any 1 or more of the following:

- (a) the sale, purchase, or other disposal or acquisition of a freehold estate or interest in land:
 - (b) the grant, sale, purchase, or other disposal or acquisition of a leasehold estate or interest in land (other than a tenancy to which the Residential Tenancies Act 1986 applies):
 - (c) the grant, sale, purchase, or other disposal or acquisition of a licence that is registrable under the Land Transfer Act 1952:
 - (d) the grant, sale, purchase, or other disposal or acquisition of an occupation right agreement within the meaning of the Retirement Villages Act 2003:
 - (e) the sale, purchase, or other disposal or acquisition of any business (either with or without any interest in land).
- (2) To avoid doubt, the sale, purchase, or other disposal or acquisition of shares comes within the definition of transaction in subsection (1) if, and only if, the shares entitle the holder to a licence that is registrable under Part 7A of the Land Transfer Act 1952.

Definition of Land

Land includes all estates and interests, whether freehold or chattel, in real property, and includes any building and any part of a building, and any licence that is registrable under the Land Transfer Act 1952, and any occupation right agreement within the meaning of the Retirement Villages Act 2003; and, in relation to any transaction relating to land that also relates to any goods, chattels, or other property, also includes those goods or chattels and that other property

Scenario 1 - Acquisition of Freehold Site for a new forest

Tasks include:

- Locate and assist in identifying suitable land
- View land
- Try to match buyers and sellers
- Project feasibility analysis:
 - consider access, proximity to ports & processors, environmental factors, etc.
 - prepare financial calculations, etc.
 - value trees & land
- Charge a fee
- Liaise with solicitor & assist in purchase of land
- Implement project

Scenario 2 - Acquisition of mid-rotation crop under a forestry right

Tasks include:

- Locate and assist in identifying suitable forest (or business)
- Visit site, possibly conduct inventory, etc.
- Project feasibility analysis:
 - consider access, proximity to ports & processors, environmental factors, etc.
 - prepare financial calculations, etc.
 - value trees
 - consider current & future growth
- Consider terms of forestry right
- Liaise with solicitor & have input to sale & purchase agreement
- Possibly have an ongoing management role

Scenario 3 – Emissions Trading Scheme

Tasks include:

- Provide information & advice about entry to ETS
- Provide estimates of value of carbon credits & liabilities etc.
- Advise on trading, sale & purchase of units.
- Advise clients on carbon liabilities and offset options

Scenario 4 – Other interests in land

Tasks might include:

- Prepare a sustainable management plan under Part 3A Forests Act, resulting in registration on the title
- Provide an assessment of returns from a timber sale from a forest area subject to an interest in land.

Legal Opinion – Conclusions

- Some activities carried out by NZIF members fall within the definition of real estate work
- For some activities the position is not clear cut, which is an unsatisfactory position
- There is no exemption under the Act for NZIF members, so to continue the activities it will be necessary for the members to become licensed under the Act
- The majority of members are unlikely to want to become licensed
- NZIF could seek an exemption for members under the Act

Application for Exemption

156 Regulations

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - (a) exempting any person or class of persons from the requirement to be licensed under this Act and prescribing any terms and conditions of such an exemption:
- (2) Any regulations made under subsection (1)(a) exempting any person or class of persons from the requirement to be licensed under this Act may be made only on the recommendation of the Minister given in accordance with subsection (3).

Application for Exemption

- (3) The Minister must not make a recommendation under subsection (2) unless the Minister—
 - (a) is satisfied that—
 - (i) there is no material consumer benefit to be gained by requiring the person or class of persons concerned to be licensed; and
 - (ii) there are sufficient processes in place to ensure competent and ethical conduct on the part of that person or those persons; and
 - (b) has consulted with representatives of organisations that, in the opinion of the Minister, have an interest in the proposed exemption.

Functions of Real Estate Agents Authority (sec 12)

- (a) administer the licensing regime for agents, branch managers, and salespeople, including the granting and renewal of licence applications; and
- (b) appoint a Registrar of the register of licensees; and
- (c) ensure that the register of licensees is established, kept, and maintained; and
- (d) develop practice rules for the Minister's approval and maintain these rules for licensees, including ethical responsibilities; and
- (e) set fees and levies; and
- (f) appoint Complaints Assessment Committees and maintain a panel of persons suitable to serve as members of Complaints Assessment Committees; and

Functions of Real Estate Agents Authority (sec 12) ctd

- (g) develop consumer information on matters relating to real estate transactions, including approved guides on agency agreements and sale and purchase agreements; and
- (h) develop and provide consumer information on matters relating to the provision of real estate services, including providing the public with information on how to make a complaint; and
- (i) set professional standards for agents; and
- (j) investigate and initiate proceedings in relation to offences under this Act and any other enactment; and
- (k) investigate of its own motion any act, omission, allegation, practice, or other matter which indicates or appears to indicate unsatisfactory conduct or misconduct on the part of a licensee; and
- (l) provide procedures for the lodging of complaints; and
- (m) receive complaints relating to the conduct of licensees; and
- (n) carry out any other function that the Minister may direct the Authority to perform in accordance with section 112 of the Crown Entities Act 2004; and
- (o) carry out any other functions that may be conferred on the Authority by this Act or any other enactment.

Comparison of NZIF & Authority

	NZIF	REAL ESTATE
Type of entity	Voluntary Association	Controlled by legislation
Appointment of governance	Council & Board elected by members	Authority appointed by Minister
Criteria for membership	Decided by members	Specified in legislation
Rules	Determined by members	Specified in legislation
Registrar	Appointed by Board	Appointed by Authority
Fees	Set by Council	Set by Authority
Complaints & Disciplinary committee	Appointed by Council	Appointed by Authority
Professional standards	Prescribed by Council & Board	Prescribed by Authority
Appeals	Heard by Council	Heard by Real Estate Agents Tribunal which is appointed by Minister

Types of Real Estate Licences

- Agent's licence which authorises an individual to carry out real estate agency work on their own account
- Branch Manager's or salesperson's licence, which authorises the individual to carry out real estate work for or on behalf of an agent. A salesperson's licence can only carry out real estate work when properly supervised and managed by an agent or branch manager
- A company can also be licensed as an agent if at least one officer of the company is licensed

NZIF has no equivalent structure

NZIF Application for Exemption

- Exemption only sought for registered members
- Members have different qualifications and experience from real estate agents and provide a different type of service from those agents, although parts of it may run in parallel to the agent's work
- Members often have long term and on-going relationships with clients
- Therefore unreasonable to expect NZIF Members to also become licensed real estate agents
- No material consumer benefit to be gained by excluding a forestry professional from a transaction – in fact the reverse will apply
- The NZIF Registration scheme ensures competent and ethical conduct

NZIF Registered Members

- Must meet stricter requirements for qualifications and experience than other members
- Must comply with on-going continuous professional development requirements
- Are subject to peer review when applying for registration and at periodic reviews
- Must comply with the NZIF Code of Ethics. We drew particular attention to item 2.4 in the code:

A member should not undertake any work for which the member is not qualified or where the member is in any doubt or ought to be in any doubt as to the adequacy of the member's professional competency and or experience to undertake the work unless such work is completed under the supervision of a person of adequate competence.

- All NZIF members are subject to a complaints and disciplinary process. In the event of being found guilty of a breach of the NZIF rules or Code of Ethics, there is provision for cancellation or suspension of registration (in which case that member would no longer be able to benefit from the exemption applied for)

Progress Of NZIF's Application

5 August 2012	Application submitted
10 October 2012	Declined – would await review of Act after 5 years
18 October 2012	NZIF objected
19 December 2012	Minister decided to deal with the (later) application from Accountants first
24 January 2013	NZIF Objected
21 March 2013	Meeting with Minister. Consideration would start in April and a response by 30 June
16 August 2013	Accountants' application "taking longer than expected"
13 November 2013	Officials still working on accountants' application
20 April 2016	NZIF wrote to Minister Rapid response (also advice accountants' application had been withdrawn)

Progress Of NZIF's Application (ctd)

May 2016	Draft assessment received from officials
26 May 2016	Call for submissions
2 June 2016	Draft Memorandum of Understanding received for comment
July 2016	Submissions closed
August 2016	NZIF AGM approved rule changes
October 2016	Minister & Cabinet approved exemption
8 November 2016	NZIF & Ministry of Justice signed MOU
5 January 2017	NZIF reviewed draft instructions for Regulation
10 March 2017	Submissions sought on draft regulation
27 March 2017	Submissions closed
19 July 2017	Revised MoU received for signing (signed 26 July 2017)
24 July 2017	MoJ approved proposed NZIF rule changes
14 August 2017	Real Estate Agents (Exemptions) Regulations 2017 published

Documents Relevant to Exemption

- Real Estate Agents Act 2008
- Memorandum of Understanding between the Ministry of Justice and NZIF (dated 25th July 2017)
- Real Estate Agents (Exemptions) Regulations 2017
- NZIF Rules
- NZIF Code of Ethics
- NZIF Regulations

Memorandum of Understanding

- Between Ministry of Justice and NZIF. Sets out obligations NZIF must meet if exemption is to be granted and if it is to continue. Failure to meet obligations could see the exemption cancelled
- Continues as long as Act and Regulations remain in force
- Will be reviewed if there are any amendments to the Act or the Regulation
- Sets out changes to NZIF Rules and internal procedures that are a condition of the exemption
- Requires NZIF Rule changes to be approved before the exemption comes into force
- NZIF cannot alter rules, Code of Ethics or NZIF Regulations without prior written approval of MoJ

Memorandum of Understanding (ctd)

Rule changes additional to those in the Regulation (note these are the responsibility of NZIF rather than registered members)

- Applicants for registration or renewal of registration must advise Board of qualifications and experience relating to real estate work and also whether or not they hold professional indemnity insurance
- Ability for an NZIF Complaint's committee to award compensation of up to \$100,000 to an aggrieved person who has suffered loss as a result of the member's misconduct or unsatisfactory conduct relating to real estate work
- Board must establish a register available to the public of members who have had a complaint upheld against them in the previous three years
- NZIF is required to inform members seeking registration or renewal of registration of the advisability of having professional indemnity insurance

Memorandum of Understanding (ctd)

NZIF has to report to MoJ at the end of each financial year:

- number of registered members
- number with PI insurance
- number of complaints (total and upheld) relating to real estate work
- number of complaints (& number upheld) of any non-registered members relating to real estate work
- list of any unpublished decisions upholding complaints
- any changes to NZIF Rules, Code of Ethics or regulations and plans for changes.

Real Estate Agents (Exemptions) Regulations 2017

- A registered member of NZIF may carry out real estate agency work in the forestry sector without being licensed under the Act
- Reasons for exemption:
 - Requirement for being licensed is too onerous due to small volume and nature of real estate work undertaken
 - Activities a registered member can undertake under the exemption are limited
 - Requiring licensing has no material benefit for consumers
 - NZIF rules and terms & conditions of exemption provide necessary protection for consumers
- Exemption does not include any non-forestry activity that is included in the transaction (e.g. a residential property included in sale of a forest)

Real Estate Agents (Exemptions) Regulations 2017 (ctd)

- Definition of “Forestry sector” is the same as the definition of “forestry” in NZIF Rules

forestry sector means all those activities involved in the management and use of forests and their products, the purposes of which are—

- (a) the production of wood or other forest benefits; and
- (b) the maintenance of forest environments in their most beneficial form

Real Estate Agents (Exemptions) Regulations 2017 (ctd)

- New restrictions on who can be registered. The following are not eligible:
 - Convicted of a crime of dishonesty within ten years of application for or renewal of registration
 - Convicted of an offence under Fair Trading Act within five years of application for or renewal of registration
 - Licensed real estate agent whose licence was cancelled within five years of application for or renewal of registration
 - Prohibited from being a director or promoter of or concerned or taking part in the management of an incorporated society
 - Undischarged bankrupt

Real Estate Agents (Exemptions) Regulations 2017 (ctd)

- Registered member must hold a current certificate of registration and must comply with NZIF rules including Code of Ethics, continuing professional development, disciplinary orders and complaints, etc.
- A Registered Member may not
 - Accept remuneration for real estate work in form of a commission in addition to or instead of normal professional charges
 - Prepare agreements for sale & purchase related to real estate work
 - Give advice about legal rights & obligations
- Manage money relating to a real estate transaction

Payment by Commission not Allowed

NZIF Code of Ethics states:

3.3 Fees may be negotiated on any mutually agreeable basis. While no fee shall be contingent upon the reporting of a predetermined result or value or direction of a result or value that favours either the cause of the client, the amount of result or value estimate, a fee (or a portion of a fee) may be contingent on the attainment of a stipulated result, or the occurrence of a subsequent event, provided the member's decision or advice is not improperly influenced by the fee.

Payment by Commission not Allowed

Exemption for lawyers and conveyancers

- (2) A person to whom this section applies may carry out any real estate agency work but, in respect of the sale or other disposal of any land or business, is not entitled to be remunerated for that work by commission in addition to, or instead of, the professional charges of that lawyer or conveyancing practitioner.

Real Estate Agents (Exemptions) Regulations 2017 (ctd)

- A Registered Member must inform each client in writing:
 - The member is not a licensed real estate agent or salesperson
 - The client may need to seek advice from a licensed real estate agent or salesperson and may need to seek legal advice
 - Of any actual or potential conflict of interest the member may have
 - Of the differences between the disciplinary regimes of the NZIF and the Real Estate Agents Act
- The member must retain a signed written statement from each client that acknowledges each of the above disclosures.
- Where a member has disclosed actual or potential conflict of interest, the client can still engage the member if signed written statement says the client has been informed and still wishes to engage the member

Real Estate Agents (Exemptions) Regulations 2017 (ctd)

- If the member fails to disclose an actual or potential conflict of interest the client:
 - May cancel the contract
 - May cancel any contract arising out of the contract with the member
 - Is not liable to pay any fees, regardless of whether the contract is cancelled
 - May recover any fees paid regardless of whether the contract is cancelled.
- Note that “fees” in this case excludes any expenses the member has incurred on behalf of the client

Additional Rule Changes 2017

- Expands requirement to obtain prior approval from the Ministry of Justice to changes to the NZIF Rules, from just the Rules in Section VIII to all the Rules, the Code of Ethics and any NZIF Regulations made under Rule 113
- Adds definitions of “Real estate agency work” and “transaction” from the Real Estate Agents Act. Note if the definitions in the Act change in the future, it is the changed definitions that will apply, not the ones being included in the Rules under this motion

Additional Rule Changes 2017 (ctd)

- Alters obligations and requirements that will apply not just to applicants for Registration, but to existing Registered Members at each application for renewal of registration
- Adds requirement for applicants for registration and Registered Members to provide a statutory declaration that they are not disqualified because of convictions for dishonesty, breaches of the Fair Trading Act and various other matters
- Tightens up requirements to be met by a registered member when engaged by a client to assist with a real estate transaction
- Restricts the exemption to forestry work by specifically excluding the ability to participate in any non-forestry matter associated with the transaction

NZIF Code of Ethics

- 1.3 Each and every member shall maintain the high standards of their profession and should refer to the Institute, any act or omission of a fellow member they are aware of and which may appear to bring discredit on the Institute or its members
- 1.9 A member must maintain the strictest integrity in the performance of the member's professional duties. To this end no member shall:
 - 1.9.1 Adopt the role of advocate to the exclusion of that integrity
 - 1.9.2 Allow the performance of that member's professional duties to be improperly influenced by the preferences of clients or others as to the result of their professional work

NZIF Code of Ethics

- 2.2 A member must not accept or carry out any instruction where there is, or may reasonably be construed to be, a conflict of interest and must withdraw from any instruction if such a conflict of interest arises or becomes known after the instruction has been accepted, unless such conflict of interest is fully disclosed in writing to all relevant parties and all such parties agree that the instruction may be accepted or continued by the member.
- 2.4 A member should not undertake any work for which the member is not qualified or where the member is in any doubt or ought to be in any doubt as to the adequacy of the member's professional competency and or experience to undertake the work unless such work is completed under the supervision of a person of adequate competence.

NZIF Regulations

- NZIF regulations are provided for in the NZIF Rules.
- They can be made, amended or rescinded by Council.
- There are no regulations currently in force although the rules state that the Code of Ethics have the force of a regulation (changes to the Code do require the approval of an AGM)

Application for Registration

- Must be an NZIF member
- Have passed a formal course recognised by the Board in some branch of forestry or an allied discipline (unless otherwise agreed by the Board)
- Must advise Board of qualifications and experience relating to real estate work
- Must advise Board if they are covered by professional indemnity insurance
- Have at least five years' experience in forestry since graduation or certification
- At least two years of experience in NZ

Application for Registration (ctd)

- Reached a level of expertise recognised by the Board
- Can display an understanding of basic principles underlying forestry practice in the applicant's area of expertise
- Has completed required cpd prior to the application
- Pay the application fee
- Affirm in writing the intention to abide by the Code of Ethics
- NZIF Members are given the opportunity to object to an application
- Can apply for recognition as having general skills or specialised skills in a specified area

Application for Registration (ctd)

- The following are not eligible for registration:
 - Those convicted of a crime of dishonesty within the ten years preceding application
 - Those convicted of an offence under the Fair Trading Act in the five years preceding the application
 - A person who has been licensed under the Real Estate Agents Act but whose licence has been cancelled in the five years prior to application
 - A person prohibited from being a director or promoter or concerned or taking part in management of an incorporated body under the Companies Act, the Financial Markets Conduct Act or the Takeovers Act
 - An undischarged bankrupt or someone subject to the Insolvency Act
- An applicant must provide a declaration under the Oaths and Declarations Act that they comply with the above conditions

Application for Renewal of Registration

- Required annually and to be completed before 30th April each year
- Provide information required by Board including:
 - Relevant qualifications relating to real estate work
 - Whether or not covered by professional indemnity insurance
- Can be asked by the Board to supply a declaration of eligibility for registration (i.e. no convictions etc., as for an application)
- NZIF Members given an opportunity to object
- (Other information required by the Board - includes CPD etc.)

Application for Review of Registration

Rules for the five year reviews of registration are the same as for Renewal. Procedures for the review are determined by the Board and are not spelt out in the rules. Current procedures include a requirement for an up-to-date CV and academic record and work history over past five years.

Board can ask to see examples of work and ask for an interview.

Registered Members and Real Estate Work

Before undertaking real estate work, Registered Member must

- Advise the client they are not a licensed real estate agent
- Advise the client of any actual or potential conflicts of interest that may arise as a result of the Real estate agency work
- Recommend the client seeks legal advice
- Advise the client they may also need to seek advice from a licensed real estate agent or from other parties
- Allow the client a reasonable opportunity to seek that advice;
- Explain to the client in plain English, the differences between the disciplinary processes and remedies under the Real Estate Agents Act 2008 and the NZIF Rules

Registered Members and Real Estate Work (ctd)

The Registered Member must retain a copy of a signed statement from the client:

- Acknowledging receipt of written advice from the Registered Member concerning the matters set out in the previous slide
- Setting out the actual or potential conflicts of interest disclosed to the client and acknowledging that the client wishes to continue to engage the Registered Member
- Acknowledging they have fully understood the differences between the two regimes, including (but not limited to), the ability of the Real Estate Agents Disciplinary Tribunal to award compensation of up to \$100,000

If a Registered Member fails to notify the client of a conflict of interest they must:

- Give the client the right to cancel the contract
- Not accept any payment (fees) for the work undertaken except for reimbursement of any disbursements incurred

Registered Members and Real Estate Work (ctd)

Registered Members must not:

- Seek or accept remuneration for Real estate work in the form of a commission in addition to or instead of the normal professional charges of the member
- In connection with a Real estate transaction, prepare agreements of sale and purchase or to give advice about legal rights and obligations that is incidental to the preparing of an agreement
- Manage funds relating to a real estate transaction through a trust or any other account
- Carry out any Real estate work outside the member's forestry work. If a Real estate transaction relates to non-forestry uses, the member must not carry out Real estate work in relation to those other uses unless they are licensed under the Real Estate Agents Act

Possible Penalties if NZIF Member Breaches Rules, Code of Ethics or NZIF Regulations

- Expelled from the Institute
- Suspended from Membership for a specified period and/or until specified conditions have been met
- If a Registered Member, Registration may be cancelled or may be suspended for a specified period and /or until specified conditions have been met
- That if by a prescribed date the Member fails to fulfil any requirements specified by the Committee, the Member may be suspended from Membership for a specified period of time
- Fine not exceeding an amount determined from time to time by the Council and notified to Members be imposed on such Member
- Member be reprimanded or admonished

Possible Penalties if NZIF Member Breaches Rules, Code of Ethics or NZIF Regulations (ctd)

- Pay a sum not exceeding an amount determined from time to time by the Council and notified to Members towards such costs incurred by the Institute and/or the complainant as are directly attributable to the investigation, hearing and/or determination of the complaint
- That upon completion of consideration of the complaint according to the procedures prescribed by the Council, the Member be named, the order made against the Member be stated and the nature of the breach be publicised in any manner as may be prescribed by the Committee – in the case of a Registered Member who has breached the exemption, the result must be on a public register
- If a Member does not satisfy any conditions specified by the Committee by the required date, the Committee may make further orders
- Where it appears a person has suffered loss because of a breach by a Registered Member relating to Real estate agency work, order the Registered Member to pay the aggrieved person a sum not exceeding \$100,000 by way of compensation

Final Messages

- It is a registered member that is exempt – not the member's employer. Make sure you and your employer understand this and don't be caught by following employer instructions that do not agree with professional responsibilities – it is you that will suffer
- There are uncertainties in what is real estate work – start by assuming it is
- Keep real estate work separate from other work, even with the same client
- Don't operate outside your area of expertise and experience
- Make sure you disclose what you are required to. Be particularly careful with actual & potential conflicts of interest
- Keep your CPD and other professional obligations up to date
- Consider professional indemnity insurance
- If you are not registered, then apply

Final Messages

Above all, support your professional body, and make sure you or other members do not put this exemption and our reputation in jeopardy. It has taken a lot of work to reach this goal. Let's all protect it and use it as a springboard to get more recognition for our profession, our institute and our registration scheme.

Thank you for listening

I hope you have found it useful

Happy to take questions now or at other times