

By-Laws of
**ESTATE AGENTS
CO-OPERATIVE LIMITED**



**ESTATE AGENTS
CO-OPERATIVE LTD.**

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BY-LAWS OF ESTATE AGENTS CO-OPERATIVE LIMITED

Interpretation

1. In these By-laws, unless the context otherwise requires,

'the Co-operative' means Estate Agents Co-operative Limited

'member' means member of the Co-operative

'Multilisted' means listed in the Co-operatives EAC Multilist system

'the Board' means the Board of Directors of the Co-operative

'vendor' means a person who has entered into, or who proposes to enter into, a selling agency agreement with a member

Words in the singular include the plural, and vice versa

Words importing masculine gender include feminine gender

A reference to a person is also a reference to a corporation.

Administration Zones

(Administrative Zones are not Voting Zones as defined in the Rules of the Co-operative)

2. The Board may from time to time divide the area in which the Co-operative operates into administration zones, the boundaries or other definition of which shall be as determined by the Board.
3. Each of the geographic areas adopted by the Co-operative as at 1 April, 2008 as zones for administration purposes shall be deemed to have been created as an administration zone under these By-laws.
4. Every member who carries on or is in charge of a real estate agency business within an administration zone shall be a member of that zone.

Administration Zone Activities

5. A meeting of the members of a zone from time to time may make local zone rules in relation to:
 - (i) the raising of funds from members of the zone to finance activities within the zone; and
 - (ii) meetings of members of the zone.

Zone Finances

6. (a) All monies received in relation to the affairs of an administration zone shall be held for and on behalf of the zone by the head office of the Co-operative which will promptly bank such funds and shall only be expended on the authority of the Zone/Zone Committee following direction given to it by the members of the zone/administration zone at a meeting of members and minuted accordingly in the official minutes of the meeting.
 - (b) The Co-operatives head office is required and shall keep proper books of account and records in relation to the income, expenditure, assets and liabilities of the zone of those accounts referred to in 6(a) and will:
 - (i) present a financial report to the members of the zone/administration zone at each meeting of the zone/administration zone or at a minimum at least once in each calendar year;
 - (ii) adopt the financial year commencing on 1 July;
 - (c) If part of any administration zone (the original zone) becomes another, or part of another, administration zone and the Zone Committee of the original zone fails to agree with the Zone Committee of that other zone as to what assets (if any) of the original zone are to be transferred to that other zone then the matter in dispute shall be determined by the Board and its decision shall be binding on the members of each administration zone concerned.

Provision of Co-operative Services

7. Each member will ensure that all persons on the staff of a real estate agency business which is owned, carried on or conducted by that member, or which is under his effective direction and control, comply with and abide by the Rules, By-laws, Codes and Policies of the Co-operative. A failure by any such person to comply with and abide by those Rules, By-laws, Codes and Policies and shall be deemed to be a failure by that member. If any such person does not so comply or does not so act or engages in that conduct then that member shall be in breach of this By-law.
8. Should the services of the Co-operative be withdrawn, for whatever reason, from a member/members office the Co-operative may decline to make all or any of its goods and/or services available to the member.
9. The services, benefits or facilities of the Co-operative made available to any member/member office are not to be made available to any other business or person.

The EAC Multilist System

10. Immediately upon an EAC Multilist Exclusive Selling Agency agreement (including one for a sale by auction) being entered into between a member (the listing agent) and a vendor, each other member, even if unaware of that agreement, is automatically in conjunction (as sub-agent) with the listing agent in respect of the property so listed until the property ceases to be listed in the Multilist system or ceases to be available for sale.

Note: Before accepting any exclusive selling agency members should

- (i) make sure that the vendor understands the "exclusive" nature of the agency, and*
- (ii) advise the vendor to terminate all other selling agency agreements.*

11. (a) The listing agent under each EAC Multilist Exclusive Selling Agency agreement (including one for a sale by auction) must enter the details of the property into the EAC Red Square system within 48 hours of it being entered into.

(b) The Co-operative will allocate a listing number to each property which is to be so listed.

(c) This By-law applies even if a sale of the property has been negotiated or the property has been withdrawn from sale.
12. If any change occurs in the status of the listing, the listing agent will immediately notify the Co-operative of the change by entering the change into the Red Square system.
13. When the exclusive agency period under an EAC Multilist Exclusive Selling Agency agreement expires or is terminated the property to which it relates ceases to be eligible to be listed in the Multilist system and that listing automatically ceases.

Note:

- A residential property cannot be marketed or promoted until the listing agent holds a copy of the proposed contract.)*
- After that listing ceases any conjunction sale of the property should be covered by a written conjunction agency agreement.*

14. Unless the vendor otherwise directs all Multilisted properties should be available for direct inspection through any member and a key to each property should be made available at the member's office most conveniently located to the property.
15. To enable the listing agent to keep the vendor fully informed, a member who has shown a Multilisted property to a prospective buyer should promptly tell the listing agent of any comments made by the prospective buyer regarding the property or the proposed contract for the sale of the property.
16. If a vendor lists with two members jointly (as co-agents) a property which is to be Multilisted, those members must agree as to which of them is to be the listing agent for that purpose and should agree in writing on the basis on which they will share the listing costs and the selling agent's remuneration.
17. A property which has been listed for sale with a member and a non-member jointly (as co-agents)

cannot be Multilisted by the member unless the non-member has agreed with the member in writing to be bound by the Rules and By-laws of the Co-operative as if they applied to him in the same way as they apply to the member in relation to the sale of the property (including the right of every member to be in automatic conjunction). If the property is Multilisted by the member he thereby warrants to all members that the non-member has so agreed and that he will enforce that agreement for the benefit of every other member.

18. (a) If, while a property is Multilisted, a member other than the listing agent introduces a person to the vendor or to the property and if that member is the effective cause of a sale of the property to that person, then upon receiving remuneration in relation to that sale the listing agent will, within 7 days, pay to that member the share of that remuneration stated on the relevant listing statement as being the selling agent's fee.
 - (b) A listing agent for a Multilisted property
 - (i) will not do or fail to do anything which might disentitle the listing agent from remuneration;
 - (ii) will not without the prior written approval of a selling agent relieve the vendor from the obligation to pay the whole of the remuneration to which the listing agent may be, or may become, entitled, and
 - (iii) will make every reasonable effort (which may involve legal action) to recover such remuneration.
 - (c) In this By-law 'remuneration' means all of the remuneration (no matter what called) which the listing agent may receive under the relevant selling agency agreement other than by way of reimbursement for expenses or charges actually incurred, or by way of reward for any specific additional service actually provided, by the listing agent.
19. (a) A listing agent for a Multilisted property has complete freedom as to fixing the selling agent's fee to be stated on a listing statement.
 - (b) If no such fee is stated to be on the listing statement the selling agent is entitled to 40% of the remuneration referred to in By-law 39 (except in the case of a property listed for sale by auction or by tender).
 - (c) A member must not submit a listing into the Co-operatives Multilist system if the listing agent is offering to selling agents less than 40% of the remuneration referred to in By-law 18 (except in the case of a property listed for sale by auction or by tender).
 - (d) If no selling agent's fee is stated on the listing statement relating to a Multilisted property listed for sale by auction then on a sale made during the auction period the selling agent is entitled to 20% of the remuneration referred to in By-law 18 and on a sale made in the after auction period the selling agent is entitled to 40% of that remuneration. For the purposes of this sub-clause a sale is made when a contract is entered into.
 - (e) The auction period referred to in the preceding sub-clause (d) extends to and includes the twenty eighth working day after the auction.
 - (f) A member must not submit a listing into the Co-operatives Multilist system a property listed for sale by auction if the listing agent is offering to a selling agent a fee which is less than the fee referred to in sub-clause (d) of this By-law.
20. The listing agent for a Multilisted property who has received a copy of the proposed contract for the sale of the property must, upon request from a member, make a copy of that proposed contract for the sale of the property available for inspection by the members and must, upon repayment of a reasonable fee, provide that member with a copy of that contract within 24 hours after being requested to do so.
21. If a member receives an offer to acquire any interest in a Multilisted property he must immediately inform the listing agent of that offer.
22. The listing agent for a Multilisted property must not, in relation to that property, communicate with any person introduced to the property or to the vendor by another member without the permission of that other member.
23. A member who is not the listing agent for a Multilisted property must not, except as allowed by these By-laws, communicate or deal with the vendor in relation to that property without the permission of the listing agent.

24. Each listing of a Multilisted property must be adequately serviced by the listing agent, and in the interests of the vendor and of the Co-operative the listing agent should agree that the listing be terminated by the vendor if the vendor is not satisfied with that servicing.
25. The listing agent for a Multilisted property must:
 - (a) upon request, fully inform any other member of all instructions from and arrangements with the vendor concerning the sale of the property which do not appear in the proposed contract for sale and are not notified through the Multilist system; and
 - (b) immediately inform any other member through whom the listing agent has received an offer from a prospective buyer; of
 - (i) all such instructions from and arrangements with the vendor
 - (ii) any acceptance or rejection of that offer by the vendor, and
 - (iii) any subsequent offer (including an offer received from or through another member) to acquire an interest in the property.
26. If a vendor directs or agrees that a Multilisted property be withdrawn from sale (whether or not a preliminary deposit has been taken) the listing agent must:
 - (i) within 48 hours notify the Co-operative of that fact;
 - (ii) advise members who enquire about the property of that fact; and
 - (iii) cease activity in relation to the selling of the property, and upon the fact of such withdrawal being notified through the Multilist system all members must cease activity in relation to the selling of the property.
27. If a vendor of a Multilisted property proposes to enter into a contract for the sale of the property to a person introduced by a member who is not the listing agent that member must give to the listing agent all information concerning that person required to enable that contract to be prepared.
28. A member must not knowingly do anything which if done by the listing agent of a Multilisted property would be in breach of that listing agent's Multilist Exclusive Selling Agency agreement or would prejudicially affect the rights of that listing agent under that agreement.
29. A member other than the listing agent of a Multilisted property should explain to each prospective purchaser of that property with whom he deals that his position is that of sub-agent for the listing agent, and that any preliminary deposit will be payable to, or will be transmitted to, the listing agent.
30. A member must not offer a Multilisted property for sale at a price below that at which the listing agent has the property for sale.
31. The two members involved in a conjunction sale of a Multilisted property must co-operate with each other to bring about completion of that sale.
32. A member must not make available to a prospective purchaser or to a prospective vendor any Multilist listing advice form (with or without photograph) or any book of Multilist listings or any formatted information concerning Multilisted properties notified to that member by the Co-operative (including information concerning the number or value of listings in the Multilist system by another member).
34. A sale of a Multilisted property to any member other than the listing agent or to any of the staff of that member shall be regarded as a sale to a buyer introduced by that member.
33. A member must not disclose to the vendor of a property which is, or is to be, Multilisted the basis on which the listing agent's remuneration on a sale of that property is to be shared between the listing agent and the selling agent.
34. A member who is not the listing agent for a Multilisted property must not, except with the written permission of the listing agent, advertise that property in any way.

Note:

Should there be any inconsistency between these By-Laws and any Act and/or Regulation then the relevant Act and/or Regulation will prevail.