

Act relating to Estate Agency Activities.

Cf. *previous* Act of 16 June 1989 No. 53 relating to Estate Agency Activities.

Chapter 1. Object and scope of the Act

Section 1-1. Object

The object of the present Act is to facilitate the sale and purchase of real property, through the use of an intermediary, taking place in a secure, orderly and effective manner, and to facilitate the receipt by the parties to the transaction of unbiased assistance.

Section 1-2. Scope

(1) The present Act applies to estate agency activities carried out in Norway. The King may decide that the present Act shall also apply to activities carried out in Svalbard or Jan Mayen.

(2) By estate agency activities is meant acting as an intermediary, hereunder the handling of settlement, in connection with the

1. sale and purchase of real property, hereunder owner-occupied units and undivided interests in real property;
2. conclusion and transfer of leasehold contracts with regard to real property, with the exception of contracts falling within the scope of Act of 25 June 1965 No. 1 relating to Agricultural Leaseholds;
3. sale and purchase of housing cooperative units and of shares, certificates, mortgage deeds or other title documents conferring a right to rent or a right to reside in a residential unit or other part of a developed property;
4. sale and purchase of interests in partnerships, cf. Section 1-2, Sub-section 1, letter a, of Act of 21 June 1985 No. 83 relating to General Partnerships and Limited Partnerships (the Partnerships Act) or shares of private limited companies or public limited companies, cf. Act of 13 June 1997 No. 44 relating to Private Limited Companies (the Private Limited Companies Act) and Act of 13 June 1997 No. 45 relating to Public Limited Companies (the Public Limited Companies Act), that are not listed on a stock exchange, provided that the sale and purchase is primarily intended to transfer property or rights as mentioned in Nos. 1 to 3;
5. sale and purchase of real property timeshares falling within the scope of the Act relating to Timeshare and Long-Term Holiday Agreements, Etc.
6. assignment and transfer of agreements for the acquisition of rights as mentioned in Nos. 1 to 5.

(3) Anyone engaged in leasing activities for the purpose of arranging real property leasehold contracts shall be classified as an intermediary for purposes of Sub-section 2, No. 2.

(4) Arranging agreements for the letting of holiday homes or private residences or rooms therein for recreational purposes, as well as arranging rooms in hotels, hostels, etc., for overnight or longer stays shall not be classified as estate agency

activities. This exception does not apply to real property timeshares falling within the scope of the Act relating to Timeshare and Long-Term Holiday Agreements, Etc.

(5) Services performed for any undertaking within the same group, cf. Section 1-3 of the Private Limited Companies Act and the Public Limited Companies Act, or for any undertaking with a corresponding relationship to the undertaking performing the service, shall not be classified as estate agency activities for purposes of Sub-section 2, provided that the relevant property is not fully or partly suitable for residential or recreational use.

(6) The terms purchase, transaction, sale and the like shall, for purposes of the present Act, also refer to the other forms of acquisition mentioned in Sub-section 2.

Amended by Act of 4 June 2010 No. 20 (effective date 1 July 2010 according to Royal Decree of 4 June 2010 No. 771).

Section 1-3. *Derogation outside consumer relationships*

The provisions of Section 6-4, Section 6-5, Section 7-1, Section 7-2, Sub-sections 1 to 3, Section 7-4, Sub-sections 1 to 3, and Section 8-8 may be derogated from outside consumer relationships. Cases where the client is a natural person who does not primarily trade as part of commercial activities shall be classified as consumer relationships for purposes of the present Act.

Section 1-4. *Regulations relating to certain forms of estate agency activities*

(1) The Ministry may issue, in the form of regulations, further provisions, hereunder exemptions from the other provisions of the present Act, with regard to estate agency activities operated by housing associations.

(2) The Ministry may issue, in the form of regulations, further provisions, hereunder exemptions from the other provisions of the present Act, with regard to estate agency activities relating to leasehold contracts for real property.

(3) The Ministry may issue, in the form of regulations, further provisions, hereunder exemptions from the other provisions of the present Act, with regard to estate agency activities relating to properties that are not fully or partly suitable for residential or recreational use.

(4) The Ministry may issue, in the form of regulations, further provisions, hereunder exemptions from the other provisions of the present Act, with regard to estate agency activities relating to the sale and purchase of properties located outside Norway. The Ministry may also issue, in the form of regulations, specific provisions with regard to such activities.

(5) The Ministry may issue, in the form of regulations, further provisions, hereunder exemptions from the other provisions of the present Act, with regard to estate agency activities relating to the transfer of agreements for the acquisition of real property, title documents as mentioned in Section 1-2, Sub-section 2, No. 3, or timeshares as mentioned in Section 1-2, Sub-section 2, No. 5. The Ministry may also issue, in the form of regulations, specific provisions with regard to such activities.

Chapter 2. Requirements with regard to permits, legal structure, organisation, etc.

Section 2-1. Requirement for a permit to engage in estate agency activities

- (1) Estate agency activities against remuneration may only be engaged in:
1. by an undertaking holding a permit to do so from the Financial Supervisory Authority of Norway (an estate agency undertaking), cf. Section 2-3, Sub-section 1; or
 2. pursuant to a Norwegian licence to practise law, provided that the advocate has furnished security as required under Section 222 of the Courts of Justice Act.

(2) No permit shall be required for banks' handling of settlement as mentioned in Section 1-2, Sub-section 2.

(3) The Ministry may determine, in the form of regulations, that estate agency activities in return for consideration may also be engaged in by undertakings that provide legal assistance pursuant to Section 218, Sub-section 2, No. 1, of Act of 13 August 1915 No. 5 relating to the Courts of Justice (the Courts of Justice Act).

(4) The Ministry may issue, in the form of regulations, provisions to the effect that estate agency activities in return for consideration may also be provisionally engaged in by persons who are lawfully established in another EEA state with a view to engaging in such activities there, and may issue further provisions on the performance of such activities, hereunder exemptions from the provisions of the present Act.

Amended by statutes of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603), 4 June 2010 No. 20 (effective date 1 July 2010 according to Royal Decree of 4 June 2010 No. 771).

Section 2-2. Requirement for a permit to establish a branch, etc.

(1) Any undertaking and advocate engaging in estate agency activities, cf. Section 2-1, shall hold a permit from the Financial Supervisory Authority of Norway in order to establish any branch in Norway.

(2) Any undertaking and advocate engaging in estate agency activities, cf. Section 2-1, shall hold a permit from the Financial Supervisory Authority of Norway in order to establish any branch or subsidiary abroad. The Ministry may issue, in the form of regulations, further provisions with regard to such branches/subsidiaries.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 2-3. Licensing authority. Application for a permit

(1) The Financial Supervisory Authority of Norway may grant a permit to engage in estate agency activities to any undertaking meeting the requirements in Sections 2-4 to 2-9. The permit may be granted subject to conditions, hereunder that the undertaking shall document, prior to the commencement of the activities, to the Financial Supervisory Authority of Norway that the requirement in Section 2-10 has been met.

(2) The Financial Supervisory Authority of Norway may grant a permit as mentioned in Section 2-2 if the requirements in Section 2-5, Sub-section 2, and Section 2-9, Sub-section 2, third sentence, have been met.

(3) An application for a permit shall include information showing that the requirements as mentioned in Sub-section 1, first sentence, or Sub-section 2 have been met, as well as any other information of relevance to the assessment as to whether a permit should be granted. The Financial Supervisory Authority of Norway may request additional information of relevance to the processing of the application. The Ministry may issue, in the form of regulations, further provisions relating to what information shall be included in the application.

(4) The Ministry may issue regulations with procedural provisions to supplement the provisions of the Services Act with regard to permits to engage in estate agency activities, hereunder relating to processing deadlines and the legal effects of failure to observe deadlines. Exemptions from Section 11, Sub-section 2, of the Services Act may only be made when motivated by compelling policy considerations, hereunder considerations to do with the legitimate interests of private individuals. The procedural provisions may derogate from the provisions of the Public Administration Act.

Amended by statutes of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603), 19 June 2009 No. 103 (effective date 28 December 2009 according to Royal Decree of 19 June 2009 No. 672).

Section 2-4. Requirements as to legal structure

A permit to engage in estate agency activities may be granted to:

1. private limited companies, cf. the Private Limited Companies Act, or public limited companies, cf. the Public Limited Companies Act;
2. housing associations, cf. Act of 6 June 2003 No. 38 relating to Housing Associations;
3. foreign undertakings registered in the Register of Business Enterprises, cf. Act of 21 June 1985 No. 78 relating to the Registration of Undertakings, which meet specific requirements as to organisation and audit obligations stipulated in regulations issued by the Ministry; and
4. other undertakings meeting specific requirements as to organisation and audit obligations stipulated in regulations issued by the Ministry.

Section 2-5. Requirements as to permanent office location

(1) Any undertaking and advocate engaging in estate agency activities, cf. Section 2-1, shall maintain a permanent office location in Norway. The Financial Supervisory Authority of Norway may grant, in the form of administrative decisions, exemptions from the requirement for a permanent office location, provided that the documents of the undertaking pertaining to any assignments falling within the scope of the present Act shall be kept in a permanent location in Norway in an orderly and proper manner. The documents shall be available and organised for access by public supervisory bodies, as well as other statutory access.

(2) Sub-section 1 shall apply correspondingly to any branch as mentioned in Section 2-2.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 2-6. Requirements as to financial status

(1) Any undertaking engaging in estate agency activities, cf. Section 2-1, shall:

1. be able to meet its liabilities as and when these fall due;
2. have an amount of equity that is adequate in view of the risk associated with, and the scope of, the activities of the undertaking;
3. have assets with a value exceeding the overall liabilities of the undertaking; and
4. have its share capital full paid up as per the application date, provided that the activities are operated through a private limited company or public limited company.

(2) Any advocate engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2, shall be able to meet his or her liabilities as and when these fall due.

Section 2-7. Furnishing of guarantee

(1) Any undertaking and advocate engaging in estate agency activities, cf. Section 2-1, shall have insurance covering the liability he or she may incur through the performance of the estate agency activities.

(2) The Ministry may issue, in the form of regulations, further provisions relating to insurance as mentioned in Sub-section 1. The Ministry may grant, in the form of regulations or administrative decisions, exemptions from the insurance requirement, provided that other satisfactory guarantee is furnished.

Section 2-8. Shareholder structure

(1) The holder of a significant ownership stake in an estate agency undertaking, cf. Section 2-1, Sub-section 1, No. 1, shall be fit to ensure that the undertaking is operated in compliance with applicable statutes, regulations and good estate agency practice. By significant ownership stake is meant a direct or indirect ownership stake representing no less than 10 per cent of the share capital or votes, or which otherwise enables the party in question to exercise significant influence over the management of the company. The same weight as the shares held by the relevant owner shall be accorded to any shares held by any associates of such person. By associates shall for purposes of the present provision be meant any person as mentioned in Section 1-4 of Act of 19 June 1997 No. 79 relating to Securities Trading¹.

(2) The acquisition of any significant ownership stake in an estate agency undertaking may only be implemented after prior notification to such effect has been sent to the Financial Supervisory Authority of Norway.

(3) Notification to the Financial Supervisory Authority of Norway shall also be sent prior to any increase in an ownership stake that results in the relevant person's portion of the share capital or votes reaching or exceeding 20 per cent, 33 per cent or 50 per cent.

(4) The Financial Supervisory Authority of Norway shall, within three months of the date on which any notification pursuant to Sub-section 2 and 3 has been received, refuse the relevant acquisition if such acquisition fails to meet the conditions in Sub-section 1.

(5) The Ministry may issue, in the form of regulations, further provisions with regard to the duty of estate agency undertakings to provide notification as to the owners of such undertakings.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

1 This Act has been repealed. Now see Section 2-5 of Act of 29 June 2007 No. 75.

Section 2-9. *The management of the undertaking. Head of technical estate agency matters.*

(1) The directors and the general manager of an estate agency undertaking, cf. Section 2-1, shall have relevant qualifications and professional experience, as well as no criminal record, cf. Sub-section 3, and shall not have engaged in any improper conduct that gives reason to assume that the duties associated with the position or appointment will not be performed in an adequate manner.

(2) The undertaking shall have a professional in charge (head of technical estate agency matters), who holds either a licence to practice as an estate agent, cf. Section 4-2, a licence to practise law or a permit pursuant to Section 4-3. Such person shall be fit to ensure that the undertaking is operated in compliance with applicable statutes, regulations and good estate agency practice. If the undertaking has one or more branches, each of these shall have a head of technical estate agency matters who meets the requirements under the first and second sentences. The Financial Supervisory Authority of Norway may permit one and the same person to be the head of technical estate agency matters of more than one undertaking or one branch.

(3) Any person as mentioned in Sub-section 1 and 2 shall submit a police certificate of good conduct. The cut-off dates in Section 6 of the Criminal Convictions Registration Act shall not apply.

(4) Any estate agency undertaking shall prior to any replacement of any director, general manager or head of technical estate agency matters send notification to the Financial Supervisory Authority of Norway in respect thereof.

(5) The Financial Supervisory Authority of Norway may at any given time require persons as mentioned in Sub-section 1 and 2 to submit a new police certificate of good conduct.

(6) The Ministry may issue, in the form of regulations, further provisions with regard to the duty of the undertaking to give notification pursuant to Sub-section 4, with regard to rights and duties of the head of technical estate agency matters, as well as with regard to which criminal offences shall be recorded on the police certificate of good conduct and with regard to the processing thereof.

Amended by statutes of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603), 4 June 2010 No. 20 (effective date 1 July 2010 according to Royal Decree of 4 June 2010 No. 771).

Section 2-10. *Affiliation with complaints board*

Any undertaking and advocate engaging in estate agency activities, cf. Section 2-1, shall be affiliated with a complaints board scheme, cf. Section 8-8.

Chapter 3. Specific requirements with regard to the activities

Section 3-1. *Record keeping*

Any undertaking and advocate engaging in estate agency activities, cf. Section 2-1, shall keep a record of received and executed assignments pursuant to regulations issued by the Ministry.

Section 3-2. *Entrusted funds*

The Ministry may issue, in the form of regulations, provisions relating to the handling of entrusted funds.

Section 3-3. *The responsibility of the board of directors for estate agency procedures*

The board of directors of the estate agency undertaking, cf. Section 2-1, shall ensure that procedures are prepared with regard to how the estate agency activities should be performed, and that these are updated whenever needed. The board of directors shall issue a written confirmation to the effect that this has been done.

Section 3-4. *Right to submit proposals to, and to attend and speak in meetings of, the board of directors*

In any estate agency undertaking, cf. Section 2-1, the head of technical estate agency matters as mentioned in Section 2-9 and the estate agent in charge as mentioned in Section 6-2 shall have the right to propose that issues pertaining to technical estate agency matters be submitted to the board of directors for deliberation. The relevant person shall, as far as such issues are concerned, have the right to attend and speak in meetings of the board of directors. A head of technical estate agency matters or an estate agent in charge who does not agree with a decision may require his or her views to be recorded in the minutes.

Section 3-5. *Use of sub-contractors*

Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, may use sub-contractors that themselves hold a permit to engage in estate agency activities in accordance with Chapter 2 or to engage in estate agency activities pursuant to a licence to practise law in accordance with Section 2-1, Sub-section 1, No. 2. The Ministry may issue, in the form of regulations, further provisions relating to the use of sub-contractors.

Section 3-6. *Confidentiality obligation*

Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, any employees and officials, as well as any other persons involved in such activities, shall not disclose to any unauthorised third parties anything that comes to their knowledge during the performance of their work or duties with regard to anyone's personal circumstances or operational and commercial circumstances.

Chapter 4. Qualification requirements. Title

Section 4-1. Qualification requirements

(1) Any head of technical estate agency matters, cf. Section 2-9, Sub-section 2, and estate agent in charge, cf. Section 6-2, shall hold a licence to practice as an estate agent, cf. Section 4-2, a licence to practise law or a permit pursuant to Section 4-3.

(2) Any assistant of an estate agent in charge shall have passed the exam as mentioned in Section 4-4.

Section 4-2. Licence to practice as an estate agent

(1) A licence to practice as an estate agent is issued by the Financial Supervisory Authority of Norway to persons who:

1. are deemed suitable for engaging in estate agency activities;
2. have passed an approved estate agent exam;
3. have no less than two years of practical experience after having passed the estate agent exam;
4. are of full age and legal capacity; and
5. are able to meet their liabilities as and when these fall due.

(2) The applicant shall submit a police certificate of good conduct as mentioned in Section 2-9, Sub-sections 3 and 6.

(3) The Ministry may issue, in the form of regulations, further provisions relating to the exam and practice requirements, and may hereunder grant exemptions from the practice requirement.

(4) The Ministry may issue, in the form of regulations, provisions with regard to the approval of applicants holding professional qualifications from other countries.

(5) The applicant may require the licence to practice as an estate agent to be issued on paper.

(6) The Financial Supervisory Authority of Norway may at any given time require the holders of a licence to practice as an estate agent to submit a new police certificate of good conduct.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 4-3. Scope for lawyers to become head of technical estate agency matters and estate agent in charge

(1) The Financial Supervisory Authority of Norway may grant a permit to become head of technical estate agency matters, cf. Section 2-9, Sub-section 2, and estate agent in charge, cf. Section 6-2, to persons who have obtained a Norwegian Master's degree in law and who:

1. are deemed suitable for engaging in estate agency activities;
2. have no less than two years of practical experience after having obtained a Master's degree in law;

3. are of full age and legal capacity; and
4. are able to meet their liabilities as and when these fall due.

(2) The applicant shall submit a police certificate of good conduct as mentioned in Section 2-9, Sub-sections 3 and 6.

(3) The Ministry may issue, in the form of regulations, further provisions relating to the practice requirement, and may hereunder grant exemptions from such requirement.

(4) The Financial Supervisory Authority of Norway may accept a law degree from abroad pursuant to the provisions of Section 241 of the Courts of Justice Act.

(5) The applicant may require the permit to be issued on paper.

(6) The Financial Supervisory Authority of Norway may at any given time require the holders of a permit pursuant to Sub-section 1 to submit a new police certificate of good conduct.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 4-4. Assistants of an estate agent in charge

(1) Only persons who have passed an exam approved by the Ministry may become assistants of an estate agent in charge.

(2) Assistants working on settlement shall have passed a special exam approved by the Ministry, demonstrating that such persons hold the necessary qualifications with regard to the execution of settlement.

(3) The Ministry may specify, in the form of regulations, requirements applicable to exams as mentioned in Sub-sections 1 and 2, as well as exemptions from the requirement that the exam must have been passed on the date of employment. Furthermore, the Ministry may specify, in the form of regulations, requirements with regard to the supervision of settlement assistants who perform settlement.

Section 4-5. Title

(1) The title «*eiendomsmegler*» (estate agent) may only be used by persons holding a licence to practice as an estate agent, cf. Section 4-2.

(2) The title «*megler*» (agent) and any titles that may be confused with the said title may, if used in relation to the performance of estate agency activities, only be used by persons who hold a licence to practice as an estate agent, cf. Section 4-2, lawyers holding a permit pursuant to Section 4-3, and advocates with a right to engage in estate agency.

(3) The title «*eiendomsmeglerfullmektig*» (deputy estate agent) may only be used by persons who have passed an estate agent exam, cf. Section 4-2, Sub-section 1, No. 2, and persons holding a Norwegian Master's degree in law, who are employees of an estate agency undertaking, cf. Section 2-1, or of an advocate engaging in estate agency activities pursuant to Section 2-1, Sub-section 1, No. 2, and who work under the supervision of an estate agent in charge. Section 4-3, Sub-section 4, shall apply correspondingly.

(4) The title «*statsautorisert eiendomsmegler*» (government-authorised estate agent) shall not be used.

Section 4-6. Supplementary training

All persons holding a licence to practice as an estate agent pursuant to Section 4-2, a licence to practise law, or a permit pursuant to Section 4-3, as well as assistants referred to in Section 4-4, who are engaged in estate agency activities, shall complete supplementary training in accordance with regulations issued by the Ministry.

Will enter into effect when decided by the Ministry.

Chapter 5. Requirements as to independence

Section 5-1. The scope of the undertaking for engaging in other business activities

(1) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, may, in addition to estate agency activities, only engage in activities that are inherently related to estate agency activities, and that are not likely to impair confidence in the integrity and independence of the undertaking.

(2) Sub-section 1 shall not prevent advocates from engaging in legal assistance activities that are not likely to impair confidence in their integrity and independence.

(3) The Ministry may issue, in the form of regulations, further provisions relating to the scope for engaging in other activities pursuant to Sub-sections 1 and 2. The Ministry may grant, in the form of regulations or administrative decisions, exemptions from Sub-sections 1 and 2.

Section 5-2. The scope of employees for engaging in business activities, etc.

(1) Employees and persons having a corresponding affiliation with any undertaking engaging in estate agency activities, cf. Section 2-1, as well as owners and officers of such undertaking who normally participate in its daily operations, shall not directly or indirectly engage in real property transactions or other activities that are likely to impair confidence in the integrity and independence of the undertaking. The same shall apply to persons having a corresponding affiliation with advocates engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2. The prohibition stipulated in the first and second sentences shall only apply to persons who perform work that forms part of estate agency activities.

(2) The Ministry may issue, in the form of regulations, further provisions relating to the keeping of a register of rights over real property that are fully or partly held by persons as mentioned in Sub-section 1, and relating to a duty for such persons to disclose information about their rights over real property.

(3) The Ministry may issue, in the form of regulations, further provisions relating to the scope for engaging in other activities pursuant to Sub-section 1. The Ministry may grant, in the form of regulations or administrative decisions, exemptions from Sub-section 1.

Section 5-3. Prohibition against own-account transactions. Duty to disclose self-interest

(1) Employees and persons having a corresponding affiliation with any undertaking engaging in estate agency activities, cf. Section 2-1, as well as owners and officers of such undertaking who normally participate in its daily operations, shall not sell their property through the relevant undertaking. The same shall apply to persons having a corresponding affiliation with advocates engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2. Neither shall persons as mentioned in the first and second sentences purchase any property or acquire any other rights as mentioned in Section 1-2, Sub-section 2, in respect of which the relevant undertaking is or has been contracted to arrange for any transaction.

(2) Sub-section 1 shall apply correspondingly to any purchase or sale for:

1. any spouse or person who lives in a relationship similar to matrimony with any person mentioned in Sub-section 1;
2. any underage children of persons mentioned in Sub-section 1, as well as any underage children of any person as mentioned in No. 1 with whom any person mentioned in Sub-section 1 cohabits; and
3. any undertaking over which persons as mentioned in Sub-section 1 or Sub-section 2, Nos. 1 and 2, exercise, individually or jointly, such influence as mentioned in Section 1-3, Sub-section 2, of the Private Limited Companies Act and the Public Limited Companies Act or Section 1-2, Sub-section 2, of the Partnerships Act.

(3) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, shall not handle offers for persons or undertakings as mentioned in Sub-sections 1 and 2. Neither shall such undertaking otherwise act as an intermediary in transactions to which such persons or undertakings are a party.

(4) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, shall not purchase or sell their own property through their own undertaking.

(5) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, shall not accept assignments from

1. any persons and undertakings as mentioned in Sub-sections 1 and 2;
2. any relatives in the ascending and descending line and any siblings of persons as mentioned in Sub-section 1;
3. any spouse or person who lives in a relationship similar to matrimony with any relative as mentioned in No. 2;
4. any undertaking over which persons or undertakings as mentioned in the present Sub-section, exercise, individually or jointly, such influence as mentioned in Section 1-3, Sub-section 2, of the Private Limited Companies Act and the Public Limited Companies Act or Section 1-2, Sub-section 2, of the Partnerships Act.

(6) The prohibition in Sub-sections 1 to 5 shall not apply to

1. employees of other branches, cf. Section 2-2, of the undertaking or the law firm than the branch that performs the assignment; or
2. employees of branches, cf. Section 2-2, of the undertaking or the law firm that

only handle settlement.

(7) If any persons or undertakings as mentioned in Sub-sections 1 and 2 have or obtain, under other circumstances, any personal or financial interest in the transaction to which the assignment pertains, such interest shall immediately be disclosed to the parties.

(8) The Ministry may issue, in the form of regulations, further provisions relating to own-account transactions, and may also grant, in the form of regulations or administrative decisions, exemptions from the present provision.

Amended by Act of 4 June 2010 No. 20 (effective date 1 July 2010 according to Royal Decree of 4 June 2010 No. 771).

Section 5-4. *Relationship to other service providers*

Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, and any persons as mentioned in Section 5-3, Sub-section 1, shall not receive any income or other benefits from anyone other than the client for performing the assignment, hereunder from any service providers used in the implementation thereof.

Chapter 6. The assignment and the performance thereof

Section 6-1. *Agent*

(1) By agent shall for purposes of the present Act be meant any undertaking and advocate engaging in estate agency activities, cf. Section 2-1, that has undertaken, in an agreement, to provide estate agency services, cf. Section 1-2, Sub-section 2.

(2) Any duties incumbent on the agent pursuant to the present Chapter shall also be incumbent on each individual person holding a licence to practice as an estate agent, cf. Section 4-2, each lawyer holding a permit pursuant to Section 4-3, each deputy estate agent, cf. Section 4-5, Sub-section 3, and each advocate entitled to engage in estate agency activities, in the performance of their activities.

Section 6-2. *Estate agent in charge*

(1) An estate agent in charge shall be appointed for each assignment. The estate agent in charge shall hold a licence to practice as an estate agent, cf. Section 4-2, a licence to practise law or a permit pursuant to Section 4-3.

(2) The estate agent in charge shall him- or herself perform the most important elements of the estate agency activities, but may also make use of assistants, cf. Section 4-4, for less important tasks and tasks of a routine or technical nature.

(3) Sub-section 2 shall neither prevent an assignment from being performed by a deputy estate agent as mentioned in Section 4-5, Sub-section 3, under the supervision of the estate agent in charge of the assignment, nor prevent settlement from being performed by an assistant who has passed a settlement exam, cf. Section 4-4, Sub-section 2.

(4) The Ministry may issue, in the form of regulations, further provisions with regard to the rights and obligations of the estate agent in charge, as well as the division of labour and responsibilities between the estate agent in charge and any assistants.

Furthermore, the Ministry may issue, in the form of regulations, further provisions with regard to the estate agent in charge's supervision of assignments performed by a deputy estate agent.

Sub-section 1, second sentence, will enter into effect on 1 July 2011.

Section 6-3. *Good estate agency practice*

(1) Any agent shall act, in the pursuit of its activities, in accordance with good estate agency practice, paying due heed to the interests of both parties. The agent shall not act in any manner that is likely to impair confidence in the integrity and independence of the agent.

(2) The agent shall give the purchaser and the seller advice and information of relevance to the transaction and the implementation thereof.

(3) The agent shall not conclude any agreement relating to estate agency activities if the conclusion of such an agreement has been stipulated as a condition in any agreement relating to anything other than estate agency activities.

(4) No condition shall be imposed, in connection with any estate agency assignment, to the effect that the client shall conclude any agreement with regard to services that are not reasonably related to the assignment.

Section 6-4. *The assignment agreement*

(1) The assignment agreement shall be in writing and shall include, at a minimum, the following information:

1. the name, address and enterprise registration number of the agent, as well as the name, address and social security or enterprise registration number of the client;
2. the nature of the assignment (sale, purchase, letting, leasing, settlement or otherwise);
3. which property the assignment pertains to;
4. what has been agreed with regard to the remuneration of the agent, hereunder what the agent shall be entitled to if no transaction is arranged;
5. what has been agreed with regard to the right of the agent to claim reimbursement of disbursements, hereunder an estimate as to the amount of the disbursements;
6. an aggregate, specified cost estimate with regard to the total remuneration and the overall disbursements;
7. the duration of the assignment and the provisions governing the termination of the assignment;
8. any right of the agent to remuneration in respect of any transaction agreed through others or without any intermediary and, if applicable, the provisions governing such right;
9. whether any other agents have worked on the same assignment in the last three months;
10. the right to request submission to a complaints board pursuant to Section 8-8; and

11. who is the estate agent in charge of the assignment, as well as any deputy estate agents who will be working on the assignment.

(2) If any sub-contractor as mentioned in Section 3-5 is to be used, the name, address and enterprise registration number of such sub-contractor shall be disclosed.

(3) The agreement shall be signed by the client and the estate agent in charge of the assignment.

(4) Any replacement of the estate agent in charge shall be notified to the client in writing.

(5) The Ministry may issue, in the form of regulations, provisions relating to electronic communication in connection with the conclusion of the assignment agreement. This may include provisions on requirements with regard to authentication, safeguarding of integrity and confidentiality.

Section 6-5. *Duration of the assignment*

(1) The assignment shall be given for a specific period, which period shall not exceed six months. The assignment may be renewed for up to six months at a time. Any renewal shall be agreed in writing.

(2) The assignment may be terminated without notice by either party.

(3) The agent shall be entitled to reasonable remuneration for any work performed in the event that the assignment is terminated by the client. Reimbursement of disbursements may be claimed in accordance with the agreement irrespective of such termination, cf. Section 6-4.

Section 6-6. *Authorisation*

The agent shall not be able to bind the client in relation to any third party without specific authorisation.

Section 6-7. *The duty of the agent to check and to disclose*

(1) The agent shall ensure that the purchaser receives, prior to any transaction being agreed, any information the latter has reason to expect and that may be of relevance to the agreement. If the agent has not obtained and checked information as mentioned in first sentence, the purchaser shall receive, prior to any transaction being agreed, a written explanation as to the reason therefore.

(2) The agent shall, prior to any transaction being agreed, provide the purchaser with a written specification containing, at a minimum, the following information:

1. registration number and address of the property;
2. ownership structure;
3. registered encumbrances;
4. appurtenant rights;
5. land area;

6. floor space of the building or buildings, and specification of the age and mode of construction thereof;
7. any scope for letting the property or parts thereof for residential purposes;
8. certificate of final completion or temporary certificate of practical completion;
9. assessed valuation and government duties;
10. status in relation to finally adopted zoning plans, licensing requirements and allodial rights;
11. specification of fixed recurring costs;
12. if the purchase price has been determined, the total cost including any portion of the joint debt of a housing cooperative, all fees, charges and other costs;
13. if the purchase price has not been determined, an overall specification including the price estimate, any portion of the joint debt of a housing cooperative, all fees, charges and other costs, as well as the sum total of these amounts; and
14. what has been agreed with regard to the agent's remuneration, cf. Section 7-2.

(3) As far as transactions falling within the scope of Section 1-2, Sub-section 2, No. 3, of the present Act are concerned, the written specification shall also include the following information:

1. the terms and conditions governing the repayment of any joint debt of a housing cooperative and any monthly joint costs, as well as any other fixed costs associated therewith;
2. separate calculation of monthly joint costs after the interest-only period, if any;
3. information to the effect that the purchaser may be held liable for any payment shortfall with regard to joint costs and for any unsold units forming part of the project;
4. information as to whether the housing cooperative has any safeguards against losses incurred in relation to joint costs, cf. Chapter 5, Sub-chapter VII, of the Act of 6 June 2003 No. 39 relating to Housing Cooperatives, and if so, who is the provider, the duration of the agreement and the termination provisions;
5. relevant rights and obligations of the housing cooperative administration company according to statutes, regulations, byelaws, resolutions and agreements of relevance to the transaction;
6. material information concerning the budget and accounts of the housing cooperative administration company, as well as information to the effect that these documents are available from the agent.

(4) Sub-section 3, Nos. 1, 5 and 6, shall apply correspondingly to the transfer of undivided interests in real property held in common and to the transfer of owner-occupied units.

(5) In the context of any transactions falling within Section 1-2, Sub-section 2, No. 4, of the present Act, the written specification shall include material information concerning the budget and accounts of the company, as well as information to the effect that these documents are available from the agent.

(6) The Ministry may issue, in the form of regulations, further provisions relating to what information shall be included in any specification as mentioned in Sub-sections 2, 3 and 4, and may also stipulate additional requirements.

Amended by Act of 3 September 2010 No. 54 (effective date 1 January 2011 according to Royal Decree of 3 September 2010 No. 1238).

Section 6-8. *The duties of the agent upon the conclusion of a contract*

(1) Unless the purchaser and the seller wish otherwise, the agent shall draw up a written sale and purchase agreement setting out all material terms and conditions of the transaction.

(2) The sale and purchase agreement may be issued electronically, provided that both the purchaser and the seller have expressly approved such electronic issuance.

Section 6-9. *The duties of the agent upon the implementation of the transaction*

(1) Unless the purchaser and the seller wish otherwise, the agent shall arrange for the

1. issuance and registration of the title deed;
2. issuance and, if applicable, registration of other documents relating to the transaction;
3. issuance of any licence application and other applications, declarations, etc.; and
4. implementation of the financial settlement.

(2) Any agents assisting with tasks as mentioned in Sub-section 1, Nos. 1, 2 or 4, are liable, pursuant to Act of 12 December 1975 No. 59 relating to Stamp Duty, Act of 6 June 2003 No. 39 relating to Housing Cooperatives and Act of 17 December 1982 No. 86 relating to Court Fees, for the payment of any duties, fees and interest relating to the registration of title deeds and other documents associated with the sale.

Section 6-10. *Submission of offers*

The Ministry may issue, in the form of regulations, provisions with regard to the submission of offers and with regard to access to information concerning offers and those submitting them.

Chapter 7. Remuneration. Disbursements

Section 7-1. *Price information*

Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1, shall provide information about the prices of their services, in a manner easily visible to the clients. The Ministry may issue, in the form of regulations, further provisions with regard to such duty to provide price information.

Section 7-2. *General provisions relating to the remuneration*

(1) No agreement shall be made for any commission-based remuneration where the percentage of the purchase price to be paid increases with the amount of the purchase price.

(2) The agent shall draft a written offer for potential clients based on an hourly rate and provide an estimate as to the time expected to be needed to complete the assignment. If the client chooses this form of remuneration, the agent shall notify the client if the time worked is expected to materially exceed that specified in the estimate.

(3) The agent shall issue an invoice irrespective of the form of remuneration agreed. The invoice shall make it possible for the client to evaluate the nature and scope of the work carried out.

(4) It shall not be agreed that anyone other than the client shall pay the agent's remuneration, hereunder any disbursements.

(5) The Ministry may issue, in the form of regulations, further provisions with regard to the duty of the agent to make an offer based on hourly rates as mentioned in Sub-section 2 and with regard to the duty to issue an invoice as mentioned in Sub-section 3. If called for by conditions with regard to the sale and purchase of real property, the Ministry may issue, in the form of regulations, further provisions relating to the agent's remuneration.

Section 7-3. *The agent's right to remuneration*

(1) The agent shall be entitled to remuneration if the transaction is agreed during the assignment period. This shall apply even if the transaction being agreed is not due to the effort of the agent. The transaction has been agreed when the parties have become irreversibly committed.

(2) The agent shall also be entitled to remuneration if the transaction is agreed within three months of the end of the assignment period with anyone

1. with whom the agent has negotiated during the assignment period; or
2. who has received, upon inquiry, information about the property from the agent during the assignment period.

(3) As far as purchasing assignments are concerned, the provisions of Sub-section 1, second sentence, and Sub-section 2 shall only apply if specifically agreed under the assignment.

(4) The present provision may be derogated from by agreement.

Section 7-4. *Payment of remuneration*

(1) The agent's claim for remuneration falls due for payment once the transaction is arranged.

(2) The client shall be entitled to withhold such portion of the remuneration as to secure any claims the client may have as the result of breach of contract on the part of the agent.

(3) The agent may only cover its claim for remuneration in client funds belonging to the client if the client has consented thereto after the transaction has been arranged.

Section 7-5. *Reimbursement of disbursements*

The agent may claim the reimbursement of any disbursements specified in the assignment agreement as and when their payment by the agent falls due.

Section 7-6. *Sharing of remuneration*

The remuneration shall not be shared with the purchaser or the seller or with anyone who is not him- or herself entitled to engage in estate agency.

Section 7-7. *Reduction of remuneration*

The client may claim a reduction or cancellation of the remuneration in the event of any not insignificant dereliction of duty on the part of the agent.

Chapter 8. Supervision and sanctions

Section 8-1. *Supervision of estate agency activities*

(1) The Financial Supervisory Authority of Norway shall, pursuant to Act of 7 December 1956 No. 1 relating to the Supervision of Financial Institutions, etc. (the Financial Supervision Act), check and supervise

1. any undertakings and advocates engaging in estate agency activities, cf. Section 2-1;
2. any persons holding a licence to practice as an estate agent, cf. Section 4-2;
3. any lawyers holding a permit pursuant to Section 4-3; and
4. any advocates working as the head of technical estate agency matters or the estate agent in charge of any undertaking or advocate engaging in estate agency activities, cf. Section 2-1.

(2) Any undertakings and persons as mentioned in Sub-section 1 shall provide the Financial Supervisory Authority of Norway with any information requested in relation to the activities. These shall also disclose and, if applicable, hand over for examination any commercial records and other documents, as well as printouts of the electronically stored information pertaining to the estate agency activities.

(3) Sub-sections 1 and 2 shall apply correspondingly to any undertakings, advocates and persons as mentioned in Sub-section 1 whose permit to engage in estate agency activities has been revoked pursuant to Section 8-2, who have been prohibited from engaging in estate agency activities pursuant to Section 8-3, whose licence to practice as an estate agent has been revoked pursuant to Section 8-4, whose permit has been revoked pursuant to Section 8-5, who have been prohibited from being a head of technical estate agency matters or an estate agent in charge pursuant to Section 8-6, or who has him- or herself waived the said rights.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 8-2. *Revocation of permits for undertakings and branches to engage in estate agency activities*

(1) The Financial Supervisory Authority of Norway may revoke the permit of an undertaking to engage in estate agency activities, cf. Section 2-1, if it is deemed inadvisable to allow the estate agency activities to continue because the undertaking

1. is subjected to insolvency proceedings;
2. no longer meets the requirements in Sections 2-4, 2-5, 2-6, 2-7, 2-8 or 2-9, Sub-section 1;
3. no longer has any head of technical estate agency matters and estate agent in charge, cf. Section 2-9, Sub-section 2, and Section 6-2;
4. no longer fulfils conditions applicable under the permit;
5. has failed to comply with any order imposed by the Financial Supervisory Authority of Norway;
6. has grossly or repeatedly violated his or her obligations under statutes or regulations;
7. has committed irregularities that give reason to fear that a continuation of the estate agency activities may be contrary to the public interest; or
8. fails to comply, within the time limit stipulated by the Financial Supervisory Authority of Norway, with an order requiring him or her to join a complaints board scheme as mentioned in Section 8-8.

(2) The Financial Supervisory Authority of Norway may revoke the permit of a branch, cf. Section 2-2, provided that

1. the branch no longer fulfils the conditions in Section 2-5, Sub-section 2, or Section 2-9, Sub-section 2, second sentence; or
2. one or more of the conditions in Sub-section 1, Nos. 5-7, have been met as far as the branch is concerned.

(3) The Financial Supervisory Authority of Norway may, in situations as mentioned in Sub-section 1, appoint a manager who him- or herself holds a permit to engage in estate agency work pursuant to Section 2-1, Sub-section 1, to complete assignments governed by the present Act. The Ministry may issue, in the form of regulations, further provisions on the rights and obligations of the manager. The Ministry may grant, in the form of administrative decisions, exemptions from the provisions of the present Act if necessary for the proper conclusion of ongoing assignments.

Amended by statutes of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603), 4 June 2010 No. 20 (effective date 1 July 2010 according to Royal Decree of 4 June 2010 No. 771).

Section 8-3. *Power to prohibit advocates from engaging in estate agency activities pursuant to Section 2-1, Sub-section 1, No. 2*

(1) The Financial Supervisory Authority of Norway may prohibit advocates from engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2, if it is deemed inadvisable to allow the estate agency activities to continue because the advocate:

1. no longer holds a licence to practise law;
2. no longer meets the requirement in Section 2-6, Sub-section 2;
3. has failed to comply with any order imposed by the Financial Supervisory Authority of Norway or the Supervisory Council for Legal Practice;
4. has grossly or repeatedly violated his or her obligations under statutes or regulations;
5. has committed irregularities that give reason to fear that a continuation of the estate agency activities may be contrary to the public interest; or
6. fails to comply, within the time limit stipulated by the Financial Supervisory Authority of Norway, with an order requiring him or her to join a complaints board scheme as mentioned in Section 8-8.

(2) The Financial Supervisory Authority of Norway may, in situations as mentioned in Sub-section 1, appoint a manager who him- or herself holds a permit to engage in estate agency work pursuant to Section 2-1, Sub-section 1, to complete assignments governed by the present Act. The provisions of Section 8-2, Sub-section 3, second and third sentences, shall apply correspondingly.

Amended by statutes of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603), 4 June 2010 No. 20 (effective date 1 July 2010 according to Royal Decree of 4 June 2010 No. 771).

Section 8-4. *Revocation of licences to practice as an estate agent*

The Financial Supervisory Authority of Norway may revoke any licence to practice as an estate agent, cf. Section 4-2, provided that the holder of such licence is deemed unsuitable because he or she

1. no longer fulfils the conditions in Section 4-2, Sub-section 1, No. 5;
2. has committed a criminal offence, and therefore must be deemed to have impaired the trust necessary for pursuing the profession; or
3. has grossly or repeatedly violated his or her obligations under statutes or regulations.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 8-5. *Revocation of permits held by lawyers*

The Financial Supervisory Authority of Norway may revoke the permit held by any lawyer, cf. Section 4-3, provided that the holder of such permit is deemed unsuitable because he or she

1. no longer fulfils the conditions in Section 4-3, Sub-section 1, No. 4;
2. has committed a criminal offence, and therefore must be deemed to have impaired the trust necessary for pursuing the profession; or
3. has grossly or repeatedly violated his or her obligations under statutes or regulations.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 8-6. *Power to prohibit advocates from being the head of technical estate agency matters or the estate agent in charge*

The Financial Supervisory Authority of Norway shall prohibit an advocate from being a head of technical estate agency matters, cf. Section 2-9, Sub-section 2, or an estate agent in charge, cf. Section 6-2, if he or she no longer holds a licence to practise law. The Financial Supervisory Authority of Norway may also prohibit an advocate from being a head of technical estate agency matters or an estate agent in charge if the advocate is deemed unsuitable because he or she

1. has committed a criminal offence, and therefore must be deemed to have impaired the trust necessary for pursuing the profession; or
2. has grossly or repeatedly violated his or her obligations under statutes or regulations.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 8-7. *Suspension of the right to engage in estate agency activities.*

If any undertaking holding a permit to engage in estate agency activities, cf. Section 2-1, is charged with an offence that may result in revocation of the permit, the Financial Supervisory Authority of Norway may suspend the permit until the criminal proceedings have been completed. The Financial Supervisory Authority of Norway may correspondingly prohibit an advocate from engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2, until the criminal proceedings have been completed.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 8-8. *Scope for submission to a complaints board, etc.*

(1) One or more complaints boards may be established by agreement between organisations representing undertakings or advocates engaging in estate agency activities, cf. Section 2-1, and the Norwegian Consumer Council or other organisations representing players in the property market, for purposes of resolving disputes between undertakings or advocates engaging in estate agency activities, cf. Section 2-1, and sellers, purchasers or other parties with interests in any object as mentioned in Section 1-2, with regard to any obligations under the present Act.

(2) The parties may submit the agreement to the King for approval. The provisions of Sub-sections 3 to 8 shall apply if the King has approved the byelaws of the complaints board.

(3) The seller, the purchaser or other interested parties may request the submission to a complaints board of any dispute that falls within the jurisdiction of such complaints board, provided that such person has a justifiable interest in obtaining an opinion from the complaints board with regard to the matter.

(4) A dispute shall not be brought before the ordinary courts of law for as long as such dispute is pending before the complaints board. A dispute is deemed to be pending as from the date on which the request for an opinion from the complaints board has been received by such complaints board.

(5) A matter that has been deliberated by the complaints board on its merits may be brought directly before the District Court.

(6) The complaints board shall forward any opinions with regard to violations of the Estate Agency Act to the Financial Supervisory Authority of Norway.

(7) If the complaints board finds in favour of the party filing the complaint, the complaints board may order the party against whom such complaint has been filed to pay the costs of the complaints board relating to the relevant matter.

(8) The Ministry may issue, in the form of regulations, further provisions in relation to the present provision and the right to submit complaints to a complaints board.

Amended by Act of 19 June 2009 No. 48 (effective date 21 December 2009 according to Royal Decree of 18 December 2009 No. 1603).

Section 8-9. Penalties

Wilful or negligent violation of provisions contained in, or issued pursuant to, Sections 2-1, 2-2, 3-1, 3-6, 4-5, 5-1, 5-2, 5-3, 6-3, Sub-sections 3 and 4, 7-2, Sub-section 1, 7-4, Sub-section 3, and 8-1 shall be punishable by fines or by imprisonment for up to 3 years, or up to 6 years in especially aggravating circumstances. The same applies to non-compliance with orders, injunctions or conditions imposed in pursuance of the said provisions. Aiding and abetting is liable to the same penalties.

Amended by Act of 20 May 2005 No. 28 (effective date to be stipulated by statute) as amended by Act of 19 June 2009 No. 74.

II. Effective date and transitional provisions

(1) The present Act shall come into force on such date as the King decides.¹ The various provisions may enter into force on different dates.

(2) The King may issue transitional provisions.

(3) Any regulations issued pursuant to Act of 16 June 1989 No. 53 relating to Estate Agency Activities shall remain in effect until otherwise resolved, also after the effective date of the present Act.

(4) The following amendments to other statutes shall take effect as per the effective date of the present Act:

Act of 16 June 1989 No. 53 relating to Estate Agency Activities is repealed.

¹ From 1 January 2008 according to Royal Decree of 29 June 2007 No. 754, but it follows from Regulations of 23 November 2007 No. 1282 that the effective date of Section 4-4 (1) and (2) and Section 6-2 (1), second sentence, was 1 July 2011, and that Section 4-6 will enter into effect when decided by the Ministry.