

# SALESPERSONS QUALIFYING EXAMINATION SYLLABUS

## Preamble

<b>Which Part of the Syllabus</b>	<b>Knowledge expected</b>
Part 1	To be aware of the background of the real estate agency trade
Part 2	To have a basic knowledge of the Estate Agents Ordinance (Cap. 511) (“EAO”) and the Estate Agents Authority (“EAA”); and To be able to handle typical cases in line with EAA’s prescribed practice
Part 3	To be aware of the basic terminology and concepts of laws governing practice and the need to comply with the requirements of the law
Part 4	To be aware of how prescribed property information is gathered, the terminology involved and be able to interpret the information for clients
Part 5	To be aware of the basic classification of and terminology for buildings and that different aspects of buildings are regulated by law
Part 6	To have a basic knowledge of the basic terminology and concepts of tenancy and the need to comply with the requirements of the law

### **Levels of Expectation**

The following are indications which may assist candidates to understand the depth of knowledge that candidates are expected to acquire in each section of the syllabus.

Level 1 – Awareness

Level 2 – Basic knowledge

Level 3 – Basic knowledge plus ability to make use of the knowledge in practice

Level 4 – Understanding (i.e. able to relate to the context of the industry) plus ability to make use of the knowledge in practice

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# Part 1

## Introduction to the real estate agency industry in Hong Kong

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Salespersons are expected to be aware of the background of the trade.

Which Section of the Syllabus	Level of Expectation
The whole of Part 1	Level 1 – Awareness

- 1.1 Development of the real estate sector in Hong Kong: the different stages, and its relation to overall socio- economic development
- 1.2 Development of real estate practice in Hong Kong, including the growth from individually-based to company-based operations and the development of large chain enterprises; the relationship between the real estate agency trade and other professions and sectors: government departments, legal, banking, developers, building and construction, property management
- 1.3 Housing and land policy
  - 1.3.1 Housing and land policy and other major factors (political, economic restructuring, immigration) affecting property prices and their fluctuation cycles
  - 1.3.2 Technical factors affecting property prices: interest rates, economic indices, seasonal variations, mortgage policy
- 1.4 Property market supply and demand annual statistics
- 1.5 The role and functions of real estate agents in the property market: promoter and distributor
- 1.6 Rationale behind the introduction of EAO
- 1.7 Public expectations of the trade’s professionalism
  - 1.7.1 Consumers’ perspective of the trade in relation to their rights
  - 1.7.2 Professionalism in the context of real estate practice

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## Part 2

### Estate Agents Ordinance and estate agency practice

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Salespersons are required to have a basic knowledge of the EAO and EAA, to be conversant with EAA's prescribed practice for property sales and to be able to deal with typical cases.

Which Section of the Syllabus	Level of Expectation
The whole of Part 2	Level 3 – Basic knowledge plus ability to make use of the knowledge in practice

- 2.1 The trade's regulatory and statutory body
  - 2.1.1 Principal functions and general powers of EAA
  - 2.1.2 Organisational structure of EAA
    - 2.1.2.1 Composition of EAA and its standing committees
    - 2.1.2.2 Organisational structure of EAA
    - 2.1.2.3 Role of the Chief Executive Officer ("CEO") in handling complaints and conducting investigations
    - 2.1.2.4 Inquiries by the Disciplinary Committee
- 2.2 Compliance with EAA's licensing requirements
  - 2.2.1 Obtaining a licence before practice
  - 2.2.2 Licensing requirements
- 2.3 Statutory duties of Salespersons and the EAO
  - 2.3.1 Definition of Salespersons
  - 2.3.2 The register
  - 2.3.3 Registered address
  - 2.3.4 Application for licence
  - 2.3.5 Renewal of licence
  - 2.3.6 Conditions attached to licence
  - 2.3.7 Suspension or revocation of licence
  - 2.3.8 Duties: information regarding properties and transactions, Section 40(1) notice, liability for monies received, advertising
  - 2.3.9 Standard forms: requirements for making agreements, contents of agreements, duty to supply unexecuted/executed agreement, Estate Agency Agreement for vendor/landlord, Estate Agency Agreement for purchaser/tenant, Property Information Form/Leasing Information Form, Vendor's Statement in the Property Information Form
  - 2.3.10 Investigation, Complaint and Discipline
    - 2.3.10.1 Exercise of disciplinary power

- 2.3.10.2 Publication of decision
- 2.3.11 Appeal
  - 2.3.11.1 Categories of appeal
  - 2.3.11.2 Appeal panel and tribunals
  - 2.3.11.3 Appeal tribunal proceedings
- 2.3.12 Offences by Salespersons (Section 55)
- 2.4 Code of Ethics
  - 2.4.1 Compliance with the law
  - 2.4.2 Good understanding of related legislation and requirements
  - 2.4.3 Professional knowledge and competence required
  - 2.4.4 Ethical and moral standards during practice and responsibilities towards clients
  - 2.4.5 Exercising due diligence
  - 2.4.6 Minimising any conflict-of-interest situations
  - 2.4.7 Relationship between agents and ethical standards to be observed in conducting business
- 2.5 Practice Regulation
  - 2.5.1 General duties of Salespersons
  - 2.5.2 Listing and seeking instructions
  - 2.5.3 Use of Estate Agency Agreement
  - 2.5.4 Advertising
  - 2.5.5 Provision of property information and exercise of due diligence
  - 2.5.6 Property inspection and viewing
  - 2.5.7 Conduct of negotiations
  - 2.5.8 Handling of clients' money and keeping of accounts and records
  - 2.5.9 Preliminary agreement for sale and purchase
  - 2.5.10 Commission
  - 2.5.11 Post-transaction services
- 2.6 Compliance with guidelines relevant to the trade
  - 2.6.1 Practice Circulars issued by the EAA

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## **Part 3**

# **Laws governing estate agency practice and conveyancing procedures**

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Salespersons are expected to be aware of the basic terminology and concepts of the laws and the need to comply with the requirements of the law. Awareness of conveyancing procedures, mortgages and taxation is also expected.

Which Section of the Syllabus	Level of Expectation
The whole of Part 3	Level 1 – Awareness

- 3.1 Basic concept of common law
  - 3.1.1 Definition of common law
  - 3.1.2 System of judicial precedent
- 3.2 Basic concept of equity
- 3.3 Statute law
- 3.4 Principles of the law of agency
  - 3.4.1 Mode of creation
    - 3.4.1.1 Express
    - 3.4.1.2 Implied
    - 3.4.1.3 Estoppel
    - 3.4.1.4 Ratification
  - 3.4.2 Duties of agent
    - 3.4.2.1 Obey lawful instructions
    - 3.4.2.2 Due care and diligence
    - 3.4.2.3 Disclose material information
    - 3.4.2.4 Avoid conflict of interest
    - 3.4.2.5 Keep secret confidential information
    - 3.4.2.6 Not to delegate duties
    - 3.4.2.7 Not to make secret profit
    - 3.4.2.8 No misrepresentation
  - 3.4.3 Termination of agency
    - 3.4.3.1 By mutual agreement
    - 3.4.3.2 Revocation by principal
    - 3.4.3.3 Renunciation by agent
    - 3.4.3.4 Supervening illegality
    - 3.4.3.5 Expiration
    - 3.4.3.6 Full fulfilment of terms
    - 3.4.3.7 Incapacity of principal or agent
    - 3.4.3.8 Destruction of subject matter
    - 3.4.3.9 Enemy status
- 3.5 Principles of the law of contract
  - 3.5.1 Definition of contract
  - 3.5.2 Formation of contract
    - 3.5.2.1 Offer

- 3.5.2.2 Acceptance
    - 3.5.2.3 Consideration
    - 3.5.2.4 Intention to be legally binding
  - 3.5.3 Contract for real property
    - 3.5.3.1 General ingredients
    - 3.5.3.2 Special requirements-in writing: parties, Property, price, particular terms, signature
  - 3.5.4 Interpretation of contract
  - 3.5.5 Breach of contract and remedies
    - 3.5.5.1 Breach of contract
    - 3.5.5.2 Remedies: common law remedies, equitable remedies
  - 3.5.6 Misrepresentation
    - 3.5.6.1 Definition of misrepresentation
    - 3.5.6.2 Remedies for misrepresentation
  - 3.5.7 Breach of contractual duties by agents and liabilities
- 3.6 Negligence
  - 3.6.1 Definition of negligence
  - 3.6.2 Ingredients of negligence
    - 3.6.2.1 Duty of care
    - 3.6.2.2 Breach of duty
    - 3.6.2.3 Injury or damages
  - 3.6.3 Negligent statement
    - 3.6.3.1 Ingredients of negligent statement: negligent statement, reliance by plaintiff, defendant knows reliance, reliance is reasonable, plaintiff suffers injuries or damages
    - 3.6.3.2 Restriction on liability
  - 3.6.4 Breach of duty of care by agent and liabilities
- 3.7 Other Ordinances relating to estate agency practice
  - 3.7.1 Conveyancing and Property Ordinance (Cap. 219)
    - 3.7.1.1 Land contracts to be in writing (Section 3)
    - 3.7.1.2 Certain instruments to be in writing (Section 5)
    - 3.7.1.3 Creation of interest in land by parol (Section 6)
  - 3.7.2 Land Registration Ordinance (Cap. 128)
    - 3.7.2.1 Registrable instruments
  - 3.7.3 Housing Ordinance (Cap. 283)
    - 3.7.3.1 Sale of land by Housing Authority (Section 17A)
    - 3.7.3.2 Particular conditions of sale (Section 17AA)
    - 3.7.3.3 Void alienations (Section 17B)
    - 3.7.3.4 Unlawful alienations (Section 27A)
    - 3.7.3.5 Alienation restrictions (Schedule)

- 3.7.4 Personal Data (Privacy) Ordinance (Cap. 486)
  - 3.7.4.1 Definition of personal data (Section 2)
  - 3.7.4.2 Data protection principles: purpose and manner of collection of personal data, accuracy and duration of retention of personal data, use of personal data, security of personal data, information to be generally available, access to personal data (Schedule 1)
  - 3.7.4.3 Direct marketing (Sections 35A to 35M)
- 3.7.5 Unconscionable Contracts Ordinance (Cap. 458) (Section 6)
- 3.7.6 Prevention of Bribery Ordinance (Cap. 201) (Sections 5 and 9)
- 3.7.7 Misrepresentation Ordinance (Cap. 284) (Section 3)
- 3.7.8 Residential Properties (First-hand Sales) Ordinance (Cap. 621)
  - 3.7.8.1 Saleable area (Section 8(1))
  - 3.7.8.2 Application (Section 10)
  - 3.7.8.3 Sales brochure (Sections 15, 16, 20(2), 22, 24(1), 24(5) and 25)
  - 3.7.8.4 Price list, general expression of intent and specific expression of intent etc. (Sections 29, 31, 32, 34, 35(1) and 35(3))
  - 3.7.8.5 Measurements to be taken in show flat (Section 42)
  - 3.7.8.6 Sales arrangements and other information (Sections 47 and 49)
  - 3.7.8.7 Preliminary agreement and agreement (Sections 52(1) and 53)
  - 3.7.8.8 Register of transactions (Sections 58, 60 and 61)
  - 3.7.8.9 Advertisement (Sections 70, 71, 73(7) and 74)
  - 3.7.8.10 Penalties for misrepresentation and dissemination of false or misleading information (Sections 75, 76 and 78)
  - 3.7.8.11 Electronic database on first-hand residential properties (Section 89)
- 3.8 Conveyancing practice and procedures: from preliminary agreement for sale and purchase to completion
- 3.9 Mortgages
  - 3.9.1 Different forms of mortgage
  - 3.9.2 Essential terms of mortgage and their common variations
  - 3.9.3 Floating and fixed-rate mortgages
  - 3.9.4 Application procedures and usual considerations in approving mortgages
- 3.10 The basics of property-related taxation
  - 3.10.1 Stamp duty
  - 3.10.2 Property tax
  - 3.10.3 Government rent
  - 3.10.4 Rates
  - 3.10.5 Profits tax

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## Part 4

# Introduction to land registration, land search and property- related information systems

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Salespersons are expected to be aware of how information is derived to conduct typical searches, the terminology involved, and to be able to interpret the information for clients.

Which Section of the Syllabus	Level of Expectation
Part 4.1, 4.4 and 4.5	Level 1 – Awareness
Part 4.2 and 4.3	Level 3 – Basic knowledge plus ability to make use of the knowledge in practice

### 4.1 Technical terms and salient features of a land search

4.1.1 Property particulars: lot number and address of the property, details of the government lease under which the lot is held (the annual government rent payable, the lease term, the commencement date of the term and whether the term is renewable or not) etc.

4.1.2 Owner particulars: name of registered owner(s), types of ownership (sole owner, joint tenants/tenants in common, trustee etc.), assignment, deed of gift, letters of administration, probate etc.

4.1.3 Incumbrances: occupation permit, deed of mutual covenant (“DMC”), certificate of compliance, agreement for sale and purchase, nomination, order, mortgage or legal charge, release etc.

4.1.4 Other information: memorial number, date of instrument, date of registration, nature of instruments, parties involved, consideration, deed pending registration etc.

### 4.2 Land search

4.2.1 Historical versus current land search

4.2.2 Various methods of conducting land search: Integrated Registration Information System (“IRIS”), via third parties, government charges

### 4.3 How to analyse a search document

4.3.1 Most common complications spotted in a search: any subsisting encumbrances in a land search and their effect etc.

4.3.2 When a historical and current land search/company search/online search of the Rating and Valuation Department etc. is necessary and items to be checked

4.3.3 When to resort to legal consultation

### 4.4 Publicly available statistical information

4.4.1 Basic statistics related to the real estate trade: population, age, number of households, wage/earnings, expenditure on housing



- 4.4.2 Housing information
  - 4.4.2.1 Land population, land domestic household, house size (Housing Department)
  - 4.4.2.2 Government lease (Lands Department)
  - 4.4.2.3 Housing supply and demand (Housing Department, Rating and Valuation Department): stock of permanent residential flats: private; public: Home Ownership Scheme, Private Sector Participation Scheme, Housing Society subsidised sale flat, Housing Authority rental flats, Housing Society rental flats; production of permanent residential flats: by nature and by location, future production, redevelopment and clearance programme, total vacant private residential stock, housing demand projection; housing prices: prices of permanent residential flats
- 4.4.3 Transaction information (Land Registry)
  - 4.4.3.1 Sale and purchase agreements for building units and land
  - 4.4.3.2 Floor plan
  - 4.4.3.3 Rental information
- 4.5 Access to other land/property information systems
  - 4.5.1 Commercial property information providers
  - 4.5.2 Internet: government department web pages, publicly available estate agency web pages

## **Part 5**

### **Introduction to building-related knowledge, property classification and property management**

Salespersons are expected to be aware of the basic classification and terminology of buildings and that different aspects of buildings are regulated by law.

<b>Which Section of the Syllabus</b>	<b>Level of Expectation</b>
The whole of Part 5	Level 1 – Awareness

- 5.1 Government Lease conditions
  - 5.1.1 Particulars of the lot
  - 5.1.2 General conditions
  - 5.1.3 Special conditions
  - 5.1.4 Special categories
- 5.2 Buildings Ordinance (Cap. 123)
  - 5.2.1 Definition
  - 5.2.2 Parties involved and their duties

- 5.3 Issues affecting existing buildings
  - 5.3.1 Essential information
  - 5.3.2 Alterations and additions
  - 5.3.3 Change in use
- 5.4 Property management
  - 5.4.1 DMC
  - 5.4.2 Essential elements of property management
  - 5.4.3 Building Management Ordinance (Cap. 344)

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## Part 6

### Leasing and tenancy matters

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Salespersons are expected to have a basic knowledge of the terminology and concepts involved and the need to comply with the requirements of the law (specifically the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)).

Which Section of the Syllabus	Level of Expectation
The whole of Part 6	Level 3 – Basic knowledge plus ability to make use of the knowledge in practice

- 6.1 Types of tenancy
  - 6.1.1 Domestic
  - 6.1.2 Commercial
- 6.2 Stamp duty on tenancy agreement
- 6.3 Rights of tenant
  - 6.3.1 Exclusive possession
  - 6.3.2 Quiet enjoyment
- 6.4 Obligations of tenant
  - 6.4.1 Payment of rent
  - 6.4.2 Delivery of possession on termination of tenancy
- 6.5 Rights of landlord
  - 6.5.1 Receipt of rent
  - 6.5.2 Re-possession on tenant's default or statutory grounds
- 6.6 Obligations of landlord
  - 6.6.1 Structural and exterior repairs
- 6.7 Determination of tenancy

- 6.7.1 By effluxion of time
- 6.7.2 By mutual agreement
- 6.7.3 The break clause
- 6.7.4 Other means
- 6.8 Tenancy renewal procedures
  - 6.8.1 Renewal by agreement
  - 6.8.2 Other means
- 6.9 CR forms
  - 6.9.1 CR 109