



Circular

Circular No. 13-02 (CR)

- **Obtain the prescribed property information.**
- **Ensure that the property information is accurate.**
- **Complete Form 1/Form 2 in accordance with the directions and instructions specified on the form and provide it to clients.**

Property Information and Completion of Property Information Form/Leasing Information Form

It is an important duty of licensees to provide accurate and up-to-date property information to their clients. In order to protect and promote the interests of their clients, licensees must fully comply with the relevant statutory duties stipulated in the Estate Agents Ordinance (“EAO”) and the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (“Practice Regulation”), as well as the relevant provisions in the estate agency agreements.

Possession of Property Information

- (2) Under section 6(1) of the Practice Regulation, a licensed estate agent acting for a vendor is required to enter into an estate agency agreement (Form 3) (“Form 3”) with the vendor, and a licensed estate agent acting for a landlord is required to enter into an estate agency agreement (Form 5) (“Form 5”) with the landlord.
- (3) Under section 36(1)(a)(i) of the EAO, every licensed estate agent who acts for a vendor (or landlord) is required, for as long as he so acts, to have in his possession or control certain prescribed information as regards every property in relation to which he has

entered into an estate agency agreement. The prescribed information that is required is:

- (a) in the case of a sale and purchase of a residential property in Hong Kong, the prescribed property information to be included in Part B of Part 1 of the Property Information Form (Form 1); and
 - (b) in the case of a lease of a residential property in Hong Kong, the prescribed property information to be included in Part B of the Leasing Information Form (Form 2).
- (4) In addition, under section 36(1)(a)(ii) of the EAO, the licensed estate agent is required to be reasonably satisfied as regards the accuracy of the prescribed property information.
- (5) To comply with the said requirement, a licensed estate agent who acts for the vendor (or landlord) must have in his possession or under his control the prescribed information **during the full period** when he so acts, starting from the commencement date of the validity period of the estate agency agreement. Unless he has already possessed the prescribed information and such information is still accurate, he is required to, on the commencement date of the validity period of the estate agency agreement, carry out a land search of the property and, if necessary:
- (a) conduct a search on the online service of the Rating and Valuation Department; or
 - (b) obtain the relevant prescribed information from other prescribed sources.
- (6) A licensed estate agent may breach the requirement:
- (a) if the prescribed property information he is required to possess is obtained before the commencement date of the

validity period of the estate agency agreement and such property information is no longer accurate; or

- (b) regardless of when he obtains the information, if he is not reasonably satisfied as regards the accuracy of such information.

Property Information Form/Leasing Information Form

(7) The procurement of the prescribed property information and completion of the requisite forms are governed by sections 3(2) and (3) of the Practice Regulation under which licensed estate agents are required to:

- (a) obtain the prescribed information from the prescribed sources;
- (b) complete the Property Information Form (Form 1) (“Form 1”) in the case of a sale and purchase, or the Leasing Information Form (Form 2) (“Form 2”) in the case of a lease, in accordance with the directions and instructions specified in the forms;
- (c) attach to the Form 1 a copy of the land search in respect of the property;
- (d) provide to the vendor (or landlord) the original or a copy of the completed Form 1 (or Form 2) BEFORE either one of the following events at the option of the vendor (landlord):
 - (i) a Form 3 (or Form 5) with the vendor (or landlord) is entered into;
 - (ii) an agreement for sale and purchase (or a tenancy agreement) between the vendor (or landlord) and a purchaser (or tenant) is entered into; and

- (e) provide to the purchaser (or tenant) the original or a copy of the completed Form 1 (or Form 2) unless the purchaser (or tenant) specifically waives his right to receive the same.

Completion of Form 1/Form 2

- (8) Under section 3(2)(a) of the Practice Regulation, licensed estate agents are required to complete Form 1/Form 2 in accordance with the directions and instructions specified therein.
- (9) In order to comply with the requirement, licensed estate agents should complete the Form 1/Form 2 carefully. They are particularly reminded to:
 - (a) complete all questions and fill in all blanks in Part B of Part 1 of Form 1 and Part B of Form 2;
 - (b) state the date the relevant property information was obtained in the appropriate space under the “Date of obtaining the information” column in Part B of Part 1 of Form 1 and Part B of Form 2;
 - (c) mark a “ ✓ ” in the appropriate box in Part B of Part 1 of Form 1 and Part B of Form 2;
 - (d) delete option(s) which is/are not appropriate whenever “*” appears under the “Prescribed Source” column in Part B of Part 1 of Form 1 and Part B of Form 2;
 - (e) write “N/A” if any question is not applicable and “Not available” if any prescribed information is not available; and
 - (f) provide the relevant information only in the appropriate space/column of the form.

Vendor's Statement in Form 1

- (10) Under the vendor's statement in Part 2 of Form 1, a vendor may provide additional information about the property such as structural additions, alterations, repairs or improvements to the property. Licensees should use their best efforts to urge the vendor to provide the relevant information in Part 2 of Form 1.

Licensees who fail to comply with the relevant provisions concerning property information and completion of the Property Information Form/Leasing Information Form may breach the EAO and/or the Practice Regulation and/or the Code of Ethics, and may be subject to disciplinary action.

This Circular shall take effect on 1 April 2013. Circular No. 11-01 (CR) will be superseded on the same date.

March 2013

Holders of Statements of Particulars of Business
 should bring this Circular to the attention of all staff
 engaged in estate agency work