

April 2019 e-Quiz

Notes to candidates:

- 1. Most of the contents of this e-Quiz are adopted from April 2017 e-Quiz.*
- 2. Please read the scenario and annex (if any) before attempting the questions. The subject matter and names of parties are fictitious.*
- 3. Clause 5.3 of the CPD Guidelines provides that, for the purpose of the award of the Certificate of Attainment, the following limitation applies in calculating CPD points: To encourage practitioners to diversify their modes of learning, certain modes may be capped. For example, the cap for EAA e-Quiz is four CPD points per a 12-month CPD period. Therefore, even if a participant completes more than four e-Quizzes (one CPD point each) during a 12-month CPD period, only four CPD points can be earned.*

Pass Mark: You will have 10 questions in this e-Quiz. You will earn one CPD point if you can score not less than 5 correct answers.

Remarks: In the following questions, the following words have the following corresponding meanings:

“the Authority” means the Estate Agents Authority;

“the Ordinance” means the Estate Agents Ordinance;

“the Practice Regulation” means the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation;

“the Licensing Regulation” means the Estate Agents (Licensing) Regulation;

“the Code of Ethics” means the Code of Ethics issued by the Estate Agents Authority; and

“the Practice Circular” means the practice circulars issued by the Estate Agents Authority.

Case 1 (Questions 1-5)

Edmond is a licensed estate agent and the manager appointed for the effective and separate control of the business of XYZ Estate Agency in compliance with the Estate Agents Ordinance. Edmond’s brother, Francis, has listed his residential flat (“Property A”) for sale with XYZ Estate Agency.

The land search of Property A reveals that the building in which Property A is located is subject to a building order issued by the Building Authority. The building order is registered at the Land Registry and is still subsisting. Francis informs Edmond that this relates to the

maintenance of a dangerous slope adjacent to the building. Francis says that he has already paid his contribution towards the maintenance works, and produces a receipt issued by the Incorporated Owners of the building as evidence. Edmond suggests to Francis that, because he has paid his contribution to the slope maintenance works, there is no need to alert potential purchasers about the building order. To this end, Edmond advises Francis not to provide any information in the Vendor's Statement in the Property Information Form (Form 1).

Mr Ho is Edmond's client and is interested in Property A because his sister also lives in the same building. He informs Edmond that he will need to finance his purchase of Property A by taking out a mortgage from a bank. Edmond provides the Form 1 of Property A to Mr Ho with the Vendor's Statement left entirely blank. Edmond does not attach a copy of the land search of Property A to the Form 1, and states in it that Property A is not subject to any subsisting building order.

After viewing Property A with his sister, Mr Ho agrees to enter into a provisional agreement for sale and purchase of Property A. Edmond does not provide to Mr Ho an up-to-date land search of Property A immediately before the signing of the provisional agreement for sale and purchase. However, Mr Ho's sister is aware of the building order and informs Mr Ho about the building order. On learning about it, Mr Ho demands that Edmond must show him a copy of the building order.

A few months later, XYZ Estate Agency gives Edmond one month's notice of the estate agency's decision to terminate his appointment as manager. The proprietor of XYZ Estate Agency plans to recruit someone to take up Edmond's position and act as manager. He also intends to recruit a full-time salesperson to work under the supervision of Edmond's replacement.

Case 2 (Questions 6-10)

Mr Wong is the owner of a Home Ownership Scheme flat (“Property B”) and he intends to sell it.

On 3 March 2019, Mr Wong telephones his grandson, Edward, a licensed estate agent, to list Property B for sale. Edward accepts Mr Wong’s instructions to list Property B on the following terms:

- (1) The estate agency for which Edward works is to be Mr Wong’s exclusive agent in the sale of Property B.
- (2) The amount of commission payable to the estate agency for which Edward works is 1% of the price of Property B.
- (3) Mr Wong agrees that if Edward can successfully market Property B for him within one month of listing, he will give Edward \$10,000 on top of the commission as an extra reward.
- (4) The list price of Mr Wong’s flat is \$4,800,000.

On 7 March 2019, Edward issues an advertisement of Property B.

Emma is an estate agent and knows that Mr Wong has entered into an exclusive agency agreement with the estate agency for which Edward works for the marketing of Property B. She telephones Mr Wong and offers to charge him half of what Edward is charging for commission. Without further discussion, Mr Wong immediately agrees to appoint Emma as his additional agent and enters into an Estate Agency Agreement (Form 3) with her on the same day.

A few days later, Edward’s client Miss Cho makes an offer of \$4,700,000 to purchase Property B. Edward rejects it on behalf of Mr Wong straight away without informing Mr Wong, as he believes that Mr Wong will find the offer too low.

- End -

April 2019 e-Quiz

Answer guide

Note:

1. This answer guide is prepared by the Professional Development Section of the Estate Agents Authority and provides the correct answers to the questions of the April 2019 e-Quiz.

2. In this answer guide, the following words have the following corresponding meanings: -

 “the Authority” means the Estate Agents Authority;
 “the Ordinance” means the Estate Agents Ordinance;
 “the Practice Regulation” means the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation;
 “the Licensing Regulation” means the Estate Agents (Licensing) Regulation;
 “the Code of Ethics” means the Code of Ethics issued by the Estate Agents Authority; and
 “the Practice Circular” means the practice circulars issued by the Estate Agents Authority.

3. The copyright of the e-Quiz, this answer guide and all supporting materials (collectively “the materials”) belongs to the Authority, and the materials may be reproduced by candidates for the purpose of attempting the questions only. No reproduction of the materials for any other purpose is allowed without the prior written consent of the Authority.

Please answer Questions 1 to 5 with reference to Case 1:

1. Which of the following acts of Edmond may breach the Practice Regulation and/or the Code of Ethics?
- (i) Advising Francis not to provide any information in the Vendor's Statement in the Form 1.
 - (ii) Stating that Property A is not subject to any subsisting building order in the Form 1.
 - (iii) Failing to attach a copy of the land search of Property A to the Form 1.
 - (iv) Failing to provide to Mr Ho an up-to-date land search of Property A immediately before the signing of the provisional agreement for sale and purchase.
- A. (i), (ii) and (iii) only
 - B. (i), (ii) and (iv) only
 - C. (i), (iii) and (iv) only
 - D. (ii), (iii) and (iv) only
 - E. (i), (ii), (iii) and (iv)**

Answer:

Practice Regulation, Clauses 5 and 10(b) of Form 3

“5. Property Information - the Agent shall provide to the Vendor the Property Information Form including the Vendor's Statement prescribed under the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation duly completed and signed by the Agent.”

“10. Acknowledgement by Vendor

The Vendor acknowledges that he has –

- (b) received the Property Information Form including the Vendor's Statement required to be provided under clause 5 of this Agreement.
- agreed to receive the Property Information Form including the Vendor's Statement before entering into a binding agreement for sale and purchase between the Vendor and a purchaser.”

Section 3(3)(b) of the Practice Regulation– “a licensee supplying a form pursuant to this Regulation shall-

- (a) obtain the information required to be included in the form as soon as is practicable; and
- (b) ensure the accuracy of the information so obtained and of any other information included in the form.”

Section 3(1) of the Practice Regulation and Property Information Form –

“(1) Subject to subsection (4), the forms are prescribed for the purposes of the Ordinance and, accordingly-

- (a) the information (including particulars and other matters) required to be included in those forms; and
- (b) the requirements to be complied with as specified in those forms,

are also prescribed for those purposes.”

Section 13(4) of the Practice Regulation – “(4) A licensee acting for the vendor of a residential property shall, immediately before an agreement for sale and purchase or a lease of the property is entered into, cause to be carried out a land search in the Land Registry in respect of the property and supply a copy of the land search to the purchaser of the property.”

In accordance with Clauses 5 and 10(b) of Form 3, the agent shall provide to the vendor the Property Information Form including the Vendor’s statement prescribed under the Practice Regulation duly completed and signed by the agent. Option (i) is correct.

Section 3(3)(b) of the Practice Regulation provides that a licensee supplying a form pursuant to this Regulation shall ensure the accuracy of the information obtained and of any other information included in the form. Option (ii) is correct.

Section 3(1) of the Practice Regulation and the Property Information Form Part 1 Part B1 provides that copy of the land search from the Land Registry shall be attached. Option (iii) is correct.

Section 13(4) of the Practice Regulation provides that a land search shall be carried out immediately before an agreement for sale and purchase of a residential property is entered into and a copy of the land search shall be supplied to the purchaser of the property. Option (iv) is correct.

The answer is E.

2. According to the Estate Agents Ordinance and/or the Practice Regulation, which of the following is **NOT** part of the duties of Edmond who acts for Mr Ho in respect of the purchase of Property A?
- A. To arrange for Mr Ho to enter into an estate agency agreement with XYZ Estate Agency.
 - B. To accompany Mr Ho to inspect Property A.
 - C. To introduce a bank to Mr Ho for the purpose of applying mortgage financing.**
 - D. To explain the meaning of each clause of the estate agency agreement if Mr Ho is not legally represented.
 - E. To prepare written inventory of what is included in the purchase of Property A.

Answer:

Sections 6 and 10 of the Practice Regulation

For option A, Section 6(2) provides that a licensed estate agent who acts for a purchaser shall enter into an estate agency agreement with the purchaser prior to-

- (a) arranging an inspection of the residential property concerned by the purchaser; or
- (b) signing an agreement for sale and purchase or a lease of the property, whichever is the earlier.

For option B, Section 10(a) provides that a licensee shall assist in making arrangements for the inspection by a purchaser of a residential property and accompany the purchaser for such inspection.

For option D, Section 6(3)(b) provides that a licensee shall, before a person who is not legally represented enters into an estate agency agreement in relation to a residential property, explain to the person every term and condition set out in the agreement to ensure that the person is made aware of his rights and obligations under the agreement.

For option E, Section 10(c) provides that a licensee shall before the signing of an agreement for sale and purchase or a lease, establish what is to be included in the disposition of the residential property concerned and prepare a written inventory thereof.

There is no obligation for a licensed estate agent to introduce a bank to his client for the purpose of applying mortgage financing.

Therefore, the answer is C.

3. From which of the following government departments/bodies may Edmond obtain a copy of the building order on the building in which Property A is located?
- A. **Land Registry**
 - B. Housing Department
 - C. Lands Department
 - D. Rating and Valuation Department
 - E. Transport and Housing Bureau

Answer:

Enquiries with the government departments and information on their websites – a copy of the building order may be obtained from a memorial search at the Land Registry.

The answer is A.

4. Which of the following persons may undertake estate agency work and act as manager appointed for the effective and separate control of the business of XYZ Estate Agency in compliance with the Estate Agents Ordinance immediately after recruitment by XYZ Estate Agency?
- (i) Anna, who does not hold any licence but has over 10 years' experience in the Hong Kong estate agency trade.
 - (ii) Bobo, who holds a valid estate agent's licence (individual) but has Form 4 level of education only.
 - (iii) Ceci, who passed the Salespersons Qualifying Examination in December 2018 but does not hold any licence.
 - (iv) Diana, who holds a valid salesperson's licence but has only 3 months' experience in the estate agency trade.
- A. (i) only
 - B. (ii) only**
 - C. (iii) only
 - D. (iv) only
 - E. (i) and (iv) only

Answer:

Sections 15(1) and 16(1) of the Estate Agents Ordinance -

“15(1) Subject to this Ordinance, an individual shall not, either by himself or as a member of a partnership-

- (c) exercise or carry on or advertise, notify or state that he exercises or carries on, or is willing to exercise or carry on, the business of doing estate agency work as an estate agent; or
- (d) act as an estate agent; or
- (e) in any way hold himself out to the public as being ready to undertake, whether or not for payment or other remuneration (whether monetary or otherwise), estate agency work as an estate agent, unless he is a licensed estate agent.”

“16(1) Subject to this Ordinance-

- (a) unless he is the holder of a licence, a person shall not be or act as a salesperson for any licensed estate agent, nor shall he hold himself out to the public as being a salesperson;
- (b) a person shall neither accept employment or an appointment as a salesperson from, nor act as a salesperson for, any other person who is required by this Ordinance to hold, but is not the holder of, an estate agent's licence.”

“38(1) (a) Subject to paragraph (d), a licensed estate agent shall ensure that his business

at his principal or only office, and every one of his other offices, if any (whether such other offices are referred to as branch offices, sub-offices or otherwise), is under the effective and separate control of a manager appointed by him, and a person appointed under this subsection shall be an individual and the licensed estate agent concerned shall also ensure that such a person is the holder of an estate agent's licence.”

Only licenced persons may carry out estate agency work and only holders of estate agents' (individual) licences can be manager of an estate agency.

Anna does not hold any licence, so she shall not undertake estate agency work. Option (i) is incorrect.

Bobo holds a valid estate agent's licence, so she may undertake estate agency work and act as manager. Option (ii) is correct.

Ceci does not hold any licence, so she shall not undertake estate agency work. Option (iii) is incorrect.

Diana holds a valid salesperson's licence. She may undertake estate agency work but not act as manager. Option (iv) is incorrect.

The answer is B.

5. According to the Estate Agents Ordinance, which of the following written notices must XYZ Estate Agency serve on the Estate Agents Authority if XYZ Estate Agency terminates Edmond's appointment as manager, appoints someone else to replace him, and employs a new salesperson?

- (i) notice of XYZ Estate Agency terminating Edmond's appointment as manager
- (ii) notice of XYZ Estate Agency appointing Edmond's replacement as manager
- (iii) notice of XYZ Estate Agency employing a new salesperson

- A. (iii) only
- B. (i) and (ii) only
- C. (i) and (iii) only
- D. (ii) and (iii) only
- E. (i), (ii) and (iii)**

Answer:

Sections 40(2)(a) and 40(3) of the Estate Agents Ordinance -

“(2) Where a licensed estate agent-

(a) employs a person as a salesperson; or

(b) ceases to employ a person as a salesperson,

the agent shall, before the expiration of the period of 31 days beginning on the date of the employment or, where appropriate, the cesser, notify the Authority in writing of the employment or cesser.”

“40(3) Where a licensed estate agent-

(a) appoints a person as a manager for the purposes of this Ordinance; or

(b) terminates the appointment of such a manager,

the agent shall, before the expiration of the period of 31 days beginning on the date of the appointment or, where appropriate, the termination, notify the Authority in writing of the appointment or termination.”

Sections 40(2)(a) of the Estate Agents Ordinance provides that where a licensed estate agent employs a person as a salesperson or ceases to employ a person as a salesperson, the agent shall notify the Authority in writing of the employment or the cesser. Option (iii) is correct.

Section 40(3) of the Estate Agents Ordinance provides that where a licensed estate agent appoints a person as manager or terminates the appointment of such a manager, the agent shall notify the Authority in writing of the appointment or termination. Options (i) and (ii) are correct.

The answer is E.

Please answer Questions 6 to 10 with reference to Case 2:

6. FILL IN THE BLANK:

Please choose the most appropriate answer from A to E:

“The date from which the restriction against alienation on Property B begins to run is _____.”

- A. the date of the deed of mutual covenant for the building in which Property B is located
- B. the date of issue of the occupation permit for the building in which Property B is located
- C. the commencement date of the Government lease of the land on which Property B is located
- D. the date of the agreement for sale and purchase of Property B entered into between the Housing Authority and Mr Wong
- E. the date of the assignment of Property B from the Housing Authority to Mr Wong**

Answer:

Section 1(a) of Schedule to the Housing Ordinance – “1. Subject to paragraph 4 of this Schedule, the purchaser shall not at any time alienate, convey, charge or part with possession of the land sold other than to the Authority, or such person as the Authority may nominate, unless-

(a) either - (i) a period of 5 years has elapsed from the date of the first assignment of the land-(A) from the Authority to any purchaser; or (B) to any purchaser nominated by the Authority, whichever is the earlier; or (ii) before that period has elapsed, the purchaser has offered to assign the land to the Authority and the Authority or its nominate (other than a prescribed nominee) has declined to accept the assignment; and”

For the restriction against alienation of an owner’s flat under the Home Ownership Scheme, the time begins to run on the date of the first assignment from the Housing Authority to a purchaser.

Therefore, the answer is E.

7. According to the Practice Regulation, when is **THE LATEST TIME** by which Edward must enter into the Estate Agency Agreement (Form 3) with Mr Wong for the sale of Property B?
- A. Prior to 4 March 2019
 - B. Prior to 6 March 2019
 - C. Prior to 7 March 2019**
 - D. Prior to 11 March 2019
 - E. Prior to 14 March 2019

Answer:

Section 6(1) of the Practice Regulation provides that “a licensed estate agent who acts for a vendor shall enter into an estate agency agreement with the vendor-

- (a) within 7 working days after accepting an instruction to sell or lease the residential property concerned;
- (b) prior to advertising the property for sale or lease; or
- (c) prior to signing an agreement for sale and purchase or a lease of the property, whichever is the earlier.”

Edward accepts Mr Wong’s instructions on 3 March 2019 and within 7 working days after accepting the instructions means 11 March 2019. He puts an advertisement for Mr Wong’s flat on 7 March 2019 and no agreement for sale and purchase had been signed.

According to Section 6(1), the estate agency agreement should be entered into prior to the earlier of 7 March 2019 and 11 March 2019.

The answer is C, i.e. prior to 7 March 2019, the date of advertising the property for sale.

8. According to the Practice Regulation, which of the following steps should Emma have taken before entering into the Estate Agency Agreement (Form 3) with Mr Wong?
- (i) Give notice to the estate agency for which Edward works to the effect that she has accepted Mr Wong's instructions to act as his additional agent.
 - (ii) Draw Mr Wong's attention to the fact that he may still be liable to pay commission to the estate agency which Edward works for if he enters into the Estate Agency Agreement (Form 3) with the agency she works for.
 - (iii) Disclose to Edward that she is charging Mr Wong half of what Edward is charging.
- A. (i) only
 - B. (ii) only**
 - C. (iii) only
 - D. (i) and (ii) only
 - E. (i) and (iii) only

Answer:

Section 8(4) of the Practice Regulation provides that, "a licensee shall not solicit an instruction from a vendor if he knows, or ought reasonably to know, that the residential property concerned is subject to an instruction exclusively granted to another licensed estate agent under an executed estate agency agreement unless the licensee has drawn to the attention of the vendor that the vendor may be liable for additional commission if he signs another estate agency agreement in respect of the property. "

According to Section 8(4), Emma knows that Mr Wong has entered into an exclusive agency agreement with Edward for marketing his flat. Emma should not have solicited an instruction from Mr Wong unless she has drawn Mr Wong's attention that he may be liable for additional commission if he signs the estate agency agreement with the agency she works for in respect of Mr Wong's flat.

The answer is B.

9. According to the Estate Agents Ordinance, which of the following facts must Edward disclose to Miss Cho?
- (i) That he is also acting for the vendor.
 - (ii) That the vendor is giving him an extra reward of \$10,000 if he manages to sell Property B within one month.
 - (iii) The rate of commission he is charging the vendor.
- A. (i) only
 - B. (iii) only
 - C. (i) and (ii) only
 - D. (ii) and (iii) only
 - E. (i), (ii) and (iii)**

Answer:

Section 46(3) of the Estate Agents Ordinance“(3) Regulations under subsection (2) may provide that an estate agency agreement shall-

- (a) specify the amount or the rate, as the case may be, of any commission or other fee payable under the agreement and, in case it is not payable to the licensed estate agent concerned, the person or persons to whom it is payable;
- (b) state-
 - (i) whether or not the licensed estate agent concerned or, in case any salesperson employed or appointed by him acts as regards the relevant property, whether or not that salesperson, has a pecuniary or other beneficial interest in the relevant property;
 - (ii) whether or not the licensed estate agent concerned is, as regards the relevant property, also acting, or has agreed to act, for a person other than the client with whom the agreement is made;
 - (iii) if such agent is so acting or has so agreed, whether or not remuneration is payable to such agent (or to 1 or more other persons) by reason of such agent's so acting or having so agreed to act; and
 - (iv) in case remuneration is so payable, its amount or its rate, as the case may be, and the person or persons to whom it is payable;
- (c) contain an undertaking that the licensed estate agent concerned, should he agree to act in a manner described in paragraph (b)(ii), will, as soon as may be, supply to the client with whom the agreement is made all of the particulars required by paragraph (b)(iii) and (iv) to be but which have not then been stated in the agreement;
- (d) specify-
 - (i) obligations, if any, which will apply as regards the client with whom the agreement is made should he acquire or dispose of any part of the relevant property otherwise than through the licensed estate agent concerned; and

- (ii) the period (which shall not be longer than a period (if any prescribed for the purposes of this subparagraph) during which such obligations, if any, are to have effect under the agreement; and

Section 46(3)(b)(ii) provides that an estate agency agreement shall state whether the licensed estate agent is also acting or has agreed to act for a person other than the client with whom the agreement is made. Option (i) is correct.

Section 46(3)(b)(iii) provides that if such agent is so acting or has so agreed to act, whether remuneration is payable to such agent by his so acting or having so agreed to act. Section 46(3)(b)(iv) provides that if remuneration is payable, its amount or its rate and the person or persons to whom it is payable. Options (ii) and (iii) are correct.

The answer is E.

10. Which of the following is/are the reason(s) why Edward's handling of Miss Cho's offer has failed to comply with the Practice Regulation?

- (i) Edward should not have assumed that Mr Wong has authorised him to accept or reject offers on his behalf merely because he has stated a list price.
- (ii) Edward has not presented Miss Cho's offer to Mr Wong as soon as is practicable after receiving it.
- (iii) Edward has not kept a written record of his rejection of Miss Cho's offer.

- A. (ii) only
- B. (i) and (ii) only**
- C. (i) and (iii) only
- D. (ii) and (iii) only
- E. (i), (ii) and (iii)

Answer:

Clause 3 of Form 3 and Section 11(e) of the Practice Regulation

Clause 3 of Form 3, "**3. List Price** [CAUTION: The Vendor does not confer upon the Agent, by virtue of this clause, the right to accept an offer on behalf of the Vendor. The list price is for the purpose of listing and advertising only.]

The list price shall be Hong Kong Dollars _____ (HK\$ _____).

The list price can only be varied with written instructions of the Vendor and such instructions shall form part of this Agreement."

Clause 3 of Form 3 provides that the vendor does not confer upon the agent the right to accept an offer on behalf of the vendor. Similarly, Edward should not have assumed that Mr Wong has authorized him to reject the offer. Option (i) is correct.

Section 11(e) of the Practice Regulation provides that a licensee shall present an offer to a client for acceptance as soon as is practicable after receiving it. As Edward has not presented Miss Cho's offer to Mr Wong, he has failed to comply with section 11(e) of the Practice Regulation. Option (ii) is correct.

The answer is B.