



## Circular

Circular No. 09-07 (CR)

- **No refusal of services on the ground of race.**
- **No vilification on the ground of race.**
- **No discriminatory advertisements.**
- **No aiding of discriminatory acts.**
- **An employer is liable for anything done by his employee unless preventive measures have been taken.**
- **Estate agencies management should take reasonably practicable steps to prevent employees from committing discriminatory acts.**

### Race Discrimination Ordinance

The Race Discrimination Ordinance (RDO) which came into operation on 10 July 2009, has rendered discrimination, harassment and vilification on the ground of race unlawful.

The RDO applies, amongst others, to any person concerned with the provision of services to the public. Practitioners should therefore observe and comply with the following requirements of the RDO when providing estate agency services to clients:

1. No refusal of services on the ground of race

Practitioners shall not refuse to accept instructions from a vendor / landlord in listing a property for sale / lease or to provide estate agency services to a prospective purchaser / tenant for purchasing or leasing a property on the ground of race. Practitioners shall not harass another person who seeks to obtain or use estate agency services on the ground of race.

2. No vilification on the ground of race

Practitioners shall not carry out any activity in public to incite hatred towards, serious contempt for, or severe ridicule of, other

people because of their race. A person who commits an offence of serious vilification is liable on conviction to a maximum fine of \$100,000 and to imprisonment for two years.

3. No discriminatory advertisements

It is unlawful to publish an advertisement which indicates an intention by a person to do any act which is or might be unlawful under the RDO. For example, it is unlawful to publish an advertisement containing a statement such as “*no letting to [persons of a particular race]*”.

4. No aiding of unlawful acts

Practitioners should not assist another person in committing a discriminatory act. For example, if a landlord gives instructions that no persons of a particular race be shown a flat for lease and the estate agent carries out such instructions by refusing a prospective tenant of a particular race the opportunity to view the flat, the estate agent may infringe the RDO by aiding an unlawful act.

5. Employer liability

Estate agent employers are liable under the RDO for things done by their employees unless they prove that they tried to prevent their employees from doing the act, or that it was outside the employees’ authority. It is therefore advisable for the management of estate agencies to implement reasonably practicable measures to prevent employees from engaging in discriminatory acts by taking the following steps:

- (a) developing and promulgating an equal opportunity policy;
- (b) establishing procedures for a complaint mechanism;
- (c) reviewing the policy and procedures on a regular basis;

- (d) making available to employees (including new employees) the policy and procedures to ensure that they are aware of the requirement to comply with the RDO;
- (e) devising measures for monitoring staff compliance with the RDO;
- (f) considering the appointment of an Equal Opportunity Officer; and
- (g) providing and encouraging staff training on equal opportunity matters.

Practitioners are reminded that, pursuant to paragraph 3.1.1 of the Code of Ethics, estate agents and salespersons shall refrain from activities which may infringe the law during their practice. Practitioners who fail to comply with the RDO may, in addition to incurring civil liabilities and committing offences under the law, be subject to disciplinary action by the Estate Agents Authority.

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