

## **Estate Agents Act (SFS 1995:400)**

(with amendments up to and including SFS 2003:456)

### *General provisions*

**Section 1.** For the purposes of this Act, estate agents are natural persons who professionally mediate properties (real property units), parts of properties, buildings on land belonging to another, site leaseholds, tenant-ownership titles, condominium titles to dwellings, leaseholds or tenancies.

**Section 2.** Provisions of this Act concerning real property shall also apply to the other objects of mediation indicated in Section 1. Sections 18, 21 (1-3) and 22 shall not, however, apply to the mediation of leaseholds or tenancies. In the mediation of a right of user, the provision made concerning a vendor shall apply to the person transferring or granting the usufruct, and provision made concerning a purchaser shall apply to the counter-party.

**Section 3.** The provisions of this Act apply irrespective of where the property is located, if a substantial part of the estate agent's assignment is performed in Sweden. Insofar, however, as the Contractual Obligations (Applicable Law) Act (1998:167) is applicable, the question of choice of legal procedure is decided in accordance with that Act.

**Section 4.** Unless otherwise provided in the following, the provisions of this Act may not be derogated from to the detriment of a consumer purchasing a property mainly for private use or selling a property which he has possessed mainly for private use.

### *Registration of estate agents*

**Section 5.** Every estate agent shall be registered with the Board of Supervision of Estate Agents.

Subsection 1 does not apply to attorneys-at-law, nor to estate agents occupied exclusively with:

1. municipal mediation of tenancies,
2. unpaid mediation of tenancies to persons enrolled at a university or college,
3. mediation of tenancies for recreational purposes,
4. mediation of non-housing tenancies, or
5. mediation of tenancies of rooms where the tenancy is of not more than two weeks duration.

Registration shall refer either to professional mediation of all mediation objects enumerated in Section 1 (full registration) or professional mediation of tenancies only (registration for tenancy agents).

Further provisions concerning the Board of Supervision of Estate Agents are promulgated by the Government.

**Section 6.** In order for an estate agent to be registered, he is required

1. not to be a minor, declared bankrupt or subject to a business prohibition and not to have an administrator as provided in Chap. 11, Section 7 of the Children and

Parents Code,

2. to be insured for liability in damages which he may incur if he neglects his duties as referred to in Sections 11-19,
3. to have adequate education,
4. to intend practising professionally as an estate agent, and
5. to be of good character and otherwise suitable as an estate agent.

Further provisions concerning the conditions for registration and concerning registration procedure are promulgated by the Government or by the authority which the Government nominates for the purpose. A registration charge in the form of an application charge and an annual charge is determined by the Government.

**Section 7.** Supervision of the estate agents registered as provided in Section 5 is exercised by the Board of Supervision of Estate Agents. The Board shall see to it that the estate agents in the course of their activity observe their obligations under this Act.

It is the duty of a registered estate agent to permit the Board of Supervision of Estate Agents examine dossiers, accounting records and other documents pertaining to the activity and to furnish the particulars requested for the supervision.

**Section 8.** The Board of Supervision of Estate Agents shall revoke the registration of an estate agent who

1. no longer meets the requirements indicated in Section 6,
  2. does not pay a prescribed registration charge, or
  3. acts at variance with his obligations under this Act.
- A revocation order is immediately effective.

The Board of Supervision of Estate Agents may issue a warning, if this can be deemed sufficient, instead of revoking registration. Sanctions may be waived for minor offences.

**Section 9.** A decision by the Board of Supervision of Estate Agents pursuant to this Act may be appealed in the general administrative court.

Appeal to the administrative court of appeal is subject to leave of appeal.

**Section 10.** Whosoever intentionally mediates properties professionally contrary to the provision of Section 5 concerning registration shall be fined or sentenced to not more than six months' imprisonment.

#### *The estate agent's assignment*

**Section 11.** An assignment contract shall be drawn up in writing. The estate agent may not invoke a condition of contract which has not been included in the assignment contract or otherwise agreed on in writing. This does not apply, however, to agreements concerning alteration of the price of objects of mediation and other conditions for the transfer or grant.

If the assignment is combined with an exclusive right, the duration of the exclusive right shall be determined as not more than three months at a time. A renewal agreement may be concluded at the earliest one month before the expiry date of the assignment contract.

**Section 12.** The estate agent shall discharge his assignment with care and in all

things observe the principles generally accepted for estate agents. In this respect the estate agent shall safeguard the interests of both vendor and purchaser.

A deposit received by the estate agent shall be transferred without delay to the vendor, failing special agreement to the contrary.

Money and other assets held by the estate agent on another person's behalf shall be kept separate from his own assets.

**Section 13.** The estate agent may not purchase a property which he has been commissioned to mediate. Nor may the estate agent mediate a property to any person closely connected with him, as specified in Chap. 4, Section 3 of the Bankruptcy Act (1987:672).

In the event of the estate agent or any person closely connected with him acquiring a property which, prior to the acquisition, the estate agent had an assignment to mediate, the estate agent shall report the acquisition immediately to the Board of Supervision of Estate Agents.

**Section 14.** An estate agent may not trade in real property.

Nor may the estate agent engage in any other activity calculated to impair confidence in him as an estate agent.

**Section 15.** The estate agent may not act as the legal representative of a vendor or purchaser. The estate agent may, however, undertake limited measures to the extent permitted by the principles generally accepted for estate agents.

**Section 16.** The estate agent shall, to the extent required by the principles generally accepted for estate agents, give purchasers and vendors the advice and information which they may need concerning the property and other matters connected with its transfer. The estate agent shall endeavour to ensure that, before the transfer, the vendor furnishes such particulars concerning the property as can be deemed of importance to the purchaser, and also that, prior to the acquisition, the purchaser examines the property or has it examined.

**Section 17.** The estate agent shall verify who has the power of disposal over the property and what mortgages, easements and other rights are charged to it.

**Section 18.** When the mediation concerns a property which a consumer is purchasing mainly for private use, the estate agent shall furnish the purchaser with a written description of the property. The description shall contain particulars in the respects indicated in Section 17, together with particulars of the registration designation, tax assessment value and area of the property. The description shall also contain particulars of the age of the building, its size and manner of construction.

In mediation as referred to in Subsection 1, the estate agent shall, prior to the transfer of the property, furnish the purchaser with a written calculation of the purchaser's residential expenses.

**Section 19.** The estate agent shall endeavour to ensure that the purchaser and vendor conclude an agreement on matters needing to be resolved in connection with the transfer. Unless otherwise agreed, the estate agent shall assist the purchaser and vendor in drawing up the documents needed for the transfer.

**Section 20.** If the estate agent intentionally or by negligence neglects his duties as referred to in Sections 11-19, he shall make good the damage incurred as a consequence thereof by the purchaser or vendor. The indemnity can be reduced or entirely dispensed with if it is equitable to do so.

If the estate agent has paid an indemnity to the purchaser by reason of damage incurred by the purchaser due to the property deviating from what the purchaser had reason to expect, the estate agent can demand reimbursement for the indemnity from the vendor insofar as the vendor is also liable for the damage and it is not oppressive that the vendor alone should ultimately incur this liability.

*Remuneration for the estate agent's assignment*

**Section 21.** Unless otherwise agreed, the estate agent's remuneration shall be computed as a certain percentage of the purchase price (commission).

The estate agent is entitled to commission only if the transfer agreement has been concluded through the estate agent's mediation between the principal and a party referred by the estate agent.

If the estate agent has received the assignment on an exclusive basis and a transfer agreement is concluded, without his mediation, within the time for which the exclusive right is valid, the estate agent is entitled to commission as if the agreement had been mediated by him.

Chap. 12, Section 65 a (1) of the Land Code contains provisions on payment for mediation of housing tenancies.

**Section 22.** If the estate agent's assignment is to be paid for on a commission basis, the estate agent is entitled to reimbursement for expenses only if special agreement has been made to this effect.

**Section 23.** The estate agent's remuneration can be reduced if in the discharge of the assignment the estate agent has neglected his obligations to the purchaser or vendor. This does not apply, however, if the neglect is of minor importance.