

A BILL

i n t i t u l e d

An Act to amend the Valuers, Appraisers and Estate Agents Act 1981.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Valuers, Appraisers and Estate Agents (Amendment) Act 2017.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of long title

2. The Valuers, Appraisers and Estate Agents Act 1981 [*Act 242*], which is referred to as the “principal Act” in this Act, is amended in the long title by substituting for the words “valuers, appraisers and estate agents” the words “valuers, appraisers, estate agents and property managers”.

Amendment of section 1

3. Section 1 of the principal Act is amended by substituting for the words “Valuers, Appraisers and Estate Agents Act 1981” the words “Valuers, Appraisers, Estate Agents and Property Managers Act 1981”.

Amendment of section 2**4.** The principal Act is amended in section 2—

- (a) by deleting the definition of “estate agency practice”;
- (b) by substituting for the definition of “Register” the following definition:
 - ‘ “Register” means the Register of Valuers, Appraisers, Estate Agents and Property Managers kept under paragraph 14(1)(a);’;
- (c) by substituting for the definition of “Register of Probationary Valuers/Probationary Estate Agents” the following definition:
 - ‘ “Register of Probationers” means the Register of Probationary Valuers, Probationary Estate Agents and Probationary Property Managers kept under paragraph 14(1)(b);’;
- (d) in the definition of “probationary estate agent”, by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”;
- (e) in the definition of “Fund”, by substituting for the words “Board of Valuers, Appraisers and Estate Agents” the words “Board of Valuers, Appraisers, Estate Agents and Property Managers”;
- (f) by substituting for the definition of “Board” the following definition:
 - ‘ “Board” means the Board of Valuers, Appraisers, Estate Agents and Property Managers established under section 9;’;
- (g) by substituting for the definition of “applicant” the following definition:
 - ‘ “applicant” means an individual registered valuer, appraiser, estate agent or property manager, or a registered valuation, appraisal, estate agency or property management firm, as the case may be;’;

- (h) by substituting for the definition of “Registrar” the following definition:

‘ “Registrar” means the Registrar of the Board of Valuers, Appraisers, Estate Agents and Property Managers appointed under section 15.’;

- (i) in the definition of “property manager”, by deleting the words “to maintain or increase the investment in, or physical worth of, such property”;

- (j) by inserting after the definition of “registered estate agent” the following definition:

‘ “registered property manager” means a person whose name has been entered under Part IV of the Register and to whom an authority to practise has been issued by the Board under section 16;’;

- (k) by inserting after the definition of “probationary estate agent” the following definition:

‘ “probationary property manager” means a person who is registered under this Act as a probationary property manager and whose name has been placed in the Register of Probationers;’;

- (l) by substituting for the definition of “property management” the following definition:

‘ “property management” means the management and control of any land, building and any interest in the land or building, excluding the management of property-based businesses, on behalf of the owner for a fee;’; and

- (m) in the definition of “probationary valuer”, by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”.

Amendment of heading of Part III

5. The principal Act is amended by substituting for the heading of Part III the following heading:

“BOARD OF VALUERS, APPRAISERS, ESTATE AGENTS AND
PROPERTY MANAGERS”.

Amendment of section 9

6. Section 9 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

**“Board of Valuers, Appraisers, Estate Agents and
Property Managers”;**

(b) in subsection (1), by substituting for the words “Board of Valuers, Appraisers and Estate Agents” the words “Board of Valuers, Appraisers, Estate Agents and Property Managers”;

(c) in subsection (2)—

(i) in paragraph (cc)—

(A) by inserting after the words “registered estate agents” the words “nominated by the President of the Board”; and

(B) by deleting the word “and” at the end of the paragraph;

(ii) in paragraph (d), by substituting for the full stop at the end of the paragraph the words “; and”; and

(iii) by inserting after paragraph (d) the following paragraph:

“(e) three registered property managers nominated by the President of the Board.”;

- (d) in subsection (3), by substituting for the words “and (d)” the words “, (d) and (e)”;
- (e) in subsection (6), by substituting for the words “and (d)” the words “, (d) and (e)”; and
- (f) by inserting after subsection (8) the following subsection:

“(9) The Minister may, by order published in the *Gazette*, amend the First Schedule.”.

Amendment of section 10

7. Section 10 of the principal Act is amended—

- (a) in paragraph (a), by substituting for the words “a Register of Valuers, Appraisers and Estate Agents, a Register of Probationary Valuers/Probationary Estate Agents and a” the words “the Register, Register of Probationers and”;
- (b) in paragraph (e), by substituting for the words “registered valuers or appraisers or estate agents” the words “valuers, appraisers, estate agents or property managers”;
- (c) in paragraph (f), by substituting for the words “appraisers and estate agents” the words “appraisers, estate agents and property managers”;
- (d) in paragraph (g), by substituting for the words “appraisers and estate agents” the words “appraisers, estate agents and property managers”;
- (e) in paragraph (h), by substituting for the words “valuation or estate agency” the words “valuation, estate agency or property management,”;
- (f) in paragraph (hc), by substituting for the words “appraisers and estate agents” the words “appraisers, estate agents and property managers”;
- (g) in paragraph (hd), by deleting the word “and” at the end of the paragraph; and

(h) by inserting after paragraph (hd) the following paragraph:

“(he) to hold in trust the monies in a dispute between a registered valuer, appraiser, estate agent or property manager, and a client or third party in a contract for valuation, appraisal, estate agency or property management services, whenever the Board deems necessary;”.

Amendment of section 12

8. Subsection 12(1) of the principal Act is amended by substituting for the words “Appraisers and Estate Agents” the words “Appraisers, Estate Agents and Property Managers”.

Amendment of section 14

9. Section 14 of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a)—

(A) by substituting for the words “a Register of Valuers, Appraisers and Estate Agents which shall be in three Parts” the words “a Register of Valuers, Appraisers, Estate Agents and Property Managers which shall be in four Parts”;

(B) in subparagraph (ii), by deleting the word “and” at the end of the subparagraph;

(C) in subparagraph (iii), by inserting after the semicolon at the end of the subparagraph the word “and”; and

(D) by inserting after subparagraph (iii) the following subparagraph:

“(iv) Part IV which shall contain the names, business addresses, qualifications and other particulars of registered property managers;”;

(ii) in paragraph (b)—

(A) by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationary Valuers, Probationary Estate Agents and Probationary Property Managers”; and

(B) by substituting for the words “probationary valuers and probationary estate agents” the words “probationary valuers, probationary estate agents and probationary property managers”; and

(iii) in paragraph (c)—

(A) by substituting for the word “three” the word “four”;

(B) in subparagraph (ii), by deleting the word “and” at the end of the subparagraph;

(C) in subparagraph (iii), by substituting for the full stop at the end of the subparagraph the words “; and”; and

(D) by inserting after subparagraph (iii) the following subparagraph:

“(iv) Part IV which shall contain the names, addresses and other particulars of firms carrying on practice as property managers.”; and

(b) in subsection (4), by substituting for the words “valuer, appraiser or estate agent or of any probationary valuer or probationary estate agent” the words “valuer, appraiser, estate agent or property manager, or of any probationary valuer, probationary estate agent or probationary property manager”.

Amendment of section 15

10. Subsection 15(1) of the principal Act is amended by substituting for the words “Registrar of Valuers, Appraisers and Estate Agents” the words “Registrar of the Board of Valuers, Appraisers, Estate Agents and Property Managers”.

Substitution of section 15A

11. The principal Act is amended by substituting for section 15A the following section:

“Application for authority to practise

15A. A registered valuer, appraiser, estate agent or property manager shall apply to the Board for authority to practise where he intends to practise as a registered valuer or appraiser under section 19, as a registered estate agent under section 22B, or as a registered property manager under section 22I.”.

Amendment of section 16

12. Section 16 of the principal Act is amended—

(a) in subsection (1A), by substituting for the words “appraiser or estate agent” the words “appraiser, estate agent or property manager”;

(b) in subsection (5), by substituting for the words “registered valuer, appraiser or estate agent” the words “registered valuer, appraiser, estate agent or property manager”;

(c) in subsection (7)—

(i) by substituting for the words “A registered valuer, appraiser or estate agent—” the words “A registered valuer, appraiser, estate agent or property manager—”; and

(ii) in paragraph (b), by substituting for the words “registered valuers, appraisers or estate agents” the words “registered valuers, appraisers, estate agents or property managers”; and

(d) in subsection (7B)—

- (i) by substituting for the words “probationary valuers and probationary estate agents” the words “probationary valuers, probationary estate agents and probationary property managers”; and
- (ii) by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”.

Amendment of section 17

13. Section 17 of the principal Act is amended—

- (a) in paragraph (1)(e), by substituting for the words “valuation or estate agency” the words “estate agency or property management”; and
- (b) in subsection (1A), by inserting after the words “estate agency” the words “or property management”.

Amendment of section 17A

14. Subsection 17A(1) of the principal Act is amended by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”.

Amendment of section 18

15. Section 18 of the principal Act is amended by deleting subsection (6).

Amendment of section 19

16. Section 19 of the principal Act is amended—

- (a) in paragraph (a)—
 - (i) by inserting after the words “all interest therein including” the words “trees, crops,”; and

- (ii) by inserting after the semicolon at the end of the paragraph the word “and”;
- (b) in paragraph (b), by substituting for the words “; and” at the end of the paragraph a full stop; and
- (c) by deleting paragraph (c).

Amendment of section 21

17. Section 21 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) in paragraph (a), by deleting the words “Property Manager”;
 - (ii) by deleting paragraph (aa); and
- (b) by deleting subsections (2) and (3).

Amendment of section 22A

18. Section 22A of the principal Act is amended—

- (a) in paragraph(1)(f), by substituting for the words “estate agency” the words “property management”; and
- (b) in subsection (1A), by inserting after the word “valuation” the words “or property management”.

Amendment of section 22B

19. Section 22B of the principal Act is amended—

- (a) by renumbering the existing subsection (1A) as subsection (1B);
- (b) by inserting before subsection (1B) as renumbered the following subsection:

“(1A) A person undertakes estate agency practice if he acts as an agent, or holds himself out to the public or to any individual or firm as ready to act as an agent, for a commission, fee, reward or other consideration—

- (a) in respect of any sale or other disposal of land and buildings and of any interest therein;
- (b) in respect of any purchase or other acquisition of land and buildings and of any interest therein;
- (c) in respect of any leasing or letting of land and buildings and of any interest therein;
- (d) in making known of the availability of land, building, or any interest therein for such sale or disposal, purchase or acquisition, or leasing or letting referred to in paragraph (a), (b) or (c), as the case may be; and
- (e) in respect of any tenancy administration including rental collection, payment of outgoings, arrangement for minor repairs and handing over and taking over the possession of a property of any land and buildings and of any interest therein.”; and

(c) in subsection (2)—

- (i) by substituting for the words “subsection (1A)” the words “subsection (1B)”;
- (ii) in paragraph (a), by substituting for the words “subsection (1A)” the words “subsection (1B)”;
- and
- (iii) in paragraph (b), by substituting for the words “subsection (1A)” the words “subsection (1B)”.

Amendment of section 22c

20. Section 22c of the principal Act is amended—

- (a) in paragraph (1)(a), by inserting after the words “House Broker” the words ‘, “Real Estate Agency Consultant”,’;

(b) in subsection (2)—

- (i) in paragraph (b), by deleting the word “and” at the end of the paragraph;
- (ii) in paragraph (c), by substituting for the full stop at the end of the paragraph the words “; and”; and
- (iii) by inserting after paragraph (c) the following paragraph:
 - “(d) a negotiator may assist the registered estate agent in the estate agency practice.”; and

(c) by inserting after subsection (2) the following subsection:

“(2A) For the purpose of paragraph (2)(d), “negotiator” means a person who is employed by a registered estate agent to assist him in the estate agency practice.”.

Amendment of section 22D

21. Section 22D of the principal Act is amended by deleting subsection (5).

Amendment of section 22E

22. Subsection 22E(1) of the principal Act is amended by substituting for the words “Register of Probationary Valuers/ Probationary Estate Agents” the words “Register of Probationers”.

New Part VB

23. The principal Act is amended by inserting after Part VA the following Part:

“PART VB

PROPERTY MANAGERS

Registration of property managers

22F. (1) Subject to the provisions of this Act, every person shall be entitled to have his name entered under Part IV of

the Register upon making an application to the Board and proving to its satisfaction that—

- (a) he has attained the age of 21 years and is of sound mind, good character and has not been convicted of any offence involving fraud, dishonesty or moral turpitude during the five years immediately preceding the date of his application;
- (b) he is not an undischarged bankrupt;
- (c) he has not made a statement, or affirmed or attested a document that is false or misleading in a material particular;
- (d) he has not dishonestly concealed material facts;
- (e) he has not furnished false information;
- (f) he satisfies the requirements of section 22H;
- (g) he has made a declaration in the form and manner prescribed by the Board;
- (h) he has paid the fees prescribed by the Board; and
- (i) he is not under suspension from valuation or estate agency practice nor has his name been cancelled from the Register.

(2) Notwithstanding paragraph (1)(i), a person who is disqualified from valuation or estate agency practice may, if the Board considers him fit to practise property management, have his name entered under Part IV of the Register as a property manager.

(3) Any registered valuer or registered appraiser who, immediately before the coming into force of this Part, had his name entered under Part I or II of the Register shall, upon the coming into force of this Part, be entitled to have his name entered under Part IV of the Register without payment of any fee.

(4) Any probationary valuer who has passed the Test of Professional Competence for property managers shall be entitled to have his name entered under Part IV of the Register.

(5) Any person who has obtained qualifications which the Board recognizes and has passed the Test of Professional Competence for property managers shall be entitled to have his name entered under Part IV of the Register.

(6) Any registered estate agent shall be entitled to have his name entered under Part IV of the Register if before the date of the coming into force of this Part he was permitted to undertake property management as specified in subsection 22B(2).

(7) Any person who applies within twelve months from the date of the coming into force of this Part for registration under Part IV of the Register shall be entitled to have his name so registered if he proves to the satisfaction of the Board that—

(a) immediately before the date of the coming into force of this Part—

(i) he has been engaged in property management practice or business; and

(ii) he has served his clients generally to their satisfaction; and

(b) he complies with the provisions of subsection (1).

(8) In order to be satisfied with any of the matters mentioned in subsections (1), (4), (5), (6) and (7), the Board may call upon the applicant to submit to it such documents as it considers relevant.

(9) A registered valuer, appraiser or estate agent permitted to carry on property management before the coming into force of this Part may, pending having his name entered under Part IV of the Register as provided for under subsection (3) or (6), continue to engage in property management practice or business within the period referred to in subsection (7).

Registration of probationary property managers

22G. (1) Subject to the provisions of this Act, every person shall be entitled to have his name entered as a probationary property manager in the Register of Probationers upon making an application to the Board and proving to its satisfaction that—

- (a) he has attained the age of 21 years and is of sound mind, good character and has not been convicted of any offence involving fraud, dishonesty or moral turpitude during the five years immediately preceding the date of his application;
- (b) he is not an undischarged bankrupt;
- (c) he satisfies the requirements of section 22H;
- (d) he has made a declaration in the form and manner prescribed by the Board;
- (e) he has paid the fees prescribed by the Board; and
- (f) he has submitted such documents as may be required by the Board.

(2) The Board may require the applicant to submit any additional documents as it considers relevant in order to be satisfied of any of the matters mentioned in subsection (1).

(3) Any registered estate agent who applies within twelve months from the date of coming into force of this Part for registration as a probationary property manager under the Register of Probationers shall be entitled to have his name so registered if he proves to the satisfaction of the Board that he has ten years experience as an estate agent.

Qualification for registration of property managers and probationary property managers

22H. (1) Subject to the provisions of this Act, no person shall be entitled to have his name entered under Part IV of the Register unless he has been registered as a probationary property manager under this Act.

(2) Any person who has passed the examinations prescribed by the Board or who has obtained qualifications which the Board recognizes as equivalent to such examination may apply to the Board to be registered as a probationary property manager.

(3) A probationary property manager shall be required to obtain the practical experience and to pass the Test of Professional Competence prescribed by the Board or any equivalent test or examination recognized by the Board.

(4) Where a probationary property manager has complied with the requirements of subsection (3), he may apply to the Board to have his name entered in the Register.

Property management practice

22i. (1) Subject to the provisions of this Act, a registered property manager who has been issued with an authority to practise by the Board shall be entitled to practise his profession and shall be authorized to undertake property management practice.

(2) The property management practice referred to in subsection (1) includes the following:

- (a) enforcing the terms of leases and other agreements pertaining to the property;
- (b) preparing budgets and maintaining the financial records for the property;
- (c) monitoring outgoings for the property and making payments out of the income from the property;
- (d) advising on sale, purchase and lettings decisions;
- (e) advising on insurance matters;
- (f) advising on the opportunities for the realization of development or investment potential of the property;
- (g) advising on the necessity for upgrading the property or for the merging of interests;

- (h) managing and maintaining the building and facilities attached to the building; and
- (i) making or checking of inventories of furniture, fixtures, trade stocks, plant or machinery, or other effects.

Restriction on property management practice

22J. (1) No person shall, unless he is a registered property manager and has been issued with an authority to practise under section 16—

- (a) practise or carry on business or take up employment under any name, style or title containing the words “Property Manager”, “Managing Agent”, or the equivalent thereto in any language or bearing any other word whatsoever in any language which may reasonably be construed to imply that he is a registered property manager or he is engaged in property management practice or business;
- (b) act as a property manager;
- (c) carry on business or take up appointment or engagement as a property manager;
- (d) display any signboard or poster, or use, distribute or circulate any card, letter, pamphlet, leaflet, notice or any form of advertisement, implying either directly or indirectly that he is a registered property manager or he is engaged in property management practice or business;
- (e) undertake for a fee or other consideration any of the work enumerated in subsection 22I(2); or
- (f) be entitled to recover in any court any fee, commission, charge or remuneration for any professional advice or services rendered as a property manager.

(2) Paragraph (1)(b) shall not apply to the owner of any land, building and any interest therein who manages such land, building and interest.

(3) For the purposes of subsection (2), “owner” in relation to any land, building and any interest in the land or building means—

- (a) the registered owner;
- (b) the beneficiary of any estate or trust of a deceased person; and
- (c) a lessee whose interest is registered under the National Land Code [*Act 56 of 1965*], the Sarawak Land Code [*Sarawak Cap. 81*] and the Sabah Land Ordinance [*Sabah Cap. 68*].

(4) For the purposes of paragraphs (3)(a) and (c), a registered owner or a lessee may be an individual or a company but shall not include any shareholder in the company owning such land, building and interest in the land or building unless such land, building and interest is wholly owned by the company.

(5) The provisions relating to restrictions of property management practice as contained in subsection (1) shall apply *mutatis mutandis* to a firm.”.

Amendment of section 23

24. Section 23 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “No registered valuer, appraiser or estate agent shall practise valuation, appraisal or estate agency” the words “No registered valuer, appraiser, estate agent or property manager shall practise valuation, appraisal, estate agency or property management”;
- (b) by renumbering the existing subsection (1A) as subsection (1B);
- (c) in subsection (1B) as renumbered—
 - (i) by substituting for the words “appraisal or estate agency” the words “appraisal, estate agency or property management”; and

- (ii) in paragraph (a), by substituting for the words “appraiser or estate agency” the words “appraiser, estate agent or property manager”;

- (d) by inserting before subsection (1B) as renumbered the following subsection:

“(1A) A sole proprietorship, partnership or body corporate may apply to the Board for registration to practise valuation, appraisal, estate agency or property management in the form and manner, and accompanied by the fee, as prescribed by the Board.”;

- (e) in subsection (2)—

- (i) by substituting for the words “appraisal or estate agency” the words “appraisal, estate agency or property management”;

- (ii) in paragraph (a)—

- (A) in subparagraph (i)(B), by substituting for the words “registered appraisals and registered estate agents” the words “registered appraisers, registered estate agents and registered property managers”;

- (B) in subparagraph (ii)—

- (aa) in subparagraph (B), by substituting for the words “registered appraisals, registered valuers and registered estate agents” the words “registered appraisers, registered valuers, registered estate agents and registered property managers”; and

- (bb) in subparagraph (C), by deleting the word “and” at the end of the subparagraph;

- (C) in subparagraph (iii)—

- (aa) in subparagraph (B), by substituting for the words “registered valuers and registered appraisals” the words

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“registered valuers, registered appraisers and registered property managers”; and

(*bb*) in subsubparagraph (C), by inserting after the semicolon at the end of the subsubparagraph the word “and”; and

(D) by inserting after subparagraph (iii) the following subparagraph:

“(iv) in the case of a property management practice—

(A) solely registered property managers;

(B) a combination of registered property managers, registered valuers, registered appraisers and registered estate agents; or

(C) a combination of registered property managers and any other persons or bodies corporate;”;

(iii) in paragraph (*b*)—

(A) in subparagraph (iii), by deleting the word “and” at the end of the subparagraph;

(B) by renumbering the existing subparagraph (iv) as subparagraph (v); and

(C) in subparagraph (v) as renumbered—

(*aa*) by substituting for the words “registered appraisers and registered estate agents” the words “registered appraisers, registered estate agents and registered property managers”;

(*bb*) in subsubparagraph (B), by deleting the word “and” at the end of the subsubparagraph; and

(*cc*) by inserting after subsubparagraph (C) the following subsubparagraph:

“(D) in the case of a property management practice, by a majority of property managers who hold the majority interest and the voting rights.”; and

(D) by inserting before subparagraph (v) as renumbered the following subparagraph:

“(iv) in the case of a property management practice, solely by registered property managers; and”;

(*f*) by renumbering the existing subsection (4A) as subsection (4B);

(*g*) in subsection (4B) as renumbered—

(i) by substituting for the words “Notwithstanding subsection (2) or (4)” the words “Notwithstanding subsection (2), (4) or (4A)”;

(ii) in paragraph (*b*), by substituting for the words “appraisal or estate agency” the words “appraisal, estate agency or property management”;

(iii) in paragraph (*c*), by substituting for the words “appraisal or estate agency” the words “appraisal, estate agency or property management”; and

(iv) in paragraph (*d*)—

(A) by substituting for the words “appraisal or estate agency” the words “appraisal, estate agency or property management”; and

(B) by substituting for the words “appraiser or estate agent” the words “appraiser, estate agent or property manager”;

(h) by inserting after subsection (4) the following subsection:

“(4A) No registered property manager may, unless the Board so approves in writing, become or remain as a sole proprietor, partner, shareholder or director of more than one sole proprietorship, partnership or body corporate, as the case may be, practising property management.”;

(i) in subsection (6), by substituting for the words “A registered valuer, appraiser or estate agent” the words “A registered valuer, appraiser, estate agent or property manager”;

(j) in subsection (7)—

(i) by substituting for the words “registered appraiser or registered estate agent” wherever appearing the words “registered appraiser, registered estate agent or registered property manager”; and

(ii) by substituting for the words “register of Valuers, Appraisers and Estate Agents” the words “Register”;

(k) in subsection (8)—

(i) by substituting for the words “registered appraiser or registered estate agent” wherever appearing the words “registered appraiser, registered estate agent or registered property manager”;

(ii) in paragraph (a), by substituting for the words “registered appraiser or registered estate agent” the words “registered appraiser, registered estate agent or registered property manager”; and

(iii) in paragraph (b), by substituting for the words “registered appraiser or registered estate agent” the words “registered appraiser, registered estate agent or registered property manager”;

(l) in subsection (9)—

- (i) by substituting for the words “registered appraiser or registered estate agent” the words “registered appraiser, registered estate agent or registered property manager”; and
- (ii) by deleting the words “of Valuers, Appraisers and Estate Agents”;

(m) in subsection (10), by substituting for the words “registered valuation, appraisal or estate agency” the words “registered valuation, appraisal, estate agency or property management”;

(n) in subsection (11)—

- (i) by substituting for the words “registered appraiser or registered estate agent” the words “registered appraiser, registered estate agent or registered property manager”;
- (ii) in paragraph (a), by substituting for the words “registered appraiser or registered estate agent” the words “registered appraiser, registered estate agent or registered property manager”; and
- (iii) in paragraph (b), by substituting for the words “registered appraiser or registered estate agent” the words “registered appraiser, registered estate agent or registered property manager”;

(o) in subsection (12), by substituting for the words “appraiser or estate agent” wherever appearing the words “appraiser, estate agent or property manager”;

(p) in subsection (13), by substituting for the words “appraiser or estate agent” the words “appraiser, estate agent or property manager”; and

(q) in subsection (14)—

- (i) by substituting for the words “appraiser or estate agent” wherever appearing the words “appraiser, estate agent or property manager”; and

- (ii) by substituting for the words “registered valuer, appraiser or estate agent” wherever appearing the words “registered valuer, appraiser, estate agent or property manager”.

Amendment of section 24

25. Subsection 24(1) of the principal Act is amended—

- (a) by substituting for the words “Subject to the provisions of this Part, if a valuer, appraiser or estate agent or a probationary valuer or probationary estate agent whose name has been placed in the Register or the Register of Probationary Valuers/Probationary Estate Agents, as the case may be—” the words “Subject to the provisions of this Part, if a valuer, appraiser, estate agent or property manager, or a probationary valuer, probationary estate agent or probationary property manager whose name has been placed in the Register or the Register of Probationers, as the case may be—”;
- (b) in paragraph (c), by substituting for the words “section 18, 22A or 22D” the words “section 18, 22D or 22H”;
- (c) in paragraph (h)—
 - (i) by substituting for the words “appraisal or estate agency” the words “appraisal, estate agency or property management”; and
 - (ii) by deleting the word “or” at the end of the paragraph;
- (d) in paragraph (i), by substituting for the words “valuation, appraisal or estate agency practice,” the words “valuation, appraisal, estate agency or property management practice; or”;
- (e) by inserting after paragraph (i) the following paragraph:
 - “(j) has sold, leased, sublet, transferred or otherwise permitted any other person to use his authority to practise issued to him under this Act.”;

- (f) in subparagraph (v), by deleting the word “or” at the end of the subparagraph;
- (g) in subparagraph (vi), by substituting for the full stop at the end of the subparagraph a semicolon; and
- (h) by inserting after subparagraph (vi) the following subparagraphs:
 - “(vii) warning him; or
 - (viii) dismissing the charge.”.

Amendment of section 25

26. Section 25 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) by substituting for the words “There shall be removed from the Register or the Register of Probationary Valuers/Probationary Estate Agents, as the case may be, the name and particulars of any registered valuer, appraiser or estate agent or probationary valuer or probationary estate agent—” the words “There shall be removed from the Register or the Register of Probationers, as the case may be, the name and particulars of any registered valuer, appraiser, estate agent or property manager, or probationary valuer, probationary estate agent or probationary property manager—”; and
 - (ii) in paragraph (c), by substituting for the words “appraiser or estate agent” the words “appraiser, estate agent or property manager”; and
- (b) in subsection (2)—
 - (i) by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”; and

- (ii) by substituting for the words “probationary valuer or probationary estate agent” the words “probationary valuer, probationary estate agent or probationary property manager”.

Amendment of section 26

27. Section 26 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”;
- (b) in subsection (2), by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”;
- (c) in subsection (3), by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”; and
- (d) in subsection (4), by substituting for the words “Register of Probationary Valuers/Probationary Estate Agents” the words “Register of Probationers”.

Amendment of section 30

28. Section 30 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) in paragraph (b), by substituting for the words “Register of Probationary Valuer/Probationary Estate Agent” the words “Register of Probationers”;
 - (ii) in paragraph (e), by substituting for the words “registered valuer, appraiser or estate agent” the words “registered valuer, registered appraiser, registered estate agent or registered property manager”;
 - (iii) by deleting paragraph (g);

(iv) in paragraph (*h*)—

(A) by substituting for the words “registered valuer, appraiser or estate agent” the words “registered valuer, registered appraiser, registered estate agent or registered property manager”; and

(B) by substituting for the words “section 19 or 22B” the words “section 19, 22B or 22I”; and

(v) in paragraph (*i*), by substituting for the words “section 21 or 22C;” the words “section 21, 22C or 22J;”; and

(*b*) in subsection (2)—

(i) in paragraph (*a*)—

(A) by substituting for the words “appraiser or estate agent” wherever appearing the words “appraiser, estate agent or property manager”;

(B) by substituting for the words “appraisal or estate agency” the words “appraisal, estate agency or property management”; and

(C) by substituting for the words “appraisal or estate agent” the words “appraisal, estate agency or property management”; and

(ii) in paragraph (*b*), by substituting for the words “appraiser or estate agent” the words “appraiser, estate agent or property manager”.

Amendment of section 30A

29. The principal Act is amended—

(*a*) by renumbering the existing section 30A as section 30B; and

(b) in section 30B as renumbered, by substituting for subsection (1) the following subsection:

“(1) If it appears to a Magistrate, upon written information on oath and after such enquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Act or any rules made under this Act is being or has been committed on any premises, the Magistrate may issue a warrant authorizing any police officer not below the rank of Inspector, or any person named in the warrant—

- (a) to enter the premises at any reasonable time, by day or by night, with or without assistance, and if need be by force;
- (b) to search for and seize at the premises any signboard, card, letter, pamphlet, leaflet, notice or other device representing or implying that the person is a registered valuer, appraiser, estate agent or property manager, and any other document, article or item that is reasonably believed to furnish evidence of the commission of such offence; and
- (c) to detain any person found in the premises until the premises has been searched, if necessary.”.

New section 30A

30. The principal Act is amended by inserting before section 30B as renumbered the following section:

“Powers to investigate

30A. (1) A police officer not below the rank of an Inspector shall have the powers to investigate the commission of any offence under this Act or any rules made under this Act.

(2) The provisions of the Criminal Procedure Code [Act 593] shall apply to a police officer not below the rank of an Inspector in relation to any investigation in respect of any offence under this Act or any rules made under this Act,

except that the power to arrest without a warrant under the Criminal Procedure Code in any seizable offence may not be exercised by the police officer.”.

Amendment of section 30B

31. The principal Act is amended—

- (a) by renumbering the existing section 30B as section 30C; and
- (b) in section 30C as renumbered, by substituting for the words “section 30A” wherever appearing the words “section 30B”.

Amendment of section 30C

32. The principal Act is amended—

- (a) by renumbering the existing section 30C as section 30D; and
- (b) in subsection 30D(1) as renumbered, by substituting for the words “section 30A or 30B” the words “section 30B or 30C”.

Substitution of section 31A

33. The principal Act is amended by substituting for section 31A the following section:

“Protection against suit and legal proceedings

31A. No action, suit, prosecution or other proceedings shall lie or be brought, instituted or maintained in any court against the Board, any Committee appointed by the Board, any members of the Board, any members of the Committee appointed by the Board or any person or officer of the Board authorized or appointed to act for or on behalf of the Board in respect of any act, neglect or default done or committed by it or him in good faith, or any omission by it or him in good faith, in such capacity.”.

Savings provisions

34. (1) All references to the Valuers, Appraisers and Estate Agents Act 1981 in any written law or document shall, on the coming into operation of this Act, be construed as reference to the Valuers, Appraisers, Estate Agents and Property Managers Act 1981.

(2) All references to the Board of Valuers, Appraisers and Estate Agents in any written law or document subsisting immediately before the date of coming into operation of this Act, shall, on the coming into operation of this Act, be construed as reference to the Board of Valuers, Appraisers, Estate Agents and Property Managers.

(3) The change of name of “Board of Valuers, Appraisers and Estate Agents” to “Board of Valuers, Appraisers, Estate Agents and Property Managers” upon the coming into operation of this Act shall not affect any rights or obligations of the Board or render defective any legal proceedings by or against it, and any legal proceedings that could have been continued or commenced by or against it before the date of coming into operation of this Act may be continued or commenced under its new name.

(4) All references to the Registrar of Valuers, Appraisers and Estate Agents in any written law or document subsisting immediately before the date of coming into operation of this Act shall, on the coming into operation of this Act, be construed as reference to the Registrar of the Board of Valuers, Appraisers, Estate Agents and Property Managers.

(5) All actions, orders, directions, notifications, approvals, decisions, guidelines and other executive acts made, given or done under, or in accordance with, or by virtue of the principal Act before the coming into operation of this Act shall be deemed to have been made, given or done under, or in accordance with, or by virtue of, the corresponding provision introduced or amended by this Act, and shall continue to remain in full force and effect in relation to the persons to whom they apply until amended, repealed or rescinded under, or in accordance with, or by virtue of, the corresponding provision introduced or amended by this Act.

(6) All moneys contained in or due to be paid into the Fund of the Board of Valuers, Appraisers and Estate Agents established under section 12 of the principal Act shall, on the coming into operation of this Act, be transferred to and be deemed to be part of the Fund of the Board of Valuers, Appraisers, Estate Agents and Property Managers.

(7) All deeds, documents and other instruments executed by the Board under the common seal of “Board of Valuers, Appraisers and Estate Agents” before the coming into operation of this Act shall continue to remain in full force and effect on the coming into operation of this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Valuers, Appraisers and Estate Agents Act 1981 (“Act 242”). The proposed amendments seek to provide for the registration of property managers and probationary property managers and for related matters. These amendments also seek to provide for the separation of the property management practice from the valuation and estate agency practice.

2. *Clause 1* contains the short title and provisions on the commencement of the proposed Act.

3. *Clause 2* seeks to amend the long title of Act 242 to include property managers.

4. *Clause 3* seeks to amend section 1 of Act 242 by renaming the short title as Valuers, Appraisers, Estate Agents and Property Managers Act 1981 to reflect the expansion of the scope of the proposed Act to include property managers.

5. *Clause 4* seeks to amend section 2 of Act 242 to introduce new definitions of “probationary property manager” and “registered property manager”. It also seeks to amend certain existing definitions.

6. *Clause 6* seeks to amend section 9 of Act 242. *Subclause 6(b)* seeks to amend subsection 9(1) of Act 242 by renaming the Board as the Board of Valuers, Appraisers, Estate Agents and Property Managers. *Paragraph 6(c)(i)* seeks to amend paragraph 9(2)(cc) of Act 242 to provide that the three registered estate agents appointed by the Minister as members of the Board must be nominated by the President of the Board. *Paragraph 6(c)(iii)* seeks to include three registered property managers nominated by the President of the Board as members of the Board. *Subclause 6(d)* seeks to amend subsection 9(3) of Act 242

to require the three registered property managers appointed as members of the Board as proposed under *paragraph 6(c)(iii)* to be citizens and practising their profession in Malaysia. *Subclause 6(e)* seeks to amend subsection 9(6) of Act 242 to provide that the three registered property managers appointed as members of the Board as proposed under *paragraph 6(c)(iii)* shall hold office for three years or for such shorter period as the Minister may specify and shall be eligible for re-appointment. *Subclause 6(f)* seeks to introduce a new subsection 9(9) into Act 242 to empower the Minister to amend the First Schedule to Act 242.

7. *Clause 7* seeks to amend section 10 of Act 242. *Subclause 7(b)* seeks to amend paragraph 10(e) of Act 242 to provide for the function of the Board to prescribe the scales of fees to be charged by the registered property managers for professional advice or services rendered. *Subclause 7(c)* seeks to amend paragraph 10(f) of Act 242 to provide for the function of the Board to hear and determine disputes relating to the professional conducts or ethics of property managers or to appoint a committee or arbitrator to hear and determine such disputes. *Subclause 7(d)* seeks to amend paragraph 10(g) of Act 242 to provide for the function of the Board to determine and regulate the professional conduct and ethics of property managers. *Subclause 7(e)* seeks to amend paragraph 10(h) of Act 242 to provide for the function of the Board to award scholarships to persons who undertake professional courses in property management. *Subclause 7(f)* seeks to amend paragraph 10(hc) of Act 242 to provide for the function of the Board to prescribe the rules concerning the taking out of professional indemnity insurance for property managers against any class of professional liability. *Subclause 7(h)* seeks to insert a new paragraph 10(he) into Act 242 to provide for the additional function of the Board to hold in trust the monies in dispute between a registered valuer, appraiser, estate agent or property manager, and a client or third party in a contract of valuation, appraisal, estate agency or property management service, whenever necessary.

8. *Clause 8* seeks to amend subsection 12(1) of Act 242 by renaming the Fund as the Fund of the Board of Valuers, Appraisers, Estate Agents and Property Managers.

9. *Clause 9* seeks to amend section 14 of Act 242. *Paragraph 9(a)(i)* seeks to amend paragraph 14(1)(a) of Act 242 by renaming the Register as the Register of Valuers, Appraisers, Estate Agents and Property Managers and by introducing a new Part IV in the Register. *Paragraph 9(a)(ii)* seeks to amend paragraph 14(1)(b) of Act 242 by renaming the Register of Probationary Valuers/ Probationary Estate Agents as the Register of Probationary Valuers, Probationary Estate Agents and Probationary Property Managers. *Paragraph 9(a)(iii)* seeks to amend paragraph 14(1)(c) of Act 242 by introducing a new Part IV of the Register of Firms. *Subclause 9(b)* seeks to amend subsection 14(4) of Act 242 to enable the Board to make an entry in the Register or the Register of Probationers in the event of an order or decision cancelling, suspending or reinstating, or any other order or decision affecting, the registration of any property manager or probationary property manager, respectively.

10. *Clause 10* seeks to amend section 15 of Act 242 by renaming the Registrar as the Registrar of the Board of Valuers, Appraisers, Estate Agents and Property Managers.

11. *Clause 11* seeks to amend section 15A of Act 242 to require a registered property manager to apply to the Board for an authority to practise as a registered property manager under the proposed section 22i.

12. *Clause 12* seeks to amend section 16 of Act 242. *Subclause 12(a)* seeks to amend subsection 16(1A) of Act 242 to provide that the authority to practise as an individual registered property manager shall be subject to the condition that the practice is in accordance with section 23 of Act 242. *Subclause 12(b)* seeks to amend subsection 16(5) of Act 242 by allowing the Board to issue a duplicate authority to practise on application made by a registered property manager and upon satisfying certain other requirements. *Subclause 12(c)* seeks to amend subsection 16(7) of Act 242 to require a registered property manager who changes the employment to notify the Board in writing particulars relating to his former and new employer. The proposed amendment also requires a registered property manager to notify the Board in writing in the event of any changes made in the name, address, *etc.*, of his practice, or the change in the registered property managers practising under his employment or the employment of his firm. *Subclause 12(d)* seeks to amend subsection 16(7B) of Act 242 to extend the application of paragraph 16(7)(a) of Act 242 to probationary property managers whereby any changes shall be entered in the Register of Probationers.

13. *Clause 13* seeks to amend section 17 of Act 242. *Subclause 13(a)* seeks to amend paragraph 17(1)(e) of Act 242 to require a person to also prove to the satisfaction of the Board that he is not under suspension from property management practice and his name is not cancelled from the Register as part of the requirements before he is entitled to have his name entered under Part I or II of the Register. *Subclause 13(b)* seeks to amend subsection 17(1A) of Act 242 by allowing a person who is disqualified from property management practice to have his name entered under Part I of the Register as a valuer if the Board considers him fit to practise valuation.

14. *Clause 15* seeks to delete subsection 18(6) of Act 242 to liberalise the valuation practice by removing the requirement for a person to be a citizen or permanent resident of Malaysia to qualify for registration as a valuer or probationary valuer.

15. *Clause 16* seeks to amend section 19 of Act 242. *Subclause 16(a)* seeks to amend paragraph 19(a) of Act 242 to clarify that a registered valuer or appraiser who has been issued with an authority to practise is also authorized to undertake valuation of trees and crops. *Subclause 16(c)* seeks to delete paragraph 19(c) of Act 242 by no longer authorizing a registered valuer or appraiser, who has been issued with an authority to practise, to undertake property management and the making or checking of inventories. The property management and the making or checking of inventories are provided for under the proposed section 22i as part of property management practice.

16. *Clause 17* seeks to amend section 21 of Act 242. *Subclause 17(a)* seeks to amend paragraphs 21(1)(a) and (aa) of Act 242 by disallowing a registered valuer or appraiser to practise or carry on business or take up employment under the name, style or title containing the words “Property Manager”, or to act as a property manager. *Subclause 17(b)* seeks to delete subsections 21(2)

and (3) of Act 242 which are consequential amendments. The deleted provisions in *subclauses 17(a) and (b)* are reintroduced in the proposed section 22I relating to the restrictions on property management practice.

17. *Clause 18* seeks to amend section 22A of Act 242. *Subclause 18(a)* seeks to amend paragraph 22A(1)(f) of Act 242 to require a person to also prove to the satisfaction of the Board that he is not under suspension from property management practice and his name is not cancelled from the Register as part of the requirements before he is entitled to have his name entered under Part III of the Register. *Subclause 18(b)* seeks to amend subsection 22A(1A) of Act 242 by allowing a person who is disqualified from property management practice to have his name entered under Part III of the Register as an estate agent if the Board considers him fit to practise estate agency.

18. *Clause 19* seeks to amend section 22B of Act 242. *Subclause 19(a)* seeks to renumber the existing subsection 22B(1A) as subsection 22B(1B). *Subclause 19(b)* seeks to introduce a new subsection 22B(1A) into Act 242 by providing that a person undertakes estate agency practice if he acts as an agent, or holds himself out to the public or to any individual or firm as ready to act as an agent, for a commission, fee, reward or other consideration in respect of certain matters as listed in paragraphs (a) to (e).

19. *Clause 20* seeks to amend section 22C of Act 242. *Subclause 20(a)* seeks to amend paragraph 22C(1)(a) of Act 242 to allow a registered estate agent to practise or carry on business or take up employment under the name, style or title containing the words “Real Estate Agency Consultant”. *Subclause 20(b)* seeks to amend subsection 22C(2) of Act 242 to allow a negotiator to assist a registered estate agent in the estate agency practice. *Subclause 20(c)* seeks to introduce a new subsection 22C(2A) into Act 242 by providing the definition of “negotiator”.

20. *Clause 21* seeks to delete subsection 22D(5) of Act 242 to liberalise the estate agency practice by removing the requirement for a person to be a citizen or permanent resident of Malaysia to qualify for registration as an estate agent or probationary estate agent.

21. *Clause 23* seeks to introduce a new Part VB into Act 242. The proposed section 22F deals with the registration of property managers and the requirements to be complied with by a person making the application to have his name entered as a property manager under Part IV of the Register. The proposed section 22G deals with the registration of probationary property managers and the requirements to be complied with by a person making the application to have his name entered as a probationary property manager in the Register of Probationers. The proposed section 22H seeks to provide for the qualifications for registration of property managers and probationary property managers. The proposed section 22I seeks to allow a registered property manager who has been issued with authority to practise by the Board to undertake property management practice as specified under subsection 22I(2). The proposed subsection 22I seeks to prohibit a property manager from doing any acts specified under paragraphs 22I(1)(a) to (f) unless he is a registered property manager and has been issued with an authority to practise.

22. *Clause 24* seeks to amend section 23 of Act 242.

Subclause 24(a) seeks to amend subsection 23(1) of Act 242 by prohibiting a registered property manager from practising property management or have the right to recover in any court any fee, commission, charge or remuneration for any professional advice or services rendered by him pursuant to his practice unless he practises as a sole proprietor of a sole proprietorship, a partner of a partnership, a shareholder or director of a body corporate registered with the Board, or as an employee of such sole proprietorship, partnership or body corporate.

Subclause 24(b) seeks to renumber the existing subsection 23(1A) of Act 242 as subsection 23(1B). *Subclause 24(c)* seeks to amend subsection 23(1B) as renumbered by prohibiting the registration of a sole proprietorship practising property management by the Board unless the sole proprietor of the sole proprietorship is a registered property manager.

Subclause 24(d) seeks to introduce a new subsection 23(1A) into Act 242 by providing that a sole proprietorship, partnership or body corporate may apply to the Board for registration to practise valuation, appraisal, estate agency or property management in the form and manner, and accompanied by the fee, as prescribed by the Board.

Paragraphs 24(e)(i) and *(ii)* seek to amend paragraph 23(2)(a) of Act 242 by providing that a partnership or body corporate practising property management shall not be registered by the Board unless certain requirements are satisfied in relation to its partners or directors and shareholders. *Subparagraph 24(e)(ii)(D)* seeks to insert a new subparagraph 23(2)(a)(iv) into Act 242 to provide that, in the case of a property management practice, a partnership or body corporate practising property management shall not be registered by the Board unless all partners, or directors and shareholders, as the case may be, are solely registered property managers, a combination of registered property managers, registered valuers, registered appraisers and registered estate agents, or a combination of registered property managers and any other persons or bodies corporate.

Paragraph 24(e)(iii) seeks to amend paragraph 23(2)(b) of Act 242 by renumbering the existing subparagraph (iv) as subparagraph (v). Subparagraph (v) as renumbered is amended by providing that a partnership or body corporate practising property management shall not be registered by the Board unless certain requirements are satisfied in relation to the shares in the partnership or body corporate. *Subsubparagraph 24(e)(iii)(C)(cc)* seeks to insert a new subsubparagraph 23(2)(b)(v)(D) into Act 242 to provide that, in a case of property management practice, a partnership or body corporate as stated in subparagraph (v) shall not be registered by the Board unless the shares in the partnership or body corporate, as the case may be, are held by a majority of property managers who hold the majority interest and the voting rights. *Subparagraph 24(e)(iii)(D)* seeks to insert a new subparagraph 23(2)(b)(iv) into Act 242 by providing that, in a case of property management practice, a partnership or body corporate shall not be registered by the Board unless the shares in the partnership or body corporate, as the case may be, are held solely by registered property managers.

Subclause 24(f) seeks to renumber the existing subsection 23(4A) of Act 242 as subsection (4B). *Subclause 24(g)* seeks to amend subsection 23(4B) as renumbered by providing that the Board shall cancel the registration of a firm if the Board finds that the composition of the partners of the partnership or the directors of the body corporate practising property management does not comply with the requirement in subsection 23(2). The Board may also cancel the registration of a firm if the shareholding of the partnership or body corporate practising property management does not comply with the requirement in subsection 23(2) or if any partner of a partnership or director of a body corporate practising property management commits, or contributes to, any of the acts specified in paragraph 23(4B)(a), (b) or (c).

Subclause 24(h) seeks to introduce a new subsection 23(4A) into Act 242 to prohibit a registered property manager to remain as a sole proprietor, partner, shareholder or director of more than one proprietorship, partnership or body corporate practising property management unless approved in writing by the Board.

Subclause 24(i) seeks to amend subsection 23(6) of Act 242 by requiring a registered property manager to notify the Board in writing within one month of his becoming a sole proprietor, partner, shareholder or director of a firm or of any change of partnership, shareholding or directorship of a firm.

Subclause 24(j) seeks to amend subsection 23(7) of Act 242 to require a registered property manager practising as a sole proprietor to satisfy the Board within thirty days from the date he is removed from the Register or suspended from practice, that he has made suitable arrangements for making available to his client some other registered property manager during the period of his removal or suspension.

Subclause 24(k) seeks to amend subsection 23(8) of Act 242 to require a registered property manager, when making available to his client to some other registered property manager under subsection 23(7), to instruct the other registered property manager to take over the management of his firm and to receive and account for all sums of money due to the firm and held by him or his firm on behalf of his clients. Further, he is also required to hand over all documents, books of accounts, records and vouchers and any other document in his possession or control to the other registered property manager.

Subclause 24(l) seeks to amend subsection 23(9) of Act 242 to require a registered property manager practising under a partnership arrangement to satisfy the Board, within thirty days from the date he is removed from the Register or suspended from practice, that he has made suitable arrangements to hand over all his clients and all relevant documents in his possession to his partner.

Subclause 24(m) seeks to amend subsection 23(10) of Act 242 to require the partners or directors of a registered property management firm which has been removed from the Register of Firms or which all of its partners or directors are suspended from practice, to satisfy the Board within thirty days from the date of such removal or suspension that they have made suitable arrangements for making available to their clients some other registered property management firm during the period of their removal or suspension.

Subclause 24(n) seeks to amend subsection 23(11) of Act 242 to require the partners or directors of a registered firm, when making available to his client some other registered property manager under subsection 23(10), to instruct the other registered property manager to take over the management of their firm and to receive and account for all sums of money due to the firm and held by them or their firm on behalf of their clients. Further, they are also required to hand over all documents, books of accounts, records and vouchers and any other document in their possession or control to the other registered property manager.

Subclause 24(o) seeks to amend subsection 23(12) of Act 242 to enable the Board, in the event that a property manager fails to comply with subsection 23(7) or (10), to appoint another registered property manager to manage his firm if the Board considers that the firm still needs to be maintained in the public interest or in the interest of his clients or profession.

Subclause 24(p) seeks to amend subsection 23(13) of Act 242 to impose certain obligations on a registered property manager appointed under subsection 23(12) in relation to the conduct of business, *etc.*

Subclause 24(q) seeks to amend subsection 23(14) of Act 242 to provide that where a registered property manager practising as a sole proprietor is dead, all rights to operate or otherwise deal with any banking account in the name of the deceased or his firm shall vest in his personal representative and exercisable as from the death of the registered property manager to its conclusion subject to the approval and supervision of the Board.

23. *Clause 25* seeks to amend section 24 of Act 242. *Subclause 25(a)* seeks to amend subsection 24(1) of Act 242 by empowering the Board to make a cancellation, suspension or admonishment order if the registered property manager or probationary property manager satisfy certain conditions as specified in paragraphs 24(1)(a) to (i). *Subclause 25(b)* seeks to amend paragraph 24(1)(c) of Act 242 to enable the Board to make any of the orders if the qualification of a valuer, appraiser, estate agent or property manager or a probationary valuer, probationary estate agent or probationary property manager under section 18, 22D or 22H is withdrawn or cancelled. *Subclauses 25(c)* and (d) seek to amend paragraphs 24(1)(h) and (i) of Act 242 to enable the Board to make any of the orders if a property manager or probationary property manager has allowed any unauthorized person to carry on property management business in his name, or has carried on by himself any profession, trade, business or calling which is incompatible with property management practice. *Subclause 25(e)* seeks to introduce a new paragraph 24(1)(j) into Act 242 to provide for additional ground for making any of the orders that is, if a valuer, appraiser, estate agent or property manager or a probationary valuer, probationary estate agent or probationary property manager has sold, leased, sublet, transferred or otherwise permitted any other person to use his authority to practise issued to him. *Subclause 25(h)* seeks to empower the Board to make an order of warning or dismissing the charge.

24. *Clause 26* seeks to amend section 25 of Act 242. *Subclause 26(a)* seeks to amend subsection 25(1) of Act 242 to provide for the removal of the name of a registered property manager or probationary property manager

from the Register or Register of Probationers if any of circumstances under paragraphs 25(1)(a) to (e) occurs. The name of a registered property manager or probationary property manager shall also be removed from the Register or Register of Probationers if he is certified by a government medical officer as being of unsound mind or is incapable of effectively performing the functions of a registered property manager. *Subclause 26(b)* seeks to amend subsection 25(2) of Act 242 to require the property manager whose name is removed from the Register to surrender to the Board his authority to practise or, in the case of a probationary property manager, to surrender his letter of registration to the Board within fourteen days after the notification of the Board's decision by registered post.

25. *Clause 28* seeks to amend section 30 of Act 242. *Paragraphs 28(a)(ii)* and *(iv)* seek to amend paragraphs 30(1)(e) and (h) of Act 242 by making it an offence to impersonate a registered property manager, and to carry out or undertake to carry out any work provided under the proposed section 22i if the person is not acting under the immediate personal direction and supervision of a registered property manager. *Paragraph 28(a)(iii)* seeks to delete paragraph 30(1)(g) of Act 242 by no longer making it an offence for a person to sell, transfer, sublet or otherwise permit any other person to use any authority to practise issued to him. Any person who sells, transfers, sublets or otherwise permits any other person to use any authority to practise issued to him will be subject to the cancellation, suspension or admonishment order by the Board under the proposed paragraph 24(1)(j). *Paragraph 28(a)(v)* seeks to amend paragraph 30(1)(i) by making it an offence for any person to act in contravention of the proposed section 22j. *Subclause 28(b)* seeks to amend subsection 30(2) of Act 242 to make it an offence for any person who without any lawful authority, acts as a property manager for any party or acts in any capacity as a property manager whether the primary object of his business is property management or whether any incidental part of his business is property management. It also seeks to make it an offence for any person who wilfully or falsely pretends to be, or takes or uses any name, title, addition or description implying that he is duly qualified or authorized to act as a property manager or that he is by law so qualified or authorized.

26. *Clause 29* seeks to amend section 30A of Act 242. *Subclause 29(a)* seeks to renumber the existing section 30A as section 30B. *Subclause 29(b)* seeks to redraft subsection 30B(1) as renumbered and to provide that if it appears to a Magistrate that there is reasonable cause to believe that an offence under Act 242 or any rules made under Act 242 is being or has been committed on any premises, the Magistrate may issue a warrant authorizing any police officer not below the rank of Inspector, or any person named in the warrant to detain any person found in the premises until the premises has been searched, if necessary.

27. *Clause 30* seeks to introduce a new section 30A into Act 242 which deals with the powers to investigate the commission of any offence under Act 242 or rules made under Act 242.

28. *Clause 31* seeks to renumber the existing section 30B of Act 242 as section 30C.

29. *Clause 32* seeks to renumber the existing section 30c of Act 242 as section 30d.

30. *Clause 33* seeks to amend section 31A of Act 242 by prohibiting any action, suit, prosecution or other proceeding to be brought, instituted or maintained in any court against the Board, any Committee appointed by the Board, any members of the Board, any members of the Committee appointed by the Board or any person or officer of the Board authorised or appointed to act for or on behalf of the Board in respect of any act, neglect or default done or committed by it or him in good faith, or any omission by it or him in good faith, in such capacity.

31. *Clause 34* deals with savings provisions.

32. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PN(U2)2896]