

THE REAL ESTATE BROKERS ACT) **Order No. 2457**
)
Section 47) **October 31, 2001**

**An Order Exempting New House Builders
From Certain Provisions of
The Real Estate Brokers Act**

Background

Subsection 26(1) of The Real Estate Brokers Act (the Act) requires every broker to maintain in a bank a trust account into which all trust money received by the broker must be paid. Subsection 7(8) of the Act states that The Manitoba Securities Commission (the Commission) may require applicants for registration as broker or authorized official to have previous experience in real estate transactions and in that regard the Commission requires applicants to have a minimum of two years' experience as a real estate salesperson within three years prior to the date of applying for registration with the Registrar of the Act.

Subsection 4(1) of the Act requires every broker to file with the Registrar a surety bond in the form and amount prescribed by subsection 6(1) of Regulation 56/88 or a valid certificate of membership in The Manitoba Real Estate Association (MREA).

The Commission recognizes that new house builders registered as brokers under the Act conduct restricted brokerage activity and allows the Registrar to grant a restricted registration to new house builders subject to the conditions in this Order.

The Commission believes that compliance with the provisions of the Act and Regulation 56/88 referred to in this Order by new house builders would not advance the purposes of the Act and that it would not be contrary to the public interest to make this Order.

Order and Conditions

The Commission orders that, pursuant to section 47 of the Act, new house builders registered as brokers under the Act are exempt from the provisions of subsections 26(1) and 7(8) of the Act and subsection 6(1) of Regulation 56/88, subject to the following conditions:

- (a) The proposed authorized official (s) of the new house builder must complete the education requirements prescribed by the Commission;
- (b) When applying for registration as a broker under the Act, the new house builder shall file with the Registrar a surety bond in the amount of \$10,000 or a valid certificate of membership in the MREA;

(c) The certificate of registration granted to new house builders will include the following restrictions :

(i) the brokerage activity must be confined to negotiating sales of new houses built or to be built on land owned or to be acquired by the new house builder;

(ii) offers in connection with the sale of new houses must be written on a form approved by a solicitor entitled to practise in Manitoba and shall comply with section 22 of the Act;

(iii) trust money in connection with the sale of new houses must be paid to a solicitor entitled to practise in Manitoba acting on behalf of the new house builder or the buyer;

(d) When applying for renewal of registration as a broker, the new house builder shall provide the Registrar with an affidavit as to compliance with the conditions of registration.

This Order replaces Order No. 34/88 issued on January 27, 1988.

Director