

THE <sup>1</sup>[Khyber Pakhtunkhwa] REAL ESTATE AGENTS AND MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS) RULES, 1983.

**GOVERNMENT OF <sup>2</sup>[Khyber Pakhtunkhwa]  
EXCISE AND TAXATION DEPARTMENT.**

**NOTIFICATION**

**PESHAWAR DATED THE 16/11/1983.**

No. **27319** In exercise of the powers conferred by section 11 of the <sup>3</sup>[Khyber Pakhtunkhwa] Real Estate Agents and Motor Vehicle Dealers (Regulation of Business) Ordinance, 1983 (<sup>4</sup>[Khyber Pakhtunkhwa] Ordinance No.VIII of 1983), the Government of the <sup>5</sup>[Khyber Pakhtunkhwa] is pleased to make the following rules, namely:

**THE <sup>6</sup>[Khyber Pakhtunkhwa] REAL ESTATE AGENTS AND MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS) RULES, 1983.**

1. **Short title and commencement.**-(1) These rules may be called the <sup>7</sup>[Khyber Pakhtunkhwa] Real Estate Agents and Motor Vehicles Dealers (Regulation of Business) Rules, 1983.

(2) They shall come into force at once.

2. **Definitions.**- In these rules, unless there is anything repugnant in the subject to context,-

(a) “certificate” means a certificate issued under section 3 of the Ordinance and includes a certificate renewed under section 6 thereof;

(aa) “customer” means the person to whom the motor vehicle is being rented out against certain remuneration; and

<sup>8</sup>[(ab) “driver” means an employee of the motor vehicle dealer who is deputed with the vehicle that is being rented out to a customer.

(b) “Form” means a form appended to these rules;

(c) “Ordinance” means the <sup>9</sup>[Khyber Pakhtunkhwa] Real Estate Agents and Motor Vehicles Dealers(Regulation of Business) Ordinance, 1983 (<sup>10</sup>[Khyber Pakhtunkhwa] Ordinance No.VIII of 1983);

(d) “Ordinary place of business” means such place within the territorial limits of a registering authority as may be declared from time to time,

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<sup>1</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>2</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>3</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>4</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>5</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>6</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>7</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>8</sup> Substituted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012

<sup>9</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>10</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

by a motor vehicles dealer or a real estate agent for carrying on his business;

- (e) “Transaction” means any transaction of sale, exchange, transfer or pledge of a motor vehicles or, as the case may be, any transaction of sale, exchange, mortgage, lease or tenancy of a real estate; and
- (f) “Treasury” means a Government treasury or sub treasury or a Branch of a Bank authorized by Government to receive payment in this behalf.

3. **Application for Registration, etc.**-(1) An application for registration as a real estate agent or a motor vehicles dealer, as the case may be, shall be in form ‘I’ and for renewal of certificate in Form-II. The application shall be duly signed by the applicant and shall be accompanied by a receipt showing the deposit of the prescribed fee into the Treasury. In case of registration, the application shall also be accompanied by a receipt showing deposit of the security, as required under rule 5.

a) Where the applicant is a firm, the application shall be signed by all the partners of the firm and where the applicant is a company, the application shall be signed by the person authorized under the Memorandum and articles of association of the company to sign instruments on behalf of the company.

b) The application shall be presented before the registering authority either in person or by registered post with acknowledgment due by the applicant or his agent duly authorized by him for the purpose.

4. **Section 4** (1) The fee payable for the grant of a certificate shall be rupees <sup>11</sup>[seven thousand and five hundred.]

(2) The fee payable for renewal of a certificate shall be rupees <sup>1</sup>[two thousand].

5. **<sup>12</sup>Security Deposit.**- (1) The security to be furnished by a real estate agent or a motor vehicles dealers shall be rupees [fifteen thousand] and will be deposited in cash.

(2) The security shall be deposited in the Treasury under Head “3000-Deposit not bearing interest -3800-0-Other Accounts 3834- Deposits Accounts, under the <sup>13</sup>[Khyber Pakhtunkhwa], Real Estate Agents and Motor Vehicles Dealers (Regulation of Business) Ordinance, 1983”.

(3) The security shall be refunded on the cancellation of the certificate of registration or on the expiry of the certificate if the real estate agent or the Motor Vehicle Dealer, as the case may be, does not want to continue the business.

Provided that where there is pending a case in the court against a motor vehicles dealer or a real estate agent for committing any offence under the Ordinance or these rules, the security shall not be refunded till final decision of the case.

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<sup>11</sup> Substituted vide Finance Bill 1995 Notification No.26866

<sup>12</sup> The Furnishing of security has been omitted vide Finance Act, 2009 from KHYBER PAKHTUNKHWA Real Estate Agents and Motor Vehicle Dealers (Regulation of Business) Ord. No. VIII of 1983

<sup>13</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

6. **Proof of Particulars:-** (1) Before granting a certificate of registration the registering authority may call upon the applicant to appear before it and may make such other enquiries as it considers necessary to satisfy itself that the particulars given in the application are correct, the applicant does not suffer from any of the disqualification specified in section 4 of the Ordinance and that the applicant is entitled to the grant of the certificate.

(2) The registering authority for the purpose of renewing a certificate shall not call upon the applicant to appear before it to satisfy itself that the particulars given in the application are correct, nor shall it institute any fresh enquiry unless it is in possession of some prime facie evidence of the fact that the applicant has suffered from any of the disqualification given in section 4 of the Ordinance or is otherwise unfit to hold a certificate.

(3) If the registering authority decides not to grant a certificate or renew it, it shall record its reasons therefor and shall supply a copy of its order to the applicant free of cost.

7. **Certificate of Registration and its Renewal.-** (1) The certificate shall be issued in Form-III.

(2) The renewal of a certificate shall be made in the form of an endorsement on the certificate duly signed by the registering authority.

(3) The certificate shall be non-transferable.

(4) Where there is an introduction of a new partner, in a firm holding a certificate as real estate agent or a motor vehicle dealer, the firm shall make an application to the registering authority indicating the name and other particulars of the new partner and the registering authority on being satisfied that the new partner is not disqualified or unfit to hold a certificate, shall make necessary entries in the certificate and in the register of certificates maintained under rules

(5) The certificate shall be exhibited at some prominent place in the ordinary place of business of the certificate holder.

8. **Register of Certificate.-** The registering authority shall maintain a register in Form-IV containing particulars of the certificate issued and renewed by it from time to time.

9. **Change of Place of Business.-** (1) Where the Certificate holder decides to change the ordinary place of his business within the jurisdiction of the registering authority which issued the certificate, he may make an application to the registering authority accompanied by the certificate and the details of the new place of business with site plan. The registering authority may on being satisfied about the correctness of the change of the ordinary place of business, revise the place of business entered in the certificate and shall also make necessary changes in the register of certificate.

(2) Where a certificate holder intends to change the ordinary place of his business to a place outside the jurisdiction of the registering authority which issued the certificate, he may in the manner specified in sub-rule (1), make an application to the Director, Excise and Taxation, who may after calling for the record of the certificate

from the original registering authority and on being satisfied about the correctness of the changed place of business, forward the case to the registering authority of the district concerned. The registering authority concerned shall then cancel the existing certificate under intimation to the registering authority who issued it and issue a new certificate in lieu thereof to be valid only for the remaining prior of the cancelled certificate.

(3) There shall be charged a fee of <sup>14</sup>[five hundred] rupees in case of change of address under sub-rule (1) and a fee of <sup>15</sup>[two thousand] rupees in case of change of address under sub-rule (2).

**10. Maintenance of Record and Accounts :-** (1) A certificate holder shall maintain the following record at his ordinary place of business :

(i) a register in Form-V containing the particulars of transactions arranged or negotiated by him;

<sup>16</sup>[(i-a) a register in Form-V(A) containing the particulars of transactions involving renting of motor vehicles;]

(ii) a receipt book in Form-VI with each page serially numbered and containing particulars of the payments received by the certificate holder in respect of transactions arranged

(2) Every transaction arranged or negotiated by the certificate holder shall be entered by him in the register forthwith.

(3) The certificate holder shall immediately issue a proper receipt on outer file of the receipt book in Form VI for every payment received by him in respect of such transaction arranged or negotiated by him.

(4) The register or the receipt book maintained under sub-rules (1) and (2) shall not be destroyed by the certificate holder without the previous permission in writing of the registering authority.

**11. Inspection and Production of Record.:-** (1) The Director, Excise and Taxation, the registering authority or any other officer of the Excise and Taxation Department, not below the rank of Inspector and duly authorized by the registering authority in this behalf, may inspect the record maintained by the certificate holder under rule 10 and may make any note thereon or take any extract therefrom or seize the same, if he has reason to believe that the record has not correctly been maintained.

(2) Where any record is seized under the provisions of sub-rule (1), the registering authority or the officer seizing it, shall issue a receipt to the certificate holder.

(3) The registering authority may at any time shall call upon the certificate holder to bring and produce before it the record maintained by him under rule 10.

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<sup>14</sup> Substituted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012

<sup>15</sup> <sup>15</sup> Substituted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012

<sup>16</sup> Inserted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012

(4) Where a motor vehicle dealer or a real estate agent is accused of committing any offence under the ordinance or these rules, the registering authority may seize the record, sign-board and other documents concerning the business and seal the ordinary place of his business and then lodge a complaint before the Illaqa Magistrate. The record, etc; so seized or the ordinary place of business so sealed shall not be released or opened, except with the orders of the Court trying the complaint.

12. **Return.-** (1) A certificate holder shall submit to the registering authority a monthly return in Form-VII, at the close of each month.

(2) The registering authority may require a certificate holder to supply him such additional information in respect of transactions arranged or negotiated by him or in respect of the record maintained by him and the certificate holder shall supply such information within such time as may be required by the registering authority.

13. **Rate of Commission or Remuneration:-** (1) The rate of commission and other remuneration chargeable by a real estate agent on a transaction arranged or negotiated by him shall not exceed.

- (a) half a month's rent in the case of a transaction of lease or tenancy;
- (b) two percent of the amount of consideration involved in transactions of mortgage; and
- (c) two percent of the value of the property involved in transactions other than those mentioned in clauses (a) and

(2) The rate of commission and other remuneration chargeable by a motor vehicles dealer shall not exceed 1% of the value of the motor vehicle sold, exchanged or transferred or that of the amount against which the motor vehicle is pledged.

(3) The maximum rates chargeable under sub-rules (1) and (2) are the rates chargeable in respect of a transaction irrespective of whether the commission and other remuneration is payable by one of the parties only or by both the parties to the transaction.

<sup>17</sup>[(4) The rate of remuneration charged by the motor vehicle dealer in cases of renting out of motor vehicle shall not exceed from the following prescribed rates:

- (a) vehicle of 800 cc and below; Rs. 1000/-per day.
- (b) vehicle above 801 cc but not more than 2500cc; Rs. 1800/-per day.
- (c) vehicle above 2500 cc. Rs. 3000/-per day:

Provided that daily charges of rupees five hundred shall be in addition to these rates if driver is attached with the vehicle being rented:

Provided further that the cost of fuel of the vehicle shall be borne by the customer for the journey.]

<sup>18</sup>[13A.where the transaction involve renting of motor vehicle, the motor

<sup>17</sup> Added vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012

<sup>18</sup> Added vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012

vehicle dealer shall ensure that-

- (a) the driver or customer, as the case may be, shall be mentally and physically fit to drive. He shall not suffer from physical impairment;
- (b) the vehicle being rented out shall be duly insured as per the requirements of the Motor Vehicles Ordinance, 1965;
- (c) the driver or customer, as the case may be, shall be in possession of validly issued driving license;
- (d) the driver or customer, as the case may be, shall keep the registration documents of the vehicle along throughout the journey;
- (e) the driver shall not accompany himself any luggage or other items other than his personal wardrobe without prior intimation to the customer. Any other item or luggage of the driver, shall be his personal liability;
- (f) the customer shall maintain gentle attitude with the driver during his journey. He shall not indulge with him in any unnecessary debate;
- (g) where the journey is without the driver, the customer shall be personally responsible for the safety and security of the vehicle and vice versa; and
- (h) in case of any untoward incidence, or accident, the driver or customer, as the case may be, shall take appropriate action according to their best abilities.]

**14. Appeal:-** (1) Any person aggrieved by an order of the registering authority passed by it under these rules may prefer an appeal to the Director, Excise and Taxation, within thirty days of the communication of the order to him.

(2) An appeal may be admitted by the Director, Excise and Taxation, after the period of thirty days mentioned in sub-rule (1), if the applicant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) The appeal under sub-rule (1) shall be preferred in form of a memorandum bearing the requisite court fee mentioned in column 3 of item 11(aa) of Schedule II of the court Fees Act, 1870(VII of 1870), and shall be duly signed by the appellant and presented to the appellate authority or to such officer as it appoints in this behalf. The memorandum shall be accompanied by a copy of the order appealed against, unless the appellate authority dispenses with this requirement.

(4) The appellate authority shall not give its decision unless the person concerned has been given a reasonable opportunity of being heard.

**15. Credit of Fees:-** The fees payable under these rules shall be credited to the head "0000-Tax Revenue-0200-Indirect Taxes 0250-Provincial Excise-0259 other receipt-Receipt on accounts of license fee of Real Estate Agents and Motor Vehicles Dealers".

**FORM-I**  
(See Rule 3)

I/We hereby apply for certificate of registration to engage in or carry on the business of a REAL AGENT / MOTOR VEHICLE DEALERS (Strike out whichever is not applicable).

1. Name of the applicant. \_\_\_\_\_
2. Permanent address. \_\_\_\_\_
3. Status (Individual, Firm or Company). \_\_\_\_\_
4. If a firm or a company, the names, parentage and addressed of its partners / Directors and managers if any. \_\_\_\_\_
5. Ordinary place of business (with complete address and site plan thereof.) \_\_\_\_\_
6. Particular of the receipt of deposited of fee. \_\_\_\_\_
7. Particulars of the security provided. \_\_\_\_\_
8. Whether the applicant held such a certificate previously, if so particulars thereof. \_\_\_\_\_

**DECLARATION.**

I/We hereby declare that:-

- a. I am not minor.
- b. I have not been found to be unsound mind or declare insolvent by a court of competent jurisdiction.
- c. I have not been found guilty of criminal misappropriation, criminal breach of trust or of cheating or of any offence involving moral turpitude or an abetment or attempt to commit any such offence, by a court of competent jurisdiction.

I further declare that the particulars and other facts mentioned above are true to the best of my knowledge and belief and that nothing has been concealed or misstated by me.

**Name (In Block Letters)**

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**Signature**

Note:

- 1.If the applicant is a firm or company the declaration should be signed by all the partners /Directors of the firm or company, as the case may be and also by the Managers, if any.
2. If the applicant is a firm or company, the application should be accompanied by a copy of the deed of partnership or the Memorandum and Articles of Association, as the case may be.



**FORM-II**  
(See Rule-4)

I/We hereby apply for renewal of certificate of registration to carry on the business of a REAL ESTATE AGENT/ MOTOR VEHICLES DEALER. (Strike out whichever is not applicable).

(b) Name of the applicant.  
\_\_\_\_\_

(c) Certificate No, and Date.  
\_\_\_\_\_

(d) Date of expiry of the Certificate.  
\_\_\_\_\_

(e) Particulars of the receipt of deposit of renewal fee.  
\_\_\_\_\_

**DECLARATION**

I/We hereby declare that :-

(a) The various particulars given by me/us in the original application for registration have not undergone any change except the following:-

.....

(b) I/We have not suffered any of the disqualification to hold the certificate.

I/We further declare that the particulars and other facts mentioned above are true to the best of my knowledge and belief and that nothing has been concealed or mis-stated by me/us.

**Name (In Block Letters).**

**Signature** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Notes:-** 1 If the applicant is a firm, the declaration is to be signed by all the partners of the firm.

2. If the applicant is a company, the declaration is to be signed by the person authorized to sign on behalf of the company.

**FORM-III**  
(See Rule 8)

No.REA/MVD/\_\_\_\_\_

Reg : Fee Rs.\_\_\_\_\_ Paid vide

TR NO.\_\_\_\_\_ Dated \_\_\_\_\_

**CERTIFICATE OF REGISTRATION.**

(To be displayed at the ordinary place of business of the holder)

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Subject to the provision of <sup>19</sup>[Khyber Pakhtunkhwa], Real Estate Agents and Motor Vehicle Dealers (Regulation of /Business) Ordinance, 1983 (VIII of 1983) and the Rules framed thereunder, this certificate is granted to

MR./Miss \_\_\_\_\_ to engage in or carry on the business of REAL ESTATE AGENT/ MOTOR VEHICLE DEALER in the <sup>20</sup>[Khyber Pakhtunkhwa]

2. This certificate, unless renewed, is valid for the year ending-----..

Registering Authority

Signature\_\_\_\_\_

Registering Authority .

Date\_\_\_\_\_

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<sup>19</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>20</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.





**<sup>1</sup>FORM-V(A)**

(see rule 10(1)(i-a))

**REGISTER OF MOTOR VEHICLES DEALERS UNDERTAKING RENT TRANSACTION**

S.No. and date of finalization of the transaction.	Name address and computerized National Identity Card of the customer to whom motor vehicle is rented out	Any sort of personnel or financial security sought from the customer.	The luggage of the customers (or customers if more than one) reported to the motor vehicle dealers	Registration number and other description of the vehicle being rented	Whether the vehicle is road worthy (Yes/No). Specify if there is any defect in the vehicle.	Whether driver is attached. (Yes/No). If yes, name and driving license No of the Driver.	If no driver is attached, the driving license No. of the customer, or any other companion or companions of the customer, who is/are expected to drive the rented vehicle during their journey.
1.	2.	3.	4.	5.	6.	7.	8.

Specification of items/luggage carried along by the driver (if any).	Particulars of the receipt issued (i.e. receipt No. and date).	Time of the release of vehicle.	Time of the return of vehicle.	Signature of the customer (at the time of return and release of vehicle).	Remarks.	Signature of certificate holder."
9.	10.	11.	12.	13.	14.	15.

<sup>1</sup> Inserted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

**FORM-VI.**

(See Rule-2)

**FORM OF RECEIPT ISSUED BY THE REAL ESTATE AGENT/MOTOR VEHICLES DEALER.**

Counterfoil. S.No. \_\_\_\_\_

Receipt. S.No. \_\_\_\_\_

Received from \_\_\_\_\_

Received from \_\_\_\_\_

a sum of rupees. \_\_\_\_\_

a sum of rupees \_\_\_\_\_

as commission/remuneration for arranging /negotiating  
negotiating transaction No. \_\_\_\_\_/  
entered in the Register of Transaction maintained by me/us.

as commission/remuneration for arranging/  
transaction No. \_\_\_\_\_/entered in the  
Register of Transactions maintained by me/us.

Signature of the  
Certificate holder  
Dated \_\_\_\_\_

Signature of the  
Certificate holder.  
Dated \_\_\_\_\_