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# CPD exemptions and deferrals under Rule 13 of the Real Estate Agents (Continuing Professional Development Rules) Notice 2018

**Guidelines for assessment of applications for CPD exemptions or deferrals in exceptional circumstances**

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Issued by the Registrar of the Real Estate Authority under the Real Estate Agents Act 2008 on 30 October 2023

## **Guidelines for assessment of applications for CPD exemptions or deferrals in exceptional circumstances under Rule 13 of the Real Estate Agents (Continuing Professional Development Rules) Notice 2018**

### **Introduction**

1. This document sets out REA's guidelines for assessing applications for an exemption or deferral of CPD requirements in exceptional circumstances under Rule 13 of the Real Estate Agents (Continuing Professional Development Rules) Notice 2018 (**CPD Notice**) which provides:
  - The Registrar may exempt a person from some or all of the CPD requirements for the calendar year in exceptional circumstances.
  - The Registrar may defer some or all of the CPD requirements for a licensee for the calendar year in exceptional circumstances.
2. The guidelines will be applied by REA in assessing applications for exemptions or deferrals from CPD requirements under Rule 13 of the Notice. REA's approach is principle based and each application will be considered on a case-by-case basis taking into account its particular facts.

### **Guidelines for applications for an exemption or deferral in exceptional circumstances**

3. An application for an exemption or deferral must be accompanied by an explanation from the applicant of the reasons why they did not complete the required CPD training, the details of the exceptional circumstances and supporting evidence.
4. For the purposes of Rule 13 of the CPD Notice, "exceptional circumstances" are circumstances that are out of the ordinary that prevents the applicant from completing CPD and will likely include:
  - A circumstance that is unusual, out of the ordinary, uncommon, special, or rare;<sup>1</sup> and
  - A circumstance that is largely outside the control of the applicant; and/or
  - A circumstance that could not be reasonably foreseen or planned for.
5. The word "exceptional" creates a high threshold.
6. In exercising their discretion whether or not to grant an exemption or deferral the Registrar may consider the following:
  - The details of the exceptional circumstances;
  - Details of the time and occurrence of the exceptional circumstances (in the context that CPD requirements are spread across a calendar year);

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<sup>1</sup> Adopting *Catley v Real Estate Agents Authority* (CAC 521) [2019] NZREADT 57 at [43] where the Real Estate Agents Disciplinary Tribunal adopted the use of the term "exceptional" in *Matson v The Real Estate Agents Authority* (CAC 410) [2019] NZREADT 9 at [18(e)].

- Evidence in support, including other supporting documents or relevant information;
  - The CPD training that has been completed by the applicant in the relevant year;
  - Such other information that is directly relevant to the application that has been made, which includes but is not limited to:
    - Effort made by the licensee to complete CPD
    - Experience of licensee
    - Previous CPD non-compliance and any warnings given
    - Relief sought by the licensee – e.g. a suspension of licence or extension of time for CPD completion
    - REA’s previous approach to CPD compliance and relevance to the exceptional circumstance claimed
    - Potential harm to consumers if an exemption or deferral is not granted.
7. When exercising their discretion, the Registrar may give differing weight to different types of information. Each decision will be made on a case-by-case basis.
  8. Given the importance of education within the regulatory framework, an exemption will be rare and will only be granted where a deferral is not appropriate. The threshold to be met for an exemption or a deferral is high.
  9. The Registrar may determine that in certain circumstances deferral of completion of CPD within a specified time period is appropriate rather than exemption.
  10. An application must be made to the REA in writing at the earliest opportunity and should be made by 31 December if possible. Any application must be received before the licence is cancelled by the Registrar. The applicant should provide information and/or evidence in support of their application. An application form and information about how to make an application will be provided on REA’s website.
  11. The Registrar will seek to make a decision on the application within 20 working days from the date on which **all** information has been received. The decision and reasons for it will be communicated in writing to the applicant.
  12. The Registrar's decision may be appealed under section 112 of the Act.