

**ESTATE AGENTS (REGISTRATION, LICENSING AND PROFESSIONAL INDEMNITY)
REGULATIONS
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**PART I
PRELIMINARY**

Citation and commencement

1

These Regulations may be cited as the Estate Agents (Registration, Licensing and Professional Indemnity) Regulations 2017 and shall come into operation
On 1st March, 2018.

Definitions

2

In these Regulations, unless the context otherwise requires —

“**business name**” means the name or style under which a person carries on business;

“**continuing professional development credits**” means continuing professional development credits under Regulation 5.

“**continuing professional development requirements**”, in relation to any person, means the minimum continuing professional development requirements applicable to that person under Regulation 13;

“**corporation**” means a company registered under the Companies Act, 2009;

“**Authority**” means the Human Settlements Authority established in terms of the Human Settlement Authority Act of 1988 as amended in 1992.

“**Clients**” includes prospective clients or customers;

“**Circulars or guidelines**” means circulars or guidelines in relation to estate agency work which the Authority may issue from time to time.

“**Developer**” means any person who constructs or causes to be constructed property for sale or lease to other persons;

“**Lease**” includes an agreement for a lease;

“**Fee**” means the applicable fee under the schedule of these Regulations;

“**Estate agent / Salesperson**” means a natural person licensed, qualified and registered to perform estate agency work in terms of these regulations;

“**Licence number**”, in relation to an estate agent, means the licence number assigned by the Authority on granting an estate agent’s licence;

“**Partner or director**”, means a person who was a partner or director of the estate agency

“**Professional indemnity insurance requirements**”, in relation to an estate agent, means the professional indemnity insurance requirements under Regulation 13;

“**Property transaction**” means property sales or lease, rental or advisory work for a fee, commission or reward is paid or payable to the estate agent or the salesperson for the estate agency work.

“**Real Estate Agency examination**” means the examination conducted by the Authority as a qualification to run and own an estate agency;

“**Real Estate Salesperson examination**” means the examination conducted by the Authority as a qualification to perform estate agency work;

Forms and required document

3

Every application and notice to the Authority under these Regulations shall:

(a) Be made in the in writing in the form as close as possible to the relevant form provided at the relevant specimen in the schedule to these Regulations;

(b) Be accompanied by such documents and declarations as may be required by these Regulations
and

(c) Be accompanied by any other information or documents that the Authority may require in any particular case.

Application for registration of Estate Agents

4

(1) Every application for registration as a salesperson shall be made in writing in the form provided under the schedule titled “Registration of Salespersons”

(2) Every application under paragraph (1) shall be accompanied by a certification (in such form as may be specified in the Authority) by the estate agent that the person seeking registration as a salesperson meets the educational and practical requirements of the Regulations for registration as a salesperson.

Prescribed educational qualification requirements for registration of Salesperson

5

(1) Subject to the paragraphs (2) and (3) no individual shall be registered as a salesperson unless:

(a) he/she has a qualification as per the 1st schedule and from institutions accredited by Higher Education Council of National and International repute; and

(b) he/she has, passed the Real Estate Salesperson examination 3 months prior to applying for registration.

(2) Paragraph (1)(a) and (2) shall not apply to any person who can to the satisfaction of the Authority demonstrate that prior to the enactment of these regulations they have continuously practiced as an estate agent without cessation for more than 3 years.

Application for renewal of license

6(1) Every application for the grant or renewal of an estate agent’s license shall be made in writing in the form provided under the schedule titled “Licensing of Estate Agents”

(2) An estate agent or salespersons successful in their renewal application shall be issued with a card bearing his/her picture, full name, registration number, estate agency they work for and the Authority’s security or authentication features.

Application for grant of a license to run an Estate Agency

7. Subject to the requirements of the regulations, a natural or juristic person can only be granted a license to run an Estate Agency if they satisfy the following requirements:

(a) he/she must have continuously practiced for 5 years as an estate agent; or

(b) he/she has continuously practiced for 3 years at the level of partner, director or senior and or principal sales agent in a licensed estate agency; and

(c) has completed at least 30 documented and verifiable property transactions in the 3 or 5 years immediately before his/her application.

Prescribed requirements for registration and renewal of license

8

(1) Subject to regulation 6 and 7, no license shall be renewed unless:

(a) The Authority is satisfied that the estate agency or estate agent, in case of a sole proprietor, has in place systems and processes to ensure proper management of the business and its salespersons;

- (b) Provide proof that the person has written and passed Authority's examination;
- (c) Has not had an adverse ruling issued against them by the Authority's disciplinary committee;
- (d) Has not been convicted of a crime such as fraud, theft, forgery where dishonesty, misrepresentation or theft are elements or such other crime whose gravity the Authority considers serious.

Display of License and Agent card

9

- (1) Estate agents and salespersons agents must display upon themselves the estate agent card issued by the estate agent that they represent at all times when carrying out estate agency work.
- (2) The person displaying the estate agent card under paragraph (1) shall show the card to any person who may reasonably request to see the card and allow such person to record any information from the card.
- (3) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding E10, 000 or to imprisonment for a term not exceeding 3 months or to both.

Identical or similar names not allowed

10

The Authority may refuse to grant a licence if, in its opinion, the business name of the applicant or the name of the corporation making the application is similar to that of an existing holder of an estate agent's licence as to be likely to cause confusion.

Duty to notify Authority of changes to information submitted to Authority

11

- (1) Every estate agent shall notify the Authority of any change to information contained in any application or form submitted to the Authority under these Regulations, within 7 days after the date of the change.
- (2) Any notice under paragraph (1) shall be made as much as possible in the form provided under "Update of Information" in the schedule
- (3) Notice of events listed in (a) – (c) hereunder shall be made in writing to the within 30 days prior to the occurrence of the relevant event:
 - (a) Intention to apply to close down an estate agency;
 - (b) Intention to apply for a merger of estate agencies;
 - (c) Suspicion of the manifestation of a business threat that will likely cause the closure, liquidation or negative cash flow of the estate agency.

Estate agent to notify Authority of cessation of salesperson's authority

12

- (1) An estate agency, through its partner or chief executive officer, shall give notice to the Authority of the termination of employment or appointment of any salesperson under its employ;
- (2) Any notice under paragraph (1) shall be made in writing in the applicable form provided under "Removal of salesperson from register".

Professional indemnity insurance requirements

13

- (1) Estate Agencies must at all times display their valid license and professional indemnity insurance cover certificate at the reception or front office.
- (2) Every estate agency shall take out and maintain in force at all times during the period in which it carries out estate agency work (whether directly or through salespersons) such insurance as is referred to in paragraph (3) that is of such minimum amount as is referred to in paragraph (4);
- (3) The insurance shall be in respect of civil liability for negligence in the performance of estate agency work.
- (4) Subject to paragraph (5), the minimum amount of insurance cover shall be:
 - (a) E2, 000,000 for an estate agent who is a sole proprietor and who does not employ or engage any salesperson;
 - (b) E4, 000,000 for an estate agency with 2 to 5 sales representatives;
 - (c) E6, 000,000 for an estate agency with 6 to 10 sales representatives;
 - (d) E10, 000,000 for an estate agency with more than 10 sales representatives;
- (5) For the purposes of paragraph (3)
 - (a) “Sales representative” means any natural person who undertakes or may undertake estate agency work;
 - (b) The insurance cover may be subject to limitations on the coverage or liability in respect of any particular representative only if the limit is not less than E1, 000,000;
 - (c) The amount of insurance coverage may include the costs and expenses incurred in the defence or settlement of any insured claim; and

Estate agency work not to be performed without insurance cover

14

No person shall undertake any estate agency work or be granted or have their license renewed without the insurance coverage specified under Regulation 13.

No dual representation

15

- (1) Subject to paragraph (2), no salesperson or estate agent who is a natural person shall, in respect of the same property, have as clients both the seller and purchaser or both landlord and tenant.
- (2) Paragraph (1) will not apply where full disclosure dual representation and a consent agreement of the initial client or of any or all the parties has, in writing, been secured.
- (3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding E120, 000 or to imprisonment for a term not exceeding 12 months or to both.

Client to be informed of inability to perform agreement

16

- (1) An estate agent or a salesperson who is unable for any reason to perform the estate agency agreement shall inform the client immediately.
- (2) Estate Agencies must at all times display their valid license and professional indemnity insurance cover certificate at the reception or front office.

Trust Account and prohibition of its abuse

17

(1) Every estate agency or estate agent, in the case of a sole proprietor, shall maintain a trust account separate from a business account;

(2) All money held on behalf of a client or other third party shall be deposited into the trust account. Abuse, theft, mishandling, investment without written authority of trust funds, including the interest thereof is prohibited.

(3) It is only earned remuneration, commission, agency fees or other reimbursement in relation to the management, repair or renovation of the property as the estate agent or salesperson may be entitled to under a written agreement or authorization that can be transferred from the trust account into a business account.

(4) Any person who contravenes paragraph (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding E150, 000 or to imprisonment for a term not exceeding 60 months or to both and, in the case of a continuing offence, to a further fine not exceeding E500 for every day or part thereof during which the offence continues after conviction.

Use of Authority symbols and representations

18

(1) No estate agent, salesperson or any other person shall, except with the express written permission of the Authority:

(a) Use any name, symbol, mark or representation that is identical to or which incorporates or resembles that of the Authority or a counterpart in the estate agency work licensed prior to it or

(b) Use Internet domain names, World Wide Web addresses or email addresses that incorporate characters, initials or representations of the Authority or a counterpart in the estate agency work which may deceive or cause confusion.

(2) Any person who contravenes paragraphs (1) and (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding E50, 000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a continuing offence, to a further fine not exceeding E500 for every day or part thereof during which the offence continues after conviction.

Continuing professional development requirements for renewal of licence

19

(1) The Authority shall on terms and conditions it will prescribe, offer one bi-annual training programme, whose attendance shall be mandatory, respectively for Estate agencies and Estate agencies at partner or director level on subjects ranging from, but not limited to, realty, contract law, property law, bookkeeping, accounting, business management and valuation.

(2) Subject to paragraph 1, no license shall be renewed unless the sole proprietor of the estate agency, or every director or every partner and Estate agents in the estate agency performing estate agency work have satisfied the continuing professional development requirements applicable to them in each year of the period of the license whose renewal is sought.

Continuing professional development programmes

20

- (1) The Authority may, for the purpose of promoting professional development, designate and maintain a list of regular activities, courses and programmes that are relevant to estate agency work.
- (2) Each item in the list maintained under 1 shall be designated specific items for various classes or descriptions of persons.

Minimum continuing professional development requirements

21

- (1) Every individual who undertakes estate agency work shall participate in the activities, courses and programmes listed under Regulation 20 and shall complete such regular activities, courses or programmes so as to earn a minimum of 6 hours of credits each calendar year.
- (2) Every estate agent shall ensure that its key administrative or executive officer participates in the regular activities, courses and programmes listed under paragraph 1 and completes such regular activities, courses or programmes so as to earn a minimum of 6 hours of credits once in three years.

Disciplinary committee

22

- (1) A disciplinary committee, comprising of three members drawn from the members of the Authority, is hereby established.
- (2) It shall be appointed by the Principal Secretary and have its term aligned to that of the Authority.
- (3) It shall adjudicate over complaints, grievances and acts of misconduct reported against estate agencies, estate agents and salespersons

Manner of reporting complaint, timelines and consequences

23

- (1) All complaints, grievances and acts of misconduct shall be submitted in writing to the Authority's secretariat.
- (2) The party who is the subject of the complaint shall be given a copy of the complaint within 7 days of its receipt and be given an opportunity to fully respond, including attaching all documents supporting its case, within a further 7 days.
- (3) The disciplinary committee may thereafter convene a hearing or conclude the matter on the basis of papers exchanged, at all times ensuring that the matter is concluded within 30 days from receipt of the complaint.
- (4) Where the cause of complaint involves theft of money or property, the Authority's secretariat may simultaneously advise the complainant to immediately report a case of theft with the police.
- (5) The disciplinary committee is at liberty to return any of the following sanctions:
 - (a) Written warning;
 - (b) Final written warning;
 - (c) Suspension of license;
 - (d) Total prohibition from ever working in the estate agency industry;
 - (f) Repatriation of misappropriated or lost funds;
 - (g) Monetary fine; or
 - (h) Immediate referral of matter to the police which shall be accompanied by the suspension of the estate agents license pending the resolution of the criminal matter.

Code of Conduct

24

- (1) The estate agency work shall be governed by the regulations in conjunction with the following code of conduct.
- (2) Any person who contravenes any provision of the code of conduct shall be guilty of an offence and shall be liable on conviction to a fine not exceeding E50, 000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a continuing offence, to a further fine not exceeding E500 for every day or part thereof during which the offence continues after conviction.
- (3) The CODE OF ETHICS AND PROFESSIONAL CLIENT CARE is as follows:

Application of Code to Estate agencies and salespersons

1

- (1) This Code shall be known as the Code of Ethics and Professional Client Care and shall apply to every registered estate agency and every licensed estate agent.
- (2) This Code sets the standard of performance required of estate agencies and salespersons in their dealings with clients and the public while carrying out estate agency work.
- (3) This Code must be read in conjunction with the Estate Agents (Registration, Licensing and Professional Indemnity) Regulations 2017 (“the Regulations”) and relevant circulars or guidelines issued by the Authority from time to time.
- (4) A failure to observe this Code or any law applicable to estate agencies and salespersons shall constitute unsatisfactory or unprofessional conduct.
- (5) An offer, attempt, inducement or instigation to do anything that would constitute a breach of this Code if fully executed or completed is also a breach of this Code.

Violation of Code

2

- (1) Estate agencies and salespersons who breach any provision of this Code shall be subject to disciplinary action before the Disciplinary Committee formed under the Regulations.
- (2) A breach of any provision of this Code may result in the imposition of sanctions including financial penalties, demerit points and the suspension or revocation of a licence or registration under the Regulations or preference of criminal charges.

Knowledge of and compliance with applicable laws, regulations circulars and guidelines

3

- (1) Estate agencies and salespersons must perform their work in accordance with these regulations, other applicable laws, and must not perform estate agency work unless they have the relevant knowledge to perform the work that they are engaged to perform.
- (2) Sub-paragraph (1) means, among other things, that Estate agencies and salespersons—
 - (a) must be fully conversant and comply with the Regulations, the regulations made under the Regulations (including this Code, and the policies, circulars and guidelines of the Authority;
 - (b) must be fully conversant and comply with relevant laws, regulations and rules that apply to property transactions;

- (c) must keep themselves informed of essential or relevant regulations and developments in the property market and matters that could affect any aspect of property transactions;
- (d) must be familiar with the procedures for property transactions, and the contents of the forms used; and
- (e) must not undertake estate agency work in respect of Sectional title flats/offices unless they are fully conversant and comply with the applicable laws, regulations, rules and procedures that apply to transactions involving such flats/offices.

Due diligence and compliance with law and statutory requirements

4

- (1) Estate agencies and salespersons shall conduct their business and work with due diligence, dispatch and care, and in compliance with all laws including statutory and regulatory requirements, circulars and guidelines.
- (2) Sub-paragraph (1) means, among other things, that Estate agencies and salespersons, in conducting estate agency business or work —
 - (a) must comply with and shall not do or attempt to do anything that infringes, or which may directly or indirectly lead to the infringement by any person of any law; and
 - (b) must take all reasonable precautions and do all reasonable to ensure that no law is infringed by any person.

General duty to clients and public

5

- (1) Estate agencies and salespersons shall render professional and conscientious service to their clients and shall regulations with honesty, fidelity and integrity.
- (2) Sub-paragraph (1) means, among other things, that Estate agencies and salespersons—
 - (a) must perform transactions according to the instructions of the client and protect and promote the interests of the client, unaffected by the interests of the estate agent, salesperson or any other person;
 - (b) must not mislead the client or provide any false information or misrepresent any relevant law or regulations to the client;
 - (c) must keep the client informed of any material or relevant development or issue in respect of the property of the client;
 - (d) must not withhold any relevant regulations or information from the client; and
 - (e) must not work against the interests of the client in any manner, including collaborating in any form or manner with any other person.
- (3) In the conduct of estate agency work on behalf of the client, the estate agent or salesperson must act ethically, honestly, fairly and in a reasonable manner towards all other persons.
- (4) Sub-paragraph (3) means, among other things, that Estate agencies and salespersons—
 - (a) must not collaborate with or induce or attempt to induce the client or any other person to engage in illegal, dishonest or unethical conduct;
 - (b) must not overstate or convey a false impression of any relevant information; and
 - (c) must not mislead or provide any false information or misrepresent any relevant law or regulations.

Not to bring discredit or disrepute to real estate industry

6

- (1) Estate agencies and salespersons shall not do anything that may bring discredit or disrepute to the estate agency trade or industry.
- (2) Sub-paragraph (1) means, among other things, that Estate agencies and salespersons:
 - (a) must not do anything that may be fraudulent, dishonest, deceitful or misleading;
 - (b) must not engage in touting; and
 - (c) must not use threatening or harassing language or apply unreasonable or improper pressure.
- (3) Any opinion that is rendered by an estate agent or a salesperson to the client or any other person shall be justifiable by reference to verifiable regulations or law and shall be given with strict professional integrity, objectivity and courtesy.
- (4) Estate agencies and salespersons must not solicit for the payment of any reward, commission or fee from any person who did not engage their services.

Duty to clients in relation to signing of documents

7

- (1) Estate agencies and salespersons must give the client sufficient time to read any form or document before asking or allowing the client to sign the form or document.
- (2) Before asking or allowing a client to sign any form or document, estate agents and salespersons must explain the meaning and consequences of the provisions of the form or document.
- (3) An estate agent or salesperson with any doubt in relation to any form or document must inform the client accordingly and advise the client to seek advice from appropriate professionals.
- (4) The client must be given a copy of any form or document that he signs either immediately or as soon as possible after signing.

Obligations in respect of agreements

8

- (1) Estate agencies and salespersons must ensure that all agreements concerning financial obligations and commitments in respect of any transactions are in writing, and record the exact agreement between the parties concerned.
- (2) Estate agencies and salespersons shall also comply with the following requirements:
 - (a) they must procure signatures of all joint vendors or landlords for the sale or lease of property, and those of all joint buyers or tenants for the purchase or rental of property;
 - (b) they must ensure that a copy of the agreement is given to every person who signs the agreement, either immediately or as soon as possible after signing;
 - (c) they must allow any party reasonable time to read the agreement before signing it, and to seek appropriate advice if he or she so desires; and
 - (d) they must not ask or procure anyone to sign an agreement in which essential or material terms or information such as the property address, price, dates, names, and commission payable have been omitted or the relevant space for such terms or information is left blank or unfilled.

Conveying offers, counter offers, etc.

9

An estate agent or salesperson shall submit every offer, counter-offer, proposal or expression of interest received to his client accurately, objectively and as soon as possible after receiving it.

Interpretation or translation if necessary

10

An estate agent or salesperson shall ensure that any information or explanation is conveyed to the client in clear simple language in an endeavor to ensure that the client understands its contents.

Duties in respect of advertisements

11

- (1) Estate agencies and salespersons must ensure that they are correctly and clearly identified in:
 - (a) all their advertisements and promotional materials; and
 - (b) their correspondence, email signatures, letterheads, notepapers and name, calling or any other cards.
- (2) Sub-paragraph (1) means, among other things, that the following information must be correctly and clearly stated:
 - (a) the name and contact number of the estate agent and salesperson as registered with the Authority; and
 - (b) the license and registration numbers of the estate agent and salesperson.
- (3) Where advertisements are in the form of classified advertisements printed in newspapers, the estate agent or salesperson must use the name and contact numbers that are registered with the Authority but need not state the license or registration number of the estate agent or salesperson.
- (4) Estate agencies and salespersons must also comply with the following requirements in respect of any form of advertising including name, calling or any other cards:
 - (a) they must not cause or allow to be made any advertisement that contains any offer, proposal, statement, representation, claim or information that is inaccurate, false or misleading;
 - (b) they must ensure that all materials that advertise or promote a property accurately describe the property;
 - (c) any claims of expertise, specialization or success rate can be substantiated by verifiable documents and records;
 - (d) they must obtain the prior agreement of the client before advertising any property of the client for any purpose, including sale or rental;
 - (e) they must not advertise any property at a price or on other terms, or in any manner, different from those instructed by the client;
 - (f) the advertisement and its placement shall not directly or indirectly infringe any law or legal rights; and
 - (g) they must remove all advertisements in relation to a property once the property is no longer available for sale or rental for whatever reason, or after the termination of the estate agency agreement in respect of the property.

Duty to avoid conflict of interests

12

- (1) Estate agencies and salespersons must not accept an appointment by or continue to act on behalf of a client where to do so would place the agent's or salesperson's interests in conflict or potential conflict with those of the client.
- (2) Sub-paragraph (1) means, among other things, that:
 - (a) Estate agencies and salespersons must, as soon as possible, declare in writing to the client any interest which may arise at any time and be in direct or indirect conflict with that of the client;

(b) if, on the grounds of confidentiality or for any other reason, an estate agent or salesperson is unable to make a declaration of conflict or potential conflict, the estate agent or salesperson shall decline to act for or withdraw from acting for the client;

(c) unless the client being fully informed of any conflict or potential conflict, consents to the estate agent and salesperson continuing to act for them, the estate agent and salesperson shall decline to decline to act for or withdraw from acting for the client;

(d) Estate agencies and salespersons must not acquire directly or indirectly, the property of the client or any right or interest in the property of the client, without the express knowledge and consent of the client; and

(e) subject to any written law, Estate agencies and salespersons must not directly or indirectly accept any fee, reward, commission, rebate or other payment for the referral of any services rendered or to be rendered by third parties to the client or any other party, in connection with a transaction involving

the client, without the express knowledge and prior consent in writing of the client.

(3) Sub-paragraph (2)(e) means, among other things, that the estate agent or salesperson, as the case may be, must disclose in advance, and in writing, both the fact and quantum of such fee, reward, commission, rebate or other payment.

(4) Estate agencies and salespersons must not engage in any business, work or activity where such business, work or activity would, or could reasonably be expected to, compromise the discharge of their obligations to their clients.

Recommending professional advice where appropriate

13

Estate agencies and salespersons shall advise and encourage the parties to a transaction or proposed transaction to seek the advice of appropriate professionals, including but not limited to lawyers, tax advisers, appraisers and valuers, where there is any material matter or issue that is beyond their knowledge or expertise.

Safeguarding confidential information

14

(1) Estate agencies and salespersons shall not disclose or otherwise use any confidential information of or relating to the client that is obtained from the client or obtained in the course of a transaction for the client unless the disclosure or use is made with the consent of the client, or is otherwise required or allowed by the law.

(2) Disclosure under sub-paragraph (1) may be made only to the appropriate person and only to the extent authorized and extent necessary for the permitted purpose.

Management and supervision

15

(1) Estate agencies shall have in place and document in writing proper systems and processes —

(a) to ensure that their salespersons acquire and have the estate agency work knowledge required by these regulations; and

(b) for the management and supervision of their business and salespersons.

(2) Estate agencies, through their lead partner and senior agents, shall manage and supervise their salespersons to ensure that their salespersons —

- (a) comply with the regulations, legal obligations or requirements stated in applicable legislation and agreements;
 - (b) conduct their estate agency work in a professional and reasonable manner and in accordance with the law and industry guidelines;
 - (c) avoid repeating the conduct of any salesperson or other person employed or engaged by the estate agent which resulted in a breach of the law or disciplinary action.
- (3) Estate agencies shall vet all publicity and advertising materials of their salespersons prior to publication.

Estate agent card

16

- (1) Estate agencies must issue an identification card labelled as an estate agent card to each and every one of their salespersons and partners or the sole proprietor, if applicable.
- (2) The estate agent card shall be in such form and of such specifications as the Authority may require.
- (3) The estate agent card shall include the following information:
- (a) the name and licence number of the estate agent;
 - (b) the name and registration number of the holder of the card;
 - (c) a recent image of the holder of the card; and
 - (d) contact number or email address for the making of inquiries or complaints to the estate agent.
- (4) No person shall be issued with or hold more than one estate agent card at any time.
- (5) The estate agency must maintain proper records, and submit same once a year to the Authority, of all estate agent cards issued, which must include the following information:
- (a) the holder's personal particulars;
 - (b) the licence or registration number of the holder;
 - (c) the date of issue of the card and the expiry date of the licence or registration; and
 - (d) the reason for the issue of any replacement card.
- (7) The estate agent shall recover the card issued to a holder in the following circumstances:
- (a) when the holder ceases to be engaged or employed by, or otherwise part of, the estate agent;
 - (b) when the licence or registration of the holder expires, is not renewed, or is suspended or cancelled;

Claims and complaints

17

- (1) Estate agencies must have in place a system with suitable processes for the receipt and investigation of claims and complaints against the estate agent or any of their salespersons.
- (2) The system and processes must be documented in writing.
- (3) All claims and complaints against any of its salespersons must be investigated.
- (4) Any investigation under paragraph (3) must be completed within 2 weeks of the receipt of a claim or complaint, or such longer time as the Authority may allow.
- (5) Where the complainant is making a claim against the estate agent or a salesperson, the estate agent shall meet with the complainant to explore the possibility of an amicable resolution.
- (6) The complainant and Authority must be expeditiously informed of the outcome of the investigation.
- (7) On the request of the Authority in any particular case, the estate agent shall furnish the Authority, within 2 weeks of the request or such longer time as the Authority may allow, with a report on the investigation of the case and details of such action as may have been taken by the estate agent and salesperson, and the outcome thereof.

Retention of documents and records

18

(1) For the purposes of these Regulations, an estate agent must retain possession of the originals or keep copies of the following documents for at least 5 years:

- (a) all applications to the Authority in respect of estate agent's license and the registration of salespersons under the Regulations, including supporting documents;
- (b) all estate agent and salesperson agreements;
- (c) all estate agency agreements;
- (d) all documents relating to property transactions, including —
 - (i) sale and purchase agreements, and options to purchase;
 - (ii) lease and lease agreements, and letters of intent to lease;
 - (iii) documents evidencing the receipt and payment of transaction monies;
 - (v) powers of attorney and letters of authorization; and
 - (vi) declarations made by Estate agencies or salespersons of any conflict or potential conflict of interests; and
- (e) all documents and correspondence in respect of claims or complaints, including the result of investigations and any action taken.

(2) Copies of documents retained for the purposes of paragraph (1) may be in electronic form.


(3) Paragraphs (1) and (2) do not affect any statutory obligation or requirement that may require the retention of documents or records for other purposes or for a different period of time.

FIRST SCHEDULE

Degree and Diploma qualifications acquired from an institution of higher learning of national and international repute.

1. Bachelor/Diploma of Science (Real Estate)
2. Bachelor/Diploma of Science (Estate Management)
3. Bachelor/Diploma of Real Estate (Property Management)
4. Bachelor/Diploma of Real Estate (Valuation)
5. Bachelor/Diploma in Building Management
6. Diploma in Building & Real Estate Management
7. Diploma in Real Estate Business
8. Diploma in Property Development & Facilities
9. Diploma in Building & Property Management

SECOND SCHEDULE
Registration of Salespersons

 <p>GOVERNMENT OF SWAZILAND MINISTRY OF HOUSING & URBAN DEVELOPMENT</p>	<p>MINISTRY OF HOUSING AND URBAN DEVELOPMENT Fifth Floor Etolishini Building, Mhlambanyatsi Road, P. O. Box 1832, Mbabane Tel. (+268) 2404 1742 Fax: (+268) 2405067/ 24044085 E-mail: ps_housing@gov.sz</p>
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<p>APPLICATION FOR A REAL ESTATE AND BUSINESS AGENT'S LICENCE – INDIVIDUAL Addressed to: The Secretary The Human Settlements Authority P. O. Box 1832 Mbabane</p>
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Please Note:

a	<i>All sections of the application form must be completed.</i>
b	<i>Provide attachments of copies of the ID, work permit, passport, qualifications and academic transcripts, and a letter of employment.</i>
c	<i>At any time while the application is still under consideration, the Authority may require that the applicant furnish it with such particulars, information, related to the application as it may see fit.</i>

Section A *(To be completed by applicant) (Please Type or Print)*

1.	Name of Applicant:			
2.	PIN : <i>Attached a certified copy of ID</i>			
3.	Passport and/or Work Permit Number: <i>Applicable to non-Swazis and provide certified documents</i>			
3.	Contact Details	Tel:	Cell:	Email:
	Physical Address			

4. Higher Education (*university or other degree-awarding institution*)

From	To	Name of Institution	Subject

5. Specific qualification to real estate: *Programme expected to be completed before making this application*

From	To	Name of Institution	Subject


6.	<p>Work experience in real estate: <i>Do you have any previous experience in the conduct of Real Estate transactions or knowledge of how such transactions are to be carried out?</i></p> <p style="margin-top: 20px;"><i>NB: Please provide details of your real estate activities and transactions.</i></p>	<div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div>
7.	<p>Name of Real Estate Firm Attached to: <i>Provide a letter of appointment duly signed by principals of a real estate firm and on company letter heads</i></p>	
8.	<p>Property Description: <i>Please provide accurate Plot/ Farm Number and Location of office premises</i></p>	

9.	Declaration:	I, _____, the undersigned attest that the information given on this form is true to the best of my knowledge.		
10.	Signature:		Date:(dd/mm/yyyy)	

Section B: For Office Use Only

Status of Application	Approved		Deferred		Denied	
Name of Officer						
Designation						
Signature:			Date: (dd/mm/yyyy)			

THIRD SCHEDULE
Licensing of Estate Agencies

 <small>GOVERNMENT OF SWAZILAND MINISTRY OF HOUSING & URBAN DEVELOPMENT</small>	<p>MINISTRY OF HOUSING AND URBAN DEVELOPMENT Fifth Floor Etolishini Building, Mhlambanyatsi Road, P. O. Box 1832, Mbabane Tel. (+268) 2404 1742 Fax: (+268) 2405067/ 24044085 E-mail: ps_housing@gov.sz</p>
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<p>APPLICATION FOR A REAL ESTATE AND BUSINESS AGENT'S LICENCE – COMPANY/FIRM</p> <p>Addressed to: The Secretary The Human Settlements Authority P. O. Box 1832 Mbabane</p>
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Please Note:

<i>a.</i>	<i>All sections of the application form must be completed.</i>
<i>b.</i>	<i>Provide attachments of copies of the trading licence, tax registration certificate, certificate of incorporation, real estate agent licence and memorandum and articles of association.</i>
<i>c.</i>	<i>At any time while the application is still under consideration, the Authority may require that the applicant furnish it with such particulars, information, related to the application as it may see fit.</i>

Section A *(To be completed by applicant) (Please Type or Print)*

1.	Name of Company:			
2.	TIN : <i>Attached a certified copy of tax registration certificate</i>			
3.	Trading Licence Number: <i>Applicable to non-Swazis and provide certified documents</i>			
3.	Business Contact Details:	Tel:	Mobile:	Email:
	Physical Address of the Company Premises:			
	Postal Address:			

4. Directors of the Company/Firm (Attach Form J for proof of directorship)

Please note that where there are up to three (3) directors, at least one (1) director must be a licensed Real Estate Agent. If the company has four (4) or more directors, at least two (2) directors must be licensed as Real Estate Agents. Provide proof where applicable.

<i>Name</i>	<i>Role in Business</i>	<i>Email</i>

5. Financial Information: Confidential Statement of Assets and Liabilities

<i>ITEM</i>	<i>VALUE (€)</i>
<i>Assets</i>	
<i>Liabilities</i>	
<i>Net worth</i>	

6.	Do you believe that the company has sufficient financial resources to enable it to carry on business as an agent and to comply with the requirements of the regulations?	Yes:	No:
7.	Declaration: I, _____, the undersigned attest that the information given on this form is true to the best of my knowledge.		
8.	Signature: _____	Date:(dd/mm/yyyy) _____	

Section B: For Office Use Only

Status of Application	Approved		Deferred		Denied	
Name of Officer						
Designation						
Signature:			Date:(dd/mm/yyyy)			