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GOVERNMENT NOTICE

DEPARTMENT OF TRADE AND INDUSTRY**No. R. 633****4 June 2008****DEPARTMENT OF TRADE AND INDUSTRY****ESTATE AGENCY AFFAIRS ACT, 1976****SUBSTITUTION OF THE REGULATIONS RELATING TO THE STANDARD OF TRAINING OF ESTATE AGENTS**

In terms of section 33(1) of the Estate Agency Affairs Act, 1976 (Act 112 of 1976), I, Mandisi Mpahlwa, Minister of Trade and Industry, after consultation with the Estate Agency Affairs Board, hereby—

- (a) repeal Government Notice R1409 of 1 July 1983 as amended by Government Notice R1923 of 15 October 1993, and Government Notice R1468 of 29 June 1990 as amended by Government Notice R631 of 23 June 2000, respectively; and
- (b) make the regulations as set out in the Schedule hereto,

with effect from 15 July 2008.

M Mpahlwa
Minister of Trade and Industry

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act bears the same meaning as in the Act, and unless the context otherwise indicates-

“effective date” means the date of coming into operation of these regulations;

"non-principal estate agent" means any person referred to in paragraph (c)(ii) of the definition of 'estate agent' in section 1 of the Act;

"principal estate agent" means any person referred to in paragraph (a) or paragraph (c)(i) of the definition of 'estate agent' in section 1 of the Act;

“NQF” means the National Qualifications Framework as defined in section 1 of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);

“Professional Designation Examination” means an integrated test of knowledge for estate agents contemplated in regulation 4.”

"the Act" means the Estate Agency Affairs Act, 1976 (Act 112 of 1976).

Intern Estate Agents

2. A person who, as from the effective date, intends to become an estate agent:
 - (1) must serve as an intern estate agent, under the supervision of a principal estate agent, for a continuous period of 12 months from the date of the first issue to that person of an intern fidelity fund certificate by the Board.
 - (2) In the event of an intern estate agent being absent from the service contemplated in sub-regulation (1), for any reason whatsoever, for a continuous period exceeding 30 days during the compulsory internship period:
 - (a) the number of days of absence exceeding 30 days; and
 - (b) an additional number of days amounting to one half of the period of absence from service exceeding 30 days,will be added to the compulsory internship period.

- (3) In the case of an intern estate agent having failed to comply with the educational requirements contemplated in regulation 4 during the compulsory internship period contemplated in sub-regulation (1), the internship period must be extended for a further period until such time as the intern estate agent has duly complied with educational requirements, after which a full status fidelity fund certificate may be issued to the intern estate agent by the Board.
- (4) An intern estate agent may not perform any act as an estate agent unless the intern estate agent:
- (a) has duly disclosed in all printed material relating to the intern estate agent's activities as an estate agent, excluding authorized advertisements in the press, that the intern estate agent is an intern estate agent;
 - (b) is acting under the active supervision and control of a principal estate agent or of an estate agent who has continuously held a valid fidelity fund certificate issued by the Board for a period of not less than 3 years.
- (5) An intern estate agent may not:
- (a) in any way, directly or indirectly, hold himself or herself out as someone who or advertises that he or she has complied with the educational requirements contemplated in regulation 4;
 - (b) in any manner act or hold himself or herself out as a full status estate agent; or
 - (c) in his or her capacity as an intern estate agent, complete or draft any documentation relating to any transaction negotiated by him or her in his or her capacity as an intern estate agent, otherwise than in the presence of a principal estate agent or an estate agent contemplated in sub-regulation (4)(b), and who certifies on the documentation in question that the said documentation has been completed in his or her presence.

Registration

3. A person who, as from the effective date, intends to register as an estate agent with the Board must comply with the internship requirements referred to in regulation 2 and with the educational requirements referred to in regulation 4, as prescribed by the NQF in accordance with the Regulations made under the South African Qualifications Authority Act, 1995 (Act 58 of 1995) under Government Notice R452 of 28 March 1998 and contained in Regulation Gazette No. 6140 of 28 March 1998.

Educational requirements

- 4.(1) No person may perform the functions and activities of :
- (a) a non-principal estate agent, unless that person has completed the Further Education and Training Certificate: Real Estate (SAQA QUAL ID 59097);
or
 - (b) a principal estate agent unless that person has completed the National Certificate: Real Estate (SAQA QUAL ID 20188).
- (2). The Further Education and Training Certificate: Real Estate and the National Certificate: Real Estate referred to in sub-regulation (1) will be a prerequisite for admission to the Professional Designation Examination for estate agents;
- (3) No person may be registered by the Board as a full status estate agent unless that person has also successfully completed the Professional Designation Examination, conducted by the Board.

Fidelity fund certificate

5. Subject to the proviso to section 27 and section 33(2) of the Act, no person may, as from the effective date, be issued with a full status fidelity fund certificate by the Board unless such person has complied with the educational requirements referred to in regulation 4.

Recognition of prior learning

- 6.(1) An estate agent who is already registered either as a non-principal estate agent or a principal estate agent, as at the effective date, will be required to undergo a process of Recognition of Prior Learning as contemplated in the NQF
- (2) The process contemplated in sub-regulation (1), which includes the identification, assessment and acknowledgement of skills and knowledge that has been obtained by that estate agent, will:
- (a) be undertaken within the context of the Further Education and Training Certificate: Real Estate (SAQA QUAL ID 59097) and the National Certificate: Real Estate (SAQA QUAL ID 20188) referred to in regulations 4, whether such skills or knowledge have been obtained through:
 - (i) formal training and education; or
 - (ii) informal or non-formal training and education, including on-the-job training and life experience; and

- (b) be completed on or before 31 December 2011 or within such extended period as the Board may, on reasonable grounds, grant for this purpose.

Remedial Training

- 7.(1) If, after completion of the Recognition of Prior Learning process contemplated in regulation 6(1), an estate agent fails to meet the required standard to be certified in respect of the educational requirements referred to in regulation 4, the said estate agent will be given an additional period of 2 years from the date of completion of the Recognition of Prior Learning process to undergo any remedial training that may be required to be certificated in respect of the relevant qualification;
- (2) A relevant SETA or any Recognition of Prior Learning Centre accredited by the Board must, within 30 days of the registration of a candidate for the purpose of undergoing the Recognition of Prior Learning process, and in a manner and form determined by the Board, inform the Board of the registration of such candidate for assessment purposes to enable the Board to determine the educational status of such estate agent for the purpose of the issue by the Board of a full status fidelity fund certificate to such candidate.
- (3) Despite regulation 4(3), an estate agent who, on the effective date, is registered as either a non-principal or principal estate agent, will be exempted from the Professional Designation Examination referred to in regulation 4, if the said estate agent had continuously held a full status fidelity fund certificate, issued by the Board, for a period of not less than 5 years.
- (4) The Recognition of Prior Learning process contemplated in regulation 6(1) must be conducted in accordance with the guidelines developed by the Board in accordance with the broad strategic guidelines captured in the Guideline Document published by SAQA in June 2004 under the title "Criteria and Guidelines for the Implementation of the Recognition of Prior Learning" (ISBN: 0-9584572-2-0);
- (5) Credits towards the educational qualifications referred to in regulation 4 must be granted to an estate agent whose knowledge and skills, after due assessment in accordance with the prescribed NQF procedures, matches the learning outcomes of either of the educational qualifications referred to in regulation 4.

Continuing Professional Development

- 8.(1) In addition to the educational qualifications referred in regulation 4, the Board may, at any time, prescribe any reasonable Continuing Professional Development requirements as contemplated in the NQF;
- (2) Any Continuing Professional Development requirements prescribed by the Board in terms of sub-regulation (1) must be completed over a rolling three year cycle.

Short title

9. These regulations are called the Standard of Training of Estate Agents Regulations, 2008.
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