

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 655. 27 March 1985

No. 655. 27 Maart 1985

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

— 10 of 1985: Estate Agents Amendment Act, 1985.

No. 10 van 1985: Wysigingswet op Eiendomsagente, 1985.

Act No. 10, 1985

ESTATE AGENTS AMENDMENT ACT, 1985

**GENERAL EXPLANATORY NOTE:**

Words underlined with solid line indicate insertions in existing enactments.

**ACT**

To amend the Estate Agents Act, 1976, so as to make the provisions of the said Act applicable to close corporations doing business as estate agents; and to include the sale of interests in close corporations in the business of estate agents; and to provide for incidental matters.

*(English text signed by the State President.)  
(Assented to 12 March 1985.)*

**BE IT ENACTED** by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 112 of 1976, as amended by section 1 of Act 60 of 1978, section 1 of Act 57 of 1980, section 1 of Act 53 of 1982 and section 1 of Act 51 of 1984.

1. Section 1 of the Estate Agents Act, 1976 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion after the definition of "building society" of the following definition: 5  
"close corporation" means a close corporation referred to in the Close Corporations Act, 1984 (Act No. 69 of 1984);"
- (b) by the substitution for paragraph (b) of the definition of "estate agent" of the following paragraph: 10  
"(b) for purposes of section 3 (2) (a), includes any director of a company or a member who is competent and entitled to take part in the running of the business and the management, or a manager who is an officer, of a close corporation which is an estate agent as defined in paragraph (a);" 15
- (c) by the substitution for subparagraph (i) of paragraph (c) of the definition of "estate agent" of the following subparagraph: 20  
"(i) any director of a company, or a member referred to in paragraph (b), of a close corporation which is an estate agent as defined in paragraph (a); and"
- (d) by the addition to the definition of "immovable property" of the following paragraph: 25  
"(h) any interest of a member of a close corporation of which the assets consist wholly or mainly of immovable property;"
- (e) by the insertion after the definition of "immovable property" of the following definition: 30  
"interest", in relation to a member of a close corporation, a member's interest as defined in section 1 of the Close Corporation Act, 1984 (Act No. 69 of 1984);"

## Act No. 10, 1985

## ESTATE AGENTS AMENDMENT ACT, 1985

- (f) by the insertion after the definition of "interest" of the following definition:  
"member", in relation to a close corporation, a member as defined in section 1 of the Close Corporations Act, 1984 (Act No. 69 of 1984);" and 5
- (g) by the insertion after the definition of "Minister" of the following definition:  
"officer", in relation to a close corporation, an officer as defined in paragraph (a) of the definition of 'officer' in section 1 of the Close Corporations Act, 1984 (Act No. 69 of 1984);". 10

Amendment of section 19 of Act 112 of 1976, as amended by section 6 of Act 57 of 1980 and section 3 of Act 53 of 1982.

2. Section 19 of the principal Act is hereby amended by the insertion in paragraph (b) of subsection (4) after subparagraph (iii) of the following subparagraphs:  
"(iiiA) if such estate agent is a close corporation, by any member of such corporation; or  
(iiiB) if he is a member of a close corporation, by any co-member in such corporation; or". 15

Amendment of section 26 of Act 112 of 1976.

3. Section 26 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph: 20  
"(a) a valid fidelity fund certificate has been issued to him, and to every person employed as an estate agent by him, and, if such person is a company, to every director of such company, and, if such person is a close corporation, to every member referred to in paragraph (b) of the definition of 'estate agent' of such corporation; and". 25

Amendment of section 27 of Act 112 of 1976, as substituted by section 3 of Act 60 of 1978 and amended by section 7 of Act 57 of 1980 and section 4 of Act 53 of 1982.

4. Section 27 of the principal Act is hereby amended—  
 (a) by the substitution in paragraph (a) for the words preceding subparagraph (i) of the following words: 30  
"any estate agent who or, if such estate agent is a company, any company of which any director, or if such estate agent is a close corporation, any corporation of which any member referred to in paragraph (b) of the definition of 'estate agent'—"; and 35  
 (b) by the substitution in paragraph (b) for the words preceding the proviso of the following words:  
"any estate agent who is a director of a company, or who is a member referred to in paragraph (b) of the definition of 'estate agent', of a close corporation— 40  
 (i) of which the fidelity fund certificate was withdrawn by the board in terms of section 28 or 30;  
 (ii) which was prohibited in terms of section 32 (6) from operating in any way on its trust, savings or other interest-bearing account referred to in section 32 (2) (a), 45  
 or any estate agent who within a period of six months before or on the date on which such fidelity fund certificate was so withdrawn or such company or close corporation was so prohibited, was a director of such company or such a member of such corporation:" 50

Amendment of section 28 of Act 112 of 1976, as amended by section 8 of Act 57 of 1980 and section 5 of Act 53 of 1982.

5. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:  
 "(1) The board may withdraw a fidelity fund certificate issued to any person— 55  
 (a) if such person or, if such person is a company, any director of such company or, if such person is a close corporation, any member referred to in paragraph (b) of the definition of 'estate agent', of such corporation, becomes subject to any disqualification referred to in section 27; 60

## Act No. 10, 1985

## ESTATE AGENTS AMENDMENT ACT, 1985

(b) if such person is a company or a close corporation, when such company or such close corporation is being wound up.”.

Amendment of section 30 of Act 112 of 1976, as amended by section 9 of Act 57 of 1980.

## 6. Section 30 of the principal Act is hereby amended—

(a) by the substitution for paragraph (gA) of subsection (1) of the following paragraph: 5

“(gA) in his capacity as a director of a company, or member referred to in paragraph (b) of the definition of ‘estate agent’, of a close corporation, which is an estate agent and which failed to comply with the requirements of section 29 or 32, did not take all reasonable steps to prevent such failure;” and 10

(b) by, in subsection (3)—

(i) the deletion of the word “or” at the end of subparagraph (ii) of paragraph (a); and 15

(ii) the addition to paragraph (a) of the following subparagraphs:

“(iv) if such estate agent is a close corporation, of every member referred to in paragraph (b) of the definition of ‘estate agent’; or 20

(v) if he is a member of a close corporation which is an estate agent, of such corporation;”.

Short title.

7. This Act shall be called the Estate Agents Amendment Act, 1985.