



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

---

## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

Price 20c Prys  
Overseas 30c Oorsee  
POST FREE—POSVRY

Vol. 155]

CAPE TOWN, 17 MAY 1978

[No. 6015

KAAPSTAD, 17 MEI 1978

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 959.

17 May 1978.

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

No. 60 of 1978: Estate Agents Amendment Act, 1978.

No. 959.

17 Mei 1978.

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

No. 60 van 1978: Wysigingswet op Eiendomsagente, 1978.

## ESTATE AGENTS AMENDMENT ACT, 1978.

**Act No. 60, 1978**

**GENERAL EXPLANATORY NOTE:**

Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the provisions of the Estate Agents Act, 1976, relating to the definition of "estate agent"; and to the application of the moneys in the Estate Agents Fidelity Fund; to provide that fidelity fund certificates be issued subject to certain conditions to certain categories of estate agents; relating to the decisions against which appeals may be lodged; to the trust account which any estate agent shall open and keep with a bank; and to the power to make regulations; to validate a certain establishment and certain regulations and the performance of certain acts and the exercise of certain powers; and to provide for incidental matters.

(Afrikaans text signed by the State President.)  
(Assented to 2 May 1978.)

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

1. Section 1 of the Estate Agents Act, 1976 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subparagraph (iv) of paragraph (a) of the definition of "estate agent" of the following subparagraph:

“(iv) [in addition to the performance of any act referred to in subparagraph (i), (ii) or (iii), (aa) collects or receives any moneys payable on account of a contract of purchase and sale, including any agreement or intermediate transaction as defined in section 1 of the Sale of Land on Instalments Act, 1971 (Act No. 72 of 1971); or (bb) collects or receives any other moneys, including insurance premiums, payable in respect of immovable property or any interest in immovable property or any business undertaking; or (cc)] renders any such other service as the Minister on the recommendation of the board may specify from time to time by notice in the *Gazette*;”.

2. Section 18 of the principal Act is hereby amended by the Amendment of  
substitution for subsection (1) of the following subsection: section 18 of  
Act No. 10 of 1976

25 (1) Subject to the provisions of this Chapter, the fund shall be held and applied to reimburse persons who suffer pecuniary loss by reason of theft, committed after the commencement of this Act, by an estate agent—

(a) of any money or other property entrusted by or on behalf of such persons to him in his capacity as an estate agent;

30 (b) of any moneys collected or received by him and payable  
on account of a contract of purchase and sale, including  
any agreement or intermediate transaction as defined in

## ESTATE AGENTS AMENDMENT ACT, 1978.

Act No. 60, 1978

section 1 of the Sale of Land on Instalments Act, 1971  
(Act No. 72 of 1971);

- (c) of any other moneys, including insurance premiums,  
collected or received by him and payable in respect of  
immovable property, any interest in immovable property  
or any business undertaking.”.

3. The following section is hereby substituted for section 27 of  
the principal Act:

Substitution of  
section 27 of  
Act 112 of 1976.

“Disquali-  
cations re-  
lating to  
fidelity  
fund cer-  
tificates.

27. **[Notwithstanding anything to the contrary  
contained in this Act]** No fidelity fund certificate  
shall be issued to any estate agent who or, if such  
estate agent is a company, any company of which any  
director—

- (a) has at any time by reason of improper conduct  
been dismissed from a position of trust;  
(b) has at any time been convicted of an offence  
involving an element of dishonesty;  
(c) is an unrehabilitated insolvent;  
(d) is of unsound mind; or  
(e) has been dealt with in accordance with section  
30 (3) (a):

Provided that if in respect of any person who is  
subject to any disqualification referred to in this  
section, the board is satisfied that, with due regard to  
all the relevant considerations, the issue of a fidelity  
fund certificate to such person will be in the interest  
of justice, the board may issue, on such conditions as  
the board with the concurrence of the Minister may  
determine, a fidelity fund certificate to such person  
when he applies therefor.”.

4. Section 31 of the principal Act is hereby amended by the  
substitution for all the words preceding paragraph (a) of the  
following words:

Amendment of  
section 31 of  
Act 112 of 1976.

“Any person who feels aggrieved by any decision taken  
by the board in the exercise of its powers under section 16,  
27, 28 or 30 may, within a period of one month after the  
board—.”.

5. Section 32 of the principal Act is hereby amended by the  
substitution for subsection (1) of the following subsection:

Amendment of  
section 32 of  
Act 112 of 1976.

“(1) Every estate agent shall open and keep a separate  
trust account, which shall contain a reference to this section,  
with a bank and shall forthwith deposit therein the moneys  
held or received by him on account of any person.”.

6. Section 33 of the principal Act is hereby amended—

Amendment of  
section 33 of  
Act 112 of 1976.

(a) by the insertion after subsection (1) of the following  
subsection:

“(1A) Different regulations may in terms of  
subsection (1) be made in respect of different estate  
agents or categories of estate agents.”;

(b) by the substitution for subsection (2) of the following  
subsection:

“(2) The Minister may, on such conditions as he  
may think fit and after consultation with the board,  
by regulation or by notice in writing, sent by post  
or delivered, exempt any estate agent or category of  
estate agents from any of or all the provisions of  
this Act.”.

7. Notwithstanding anything to the contrary contained in any  
law—

Validation of cer-  
tain establishment  
and regulations and  
of performance of

(a) the Estate Agents Board referred to in section 2 of the  
principal Act, shall be deemed to have been established  
on 7 January 1977;

## ESTATE AGENTS AMENDMENT ACT, 1978.

Act No. 60, 1978

- (b) any regulation which, at any time after the passing of the principal Act but before the commencement thereof, was purported to be promulgated in terms of the principal Act, irrespective of whether such promulgation was necessary for the purpose of bringing the principal Act into operation at the commencement thereof, is hereby validated as from the date on which it was so promulgated in so far as such regulation would have been valid if it were promulgated after the commencement of the principal Act;
- (c) the performance of any act or the exercise of any power by any person at any time after the passing of the principal Act but before the commencement thereof, irrespective of whether such performance or exercise was necessary for the purpose of bringing the principal Act into operation at the commencement thereof, is hereby validated as from the date on which such act was so performed or such power was so exercised in so far as such performance or exercise by such person would have been valid if it had taken place after the commencement of the principal Act.

certain acts and  
exercise of certain  
powers.

8. This Act shall be called the Estate Agents Amendment Act, Short title.  
1978.