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GOEWERMENTSKENNISGEWINGS

DEPARTEMENT VAN HANDEL

No. R. 1471 29 Julie 1977

WET OP EIENDOMSAGENTE, 1976

WYSE WAAROP 'N AANKLAG VAN ONBEHOOR-
LIKE GEDRAG TEEN 'N EIENDOMSAGENT INGE-
BRING EN ONDERSOEK MOET WORD

Die Minister van Ekonomiese Sake het, na oorleg met die Raad vir Eiendomsagente, die volgende regulasies ingevolge artikel 33 (1) (h) van die Wet op Eiendomsagente, 1976 (Wet 112 van 1976), uitgevaardig:

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“die Wet” die Wet op Eiendomsagente, 1976 (Wet 112 van 1976);

“dissiplinêre komitee” ’n dissiplinêre komitee wat ingevolge regulasie 2.4.1 aangewys is;

“klagte” ’n klagte bedoel in regulasie 2.1;

“onbehoorlike gedrag” onbehoorlike gedrag soos beoog in artikel 30 (1) van die Wet;

“party”, met betrekking tot ’n ondersoek, die respondent of die pro forma-aanklaer;

“pro forma-aanklaer” iemand wat ingevolge regulasie 2.4.2 aangestel is;

“straf” enige optrede beoog in artikel 30 (3) van die Wet.

2.1 Iemand wat hom veronreg voel (hieronder “die klaer” genoem) deur ’n handeling wat deur ’n eiendomsagent verrig is of deur die versuim van ’n eiendomsagent om ’n handeling te verrig, kan by wyse van ’n beëdigde verklaring wat die besonderhede bedoel in regulasie 2.2 bevat, ’n klagte teen daardie eiendomsagent by die raad indien.

2.2 ’n Beëdigde verklaring bedoel in regulasie 2.1 moet die volgende besonderhede bevat:

2.2.1 Die volledige name en adresse van die klaer en die betrokke eiendomsagent;

2.2.2 ’n volledige uiteensetting van die handeling of versuim wat daardie eiendomsagent ten laste gelê word;

2.2.3 die belang wat die klaer by die ondersoek van die klagte het;

2.2.4 enige ander feit of inligting wat op die klagte betrekking het.

GOVERNMENT NOTICES

DEPARTMENT OF COMMERCE

No. R. 1471 29 July 1977

ESTATE AGENTS ACT, 1976

MANNER IN WHICH A CHARGE OF IMPROPER CONDUCT AGAINST ANY ESTATE AGENT SHALL BE BROUGHT AND INVESTIGATED

The Minister of Economic Affairs, after consultation with the Estate Agents Board, has made the following regulations in terms of section 33 (1) (h) of the Estate Agents Act, 1976 (Act 112 of 1976):

1. In these regulations, unless the context otherwise indicates—

“complaint” means a complaint referred to in regulation 2.1;

“disciplinary committee” means a disciplinary committee designated in terms of regulation 2.4.1;

“improper conduct” means improper conduct as contemplated in section 30 (1) of the Act;

“party”, in relation to an inquiry, means the respondent or the pro forma complainant;

“penalty” means any action contemplated in section 30 (3) of the Act;

“pro forma complainant” means any person appointed in terms of regulation 2.4.2;

“the Act” means the Estate Agents Act, 1976 (Act 112 of 1976).

2.1 Any person who feels aggrieved (hereinafter referred to as the complainant) by any act performed by an estate agent or by the failure of an estate agent to perform any act may by way of an affidavit containing the particulars referred to in regulation 2.2 lodge a complaint with the board against such estate agent.

2.2 An affidavit referred to in regulation 2.1 shall contain the following particulars, namely:

2.2.1 The full names and addresses of the complainant and the estate agent concerned;

2.2.2 a full exposition of the act or failure with which such estate agent is charged;

2.2.3 the interest of the complainant in the investigation of the complaint;

2.2.4 any other fact or information relating to the complaint.

2.3 Die raad moet binne 30 dae nadat 'n klagte by hom ingedien is, die eiendomsagent teen wie daardie klagte ingedien is (hieronder "die respondent" genoem)—

2.3.1 van 'n afskrif van hierdie regulasies voorsien;

2.3.2 skriftelik verwittig dat daardie klagte teen hom ingedien is;

2.3.3 skriftelik inlig oor die aard van die handeling of versuim wat hom in daardie klagte ten laste gelê word;

2.3.4 skriftelik uitnoodig om binne 'n vermelde tydperk, maar minstens 21 dae na die datum waarop hy aldus uitgenoodig is, die raad by wyse van 'n beëdigde verklaring van sy kommentaar op daardie klagte voorsien, maar hom terselfdertyd daarop wys dat hy nie verplig is om enige sodanige kommentaar te lewer nie en dat enige kommentaar wat hy aldus lewer as getuienis teen hom by die ondersoek van daardie klagte gebruik kan word.

2.4 Die raad moet binne 90 dae nadat 'n klagte by hom ingedien is—

2.4.1 drie van sy lede aanwys om 'n dissiplinêre komitee uit te maak wat bevoeg sal wees om daardie klagte ooreenkomstig hierdie regulasies te ondersoek;

2.4.2 'n bevoegde persoon aanstel om die bevoegdhede en pligte ingevolge hierdie regulasies van 'n pro forma-aanklaer uit te oefen en te verrig.

2.5 Een van die lede van die dissiplinêre komitee word deur die raad as voorsitter daarvan aangestel.

2.6 Die verrigtinge voor 'n dissiplinêre komitee word deur 'n lid van die dissiplinêre komitee wat vir daardie doel deur die raad aangewys is, genotuleer, en sodanige notule is nie geldig nie tensy dit deur elke lid van die dissiplinêre komitee onderteken is.

2.7 Die dissiplinêre komitee kan vir die behoorlike verrigting van sy werksaamhede ingevolge hierdie regulasies, die regsadvies of ander advies inwin of die persone raadpleeg wat hy nodig of dienstig ag.

3.1 Nadat 'n dissiplinêre komitee aangewys is, word die beëdigde verklaring bedoel in regulasie 2.1 en die kommentaar, as daar is, bedoel in regulasie 2.3.4 deur die raad aan die dissiplinêre komitee vir sy aandag oorhandig.

3.2 Indien die dissiplinêre komitee na oorweging van die beëdigde verklaring bedoel in regulasie 2.1 of die kommentaar bedoel in regulasie 2.3.4 eenparig van oordeel is dat—

3.2.1 die handeling of versuim wat die respondent ten laste gelê word, nie onbehoorlike gedrag deur die respondent uitmaak nie; of

3.2.2 daar geen redelike vooruitsig is om die klagte teen die respondent te bewys nie;

moet hy by die raad aanbeveel dat die klagte nie verder ondersoek word nie.

3.3 Indien die raad na oorweging van 'n aanbeveling bedoel in regulasie 3.2—

3.3.1 oortuig is dat die bevinding van die dissiplinêre komitee juis is, stel hy die respondent en die klaer onverwyld skriftelik in kennis dat die handeling of versuim wat die respondent ten laste gelê is nie onbehoorlike gedrag deur die respondent uitmaak nie of dat daar geen redelike vooruitsig is om die klagte teen die respondent te bewys nie, na gelang van die geval, en dat daar nie met die ondersoek van die klagte voortgegaan word nie;

3.3.2 nie oortuig is dat die bevinding van die dissiplinêre komitee juis is nie, gelas hy die dissiplinêre komitee om met die ondersoek van die klagte voort te gaan.

2.3 If a complaint is lodged with the board against an estate agent (hereinafter referred to as the respondent), the board shall within 30 days after the lodging of such complaint—

2.3.1 furnish him with a copy of these regulations;

2.3.2 notify him in writing that such complaint has been lodged against him;

2.3.3 inform him in writing of the nature of the act or failure with which he is charged in such complaint;

2.3.4 invite him in writing to furnish the board within a specified period, being not less than 21 days after the date on which he is so invited, with an affidavit setting forth his comments on such complaint, but the board shall at the same time point out to the respondent that he is under no obligation to make any such comments and that any comments which he so makes may be used in evidence against him at the inquiry into such complaint.

2.4 The board shall within 90 days after a complaint has been lodged with it—

2.4.1 designate three of its members who shall constitute a disciplinary committee having the power to inquire into such complaint in terms of these regulations;

2.4.2 appoint a competent person to exercise and perform the powers and duties of a pro forma complainant in terms of these regulations.

2.5 The board shall appoint one of the members of the disciplinary committee as the chairman thereof.

2.6 The proceedings before a disciplinary committee shall be recorded by a member of the disciplinary committee designated by the board for that purpose, and such record shall be of no force and effect unless it is subscribed to by each member of the disciplinary committee.

2.7 The disciplinary committee may for the proper performance of its functions in terms of these regulations obtain such legal advice or other advice and consult such persons as it may deem necessary or expedient.

3.1 After a disciplinary committee has been designated, the board shall deliver to the disciplinary committee for its attention the affidavit referred to in regulation 2.1 and the comments, if any, referred to in regulation 2.3.4.

3.2 If the disciplinary committee, having considered the affidavit referred to in regulation 2.1 or the comments referred to in regulation 2.3.4, is unanimously of the opinion that—

3.2.1 the act or failure with which the respondent is charged does not constitute improper conduct by the respondent; or

3.2.2 there is no reasonable prospect of proving the complaint against the respondent;

it shall recommend to the board that the complaint be not further investigated.

3.3 If the board, having considered a recommendation referred to in regulation 3.2—

3.3.1 is satisfied that the finding of the disciplinary committee is correct, it shall forthwith notify the respondent and the complainant in writing that the act or failure with which the respondent has been charged does not constitute improper conduct by the respondent or that there is no reasonable prospect of proving the complaint against the respondent, as the case may be, and that the investigation of the complaint shall not be proceed with;

3.3.2 is not satisfied that the finding of the disciplinary committee is correct, it shall direct the disciplinary committee to proceed with the investigation of the complaint.

4.1 Indien die respondent in sy kommentaar bedoel in regulasie 2.3.4 onvoorwaardelik erken dat hy 'n handeling verrig het, of versuim het om 'n handeling te verrig, soos hom in die klagte ten laste gelê, en die dissiplinêre komitee oortuig is dat daardie verrigting of versuim onbehoorlike gedrag deur die respondent uitmaak, moet die dissiplinêre komitee die respondent by skriftelike kennisgewing, deur die pos bestel of oorhandig—

4.1.1 in kennis stel dat hy voornemens is om by die raad aan te beveel dat die respondent aan onbehoorlike gedrag skuldig bevind moet word;

4.1.2 in kennis stel van die straf wat hy voornemens is om by die raad aan te beveel die respondent opgelê moet word indien die raad die respondent aan onbehoorlike gedrag skuldig bevind en, indien die respondent vantevore aan onbehoorlike gedrag skuldig bevind is, 'n sertifikaat beoog in regulasie 17.2 aan die kennisgewing heg en die respondent versoek om voor 'n datum in die kennisgewing vermeld, maar minstens sewe dae na die datum daarvan, die dissiplinêre komitee skriftelik te verwittig of hy sodanige vorige skuldigebevinding erken of ontken;

4.1.3 uitnoui om by wyse van beëdigde verklarings enige vertoë wat die respondent in verband met die oplegging van straf tot die raad wil rig, binne 'n tydperk in die kennisgewing vermeld, maar minstens 21 dae na die datum daarvan, by die raad in te dien.

4.2 Indien die respondent in sy kommentaar bedoel in regulasie 2.3.4 onvoorwaardelik erken dat hy 'n handeling verrig het, of versuim het om 'n handeling te verrig, soos hom in die klagte ten laste gelê, en 'n vorige skuldigebevinding aan onbehoorlike gedrag in gevolg regulasie 4.1.2 erken, en die dissiplinêre komitee oortuig is dat daardie verrigting of versuim onbehoorlike gedrag deur die respondent uitmaak, moet die dissiplinêre komitee, behoudens die bepalinge van regulasie 4.1 by die raad aanbeveel dat—

4.2.1 die respondent aan onbehoorlike gedrag skuldig bevind moet word;

4.2.2 die respondent die straf opgelê word wat deur die dissiplinêre komitee voorgestel word.

4.3 Indien die raad na oorweging van 'n aanbeveling bedoel in regulasie 4.2.1 oortuig is dat die handeling of versuim wat die respondent in die klagte ten laste gelê word, nie onbehoorlike gedrag deur die respondent uitmaak nie, is die bepalinge van regulasie 3.3.1 *mutatis mutandis* van toepassing.

4.4 Indien die raad na oorweging van 'n aanbeveling bedoel in regulasie 4.2.1 oortuig is dat die bevinding van die dissiplinêre komitee juis is, moet hy die respondent aan onbehoorlike gedrag skuldig bevind.

4.5 Nadat die raad die respondent ingevolge regulasie 4.4 aan onbehoorlike gedrag skuldig bevind het, moet hy na oorweging van die aanbeveling bedoel in regulasie 4.2.2 en die vertoë, as daar is, bedoel in regulasie 4.1.3, die respondent die straf opelê wat hy goetvind: Met dien verstande dat die raad die respondent nie 'n swaarder straf as die straf wat die dissiplinêre komitee aanbeveel het, opelê nie tensy die raad die respondent vooraf skriftelik in kennis gestel het dat hy dit oorweeg om sodanige swaarder straf op te lê en hy die respondent die geleentheid gegee het om verdere skriftelike vertoë in verband met die oplegging van straf by hom in te dien.

5. Indien 'n klagte nie ooreenkomstig die bepalinge van regulasie 3 of 4 afgehandel kan word nie, moet die dissiplinêre komitee daardie klagte ondersoek op die wyse hieronder uiteengesit.

4.1 If the complainant in his comments referred to in regulation 2.3.4 unconditionally admits that he performed or failed to perform any act as charged in the complaint, and the disciplinary committee is satisfied that such performance or failure constitutes improper conduct by the respondent, the disciplinary committee shall by notice in writing, sent by post or delivered—

4.1.1 notify the respondent that if intends to recommend to the board that the respondent be found guilty of improper conduct;

4.1.2 notify the respondent of the penalty it proposes recommending to the board for imposition on the respondent if the board finds him guilty of improper conduct and, if the respondent was previously convicted of improper conduct, attach to the notice a certificate contemplated in regulation 17.2 and request the respondent to notify the disciplinary committee in writing before a date specified in the notice, being not less than seven days after the date thereof, whether he admits or denies such previous conviction;

4.1.3 invited the respondent to lodge with the board within a period specified in the notice, being not less than 21 days after the date thereof, by way of affidavits any representations which he wishes to address to the board in connection with the imposition of any penalty.

4.2 If the respondent in his comments referred to in regulation 2.3.4 unconditionally admits that he performed or failed to perform any act as charged in the complaint and in terms of regulation 4.1.2 admits a previous conviction of improper conduct, and the disciplinary committee is satisfied that such performance of failure constitutes improper conduct by the respondent, the disciplinary committee shall, subject to the provisions of regulation 4.1, recommend to the board that—

4.2.1 the respondent be found guilty of improper conduct;

4.2.2 the penalty proposed by the disciplinary committee be imposed on the respondent.

4.3 If the board, having considered a recommendation referred to in regulation 4.2.1, is satisfied that the act or failure with which the respondent has been charged in the complaint does not constitute improper conduct on the part of the respondent, the provisions of regulation 3.3.1 shall apply *mutatis mutandis*.

4.4 If the board, having considered a recommendation referred to in regulation 4.2.1, is satisfied that the finding of the disciplinary committee is correct, it shall convict the respondent of improper conduct.

4.5 After the board has convicted the respondent of improper conduct in terms of regulation 4.4, it shall, having considered the recommendation referred to in regulation 4.2.2 and the representations, if any, referred to in regulation 4.1.3, impose upon the respondent the penalty which it thinks fit: Provided that the board shall not impose upon the respondent a penalty more severe than the penalty recommended by the disciplinary committee unless the board has notified the respondent beforehand in writing that it is considering imposing a penalty more severe and has given the respondent the opportunity to submit further representations in writing to the board in connection with the imposition of a penalty.

5. If a complaint cannot be disposed of in terms of regulation 3 or 4, the disciplinary committee shall inquire into such complaint in the manner referred to hereinafter.

6.1 Die dissiplinêre komitee moet die respondent dagvaar om, vir doeleindes van die ondersoek van die klagte, op die tyd en plek in die dagvaarding vermeld, voor die dissiplinêre komitee te verskyn en om enige boek of ander stuk in die dagvaarding vermeld wat hy in sy besit of bewaring of onder sy beheer het of wat die dissiplinêre komitee vermoed of glo hy in sy besit of bewaring of onder sy beheer het en wat op daardie klagte betrekking het, op bedoelde tyd en plek oor te lê.

6.2 'n Dagvaarding bedoel in regulasie 6.1—

6.2.1 moet in die vorm wees soos uiteengesit in Bylae A;

6.2.2 moet deur die voorsitter van die dissiplinêre komitee onderteken wees;

6.2.3 word aan die respondent bestel deur dit aan hom persoonlik te oorhandig of aan te bied of deur dit per vooruitbetaalde aangetekende pos te stuur aan die respondent by sy adres bedoel in artikel 29 (a) van die Wet of by sy aan die raad laasbekende adres: Met dien verstande dat indien bewys word dat 'n dagvaarding wat aldus aan die respondent gestuur is, nie aan hom afgelewer is nie, daardie dagvaarding geag word nie behoorlik bestel te gewees het nie.

7.1 Die dissiplinêre komitee kan uit eie beweging of op versoek van die respondent of die pro forma-aanklaer enig iemand dagvaar om, op die tyd en plek in die dagvaarding vermeld, by die ondersoek van 'n klagte aanwesig te wees ten einde getuie af te lê, en om enige boek of ander stuk in die dagvaarding vermeld wat hy in sy besit of bewaring of onder sy beheer het of vermoed word dat hy dit in sy besit of bewaring of onder sy beheer het en wat op daardie klagte betrekking het, op bedoelde tyd en plek oor te lê.

7.2 'n Dagvaarding bedoel in regulasie 7.1—

7.2.1 moet so na as moontlik in die vorm wees soos uiteengesit in Bylae B;

7.2.2 moet deur die voorsitter van die dissiplinêre komitee onderteken wees;

7.2.3 word aan die betrokke persoon bestel deur dit aan hom persoonlik te oorhandig of aan te bied of deur dit per vooruitbetaalde aangetekende pos aan hom by sy sake- of woonadres te stuur: Met dien verstande dat indien bewys word dat 'n dagvaarding wat aldus aan daardie persoon gestuur is, nie aan hom afgelewer is nie, daardie dagvaarding geag word nie behoorlik bestel te gewees het nie.

7.3 Die koste aangegaan in verband met die uitreiking en bestelling van 'n dagvaarding op versoek van die respondent, word deur die respondent betaal.

7.4 Die raad betaal aan 'n getuie wat deur die dissiplinêre komitee uit eie beweging of op versoek van die pro forma-aanklaer ingevolge regulasie 7.1 gedagvaar is en wat by 'n ondersoek aanwesig is, die gelde wat deur die raad van tyd tot tyd in die algemeen of in 'n besondere geval bepaal word.

8. Indien die respondent nadat die dagvaarding bedoel in regulasie 6.1 aan hom bestel is maar voor die aanvang van die ondersoek die dissiplinêre komitee skriftelik in kennis stel dat hy onvoorwaardelik skuldig pleit op die klagte soos in daardie dagvaarding uiteengesit, en die dissiplinêre komitee oortuig is dat die klagte teen die respondent afgehandel kan word sonder dat 'n ondersoek gehou word, stel die dissiplinêre komitee die respondent en enige persoon aan wie 'n dagvaarding ingevolge regulasie 7 bestel is, skriftelik in kennis dat die betrokke ondersoek nie meer gehou sal word nie, en daarop is die bepalings van regulasie 4 dan *mutatis mutandis* ten opsigte van sodanige klagte van toepassing.

6.1. The disciplinary committee shall summon the respondent to appear before it at a time and place specified in the summons for the purposes of the inquiry relating to the complaint and to produce at such time and place any book or other document specified in the summons which he has in his possession or custody or under his control or which is suspected or believed to be in his possession or custody or under his control and which has a bearing on such complaint.

6.2 A summons referred to in regulation 6.1—

6.2.1 shall be in the form specified in Schedule A;

6.2.2 shall be signed by the chairman of the disciplinary committee;

6.2.3 shall be served on the respondent by delivering or tendering it to the respondent personally or by sending it to the respondent by prepaid registered post at his address referred to in section 29 (a) of the Act or at his address last known to the board: Provided that if it is proved that any summons so sent to the respondent was not delivered to him, such summons shall be deemed not to have been properly served.

7.1 The disciplinary committee may of its own accord or at the instance of the respondent or the pro forma complainant summon any person to be present, at the time and place specified in the summons, at the inquiry into a complaint in order to give evidence and to produce at such time and place any book or other document which he has in his possession or custody or under his control or which is suspected or believed to be in his possession or custody or under his control and which has a bearing on such complaint.

7.2 A summons referred to in regulation 7.1—

7.2.1 shall be as nearly as possible in the form specified in Schedule B;

7.2.2 shall be signed by the chairman of the disciplinary committee;

7.2.3 shall be served on the person concerned by delivering or tendering it to him personally or by sending it to him by prepaid registered post at his business address or place of residence: Provided that if it is proved that a summons so sent to the person concerned was not delivered to him, such summons shall be deemed not to have been properly served.

7.3 The expenses incurred in connection with the issue and service of a summons at the instance of the respondent shall be paid by the respondent.

7.4 The board shall pay a witness summoned in terms of regulation 7.1 by the disciplinary committee of its own accord or at the instance of the pro forma complainant and present at an inquiry such fees as the board may from time to time determine generally or in any particular case.

8. If the respondent, after the summons referred to in regulation 6.1 has been served on him but before the commencement of the inquiry, notifies the disciplinary committee in writing that he unconditionally pleads guilty to the complaint as set out in such summons and the disciplinary committee is satisfied that the complaint against the respondent can be disposed of without the holding of an inquiry, the disciplinary committee shall in writing notify the respondent and any person on whom a summons has been served in terms of regulation 7 that the inquiry in question will no longer be held, and thereupon the provisions of regulation 4 shall *mutatis mutandis* apply in respect of such complaint.

9.1 Indien 'n party voornemens is om by die ondersoek getuienis by wyse van beëdigde verklarings aan te voer, kan hy minstens 21 dae voor die aanvang van die ondersoek aan die ander party en aan die dissiplinêre komitee afskrifte van daardie beëdigde verklarings oorhandig of per geregistreerde of gesertifiseerde pos stuur tesame met 'n kennisgewing waarin daardie ander party versoek word om, indien hy besware daarteen het dat daardie beëdigde verklarings as getuienis by die ondersoek toegelaat word, sodanige besware minstens sewe dae voor die aanvang van die ondersoek skriftelik aan hom te verskaf en 'n afskrif daarvan by die dissiplinêre komitee in te dien.

9.2 Indien 'n party ingevolge regulasie 9.1 beswaar gemaak het, word die betrokke beëdigde verklarings nie as getuienis by die ondersoek toegelaat nie, tensy daardie party by die ondersoek instem dat daardie beëdigde verklarings as getuienis aangebied kan word.

9.3 Indien 'n party nie ingevolge regulasie 9.1 beswaar gemaak het nie, word die betrokke beëdigde verklarings by die ondersoek as getuienis toegelaat tensy daardie party die dissiplinêre komitee by die ondersoek oortuig dat hy gegronde redes gehad het waarom hy nie aldus beswaar gemaak het nie.

9.4 Beëdigde verklarings wat nie ingevolge regulasie 9.1 aan die ander party oorhandig of gestuur is nie en nie by die dissiplinêre komitee ingedien is nie, word slegs as getuienis by die ondersoek toegelaat indien daardie party by die ondersoek instem dat daardie beëdigde verklarings as getuienis aangebied kan word.

10.1 By die aanvang van die ondersoek moet die voorsitter van die dissiplinêre komitee die klagte, soos uiteengesit in die dagvaarding bedoel in regulasie 6.1, aan die respondent voorlees en die respondent vra om skuldig of onskuldig daarop te pleit.

10.2 Indien die respondent weier of in gebreke bly om by die ondersoek op die klagte te pleit, word daar aangeteken dat hy onskuldig gepleit het, en daarop word die ondersoek dan voortgesit asof die respondent in der waarheid onskuldig op die klagte gepleit het.

10.3 'n Respondent is geregtig om by 'n ondersoek deur sy regsadviseur bygestaan te word.

11.1 Behoudens die bepalings van regulasie 9, word getuienis by 'n ondersoek mondelings afgelê of by wyse van beëdigde verklarings aangebied.

11.2 Die voorsitter van die dissiplinêre komitee moet iemand wat by 'n ondersoek opgeroep word om mondelings getuienis af te lê, 'n eed oplê of 'n bevestiging van hom aanneem.

12. Wanneer die respondent ingevolge regulasie 10.1 skuldig op die klagte gepleit het—

12.1 en die dissiplinêre komitee oortuig is dat die respondent aan onbehoorlike gedrag skuldig is, kan die dissiplinêre komitee met die instemming van die respondent besluit om geen verdere getuienis in verband met die klagte aan te hoor of te ontvang nie;

12.2 kan die dissiplinêre komitee en moet hy op versoek van die respondent, ongeag of die dissiplinêre komitee oortuig is dat die respondent aan onbehoorlike gedrag skuldig is al dan nie, enige verdere getuienis in verband met die klagte aanhoor of ontvang.

13.1 Wanneer die respondent ingevolge regulasie 10.1 onskuldig op die klagte gepleit het of wanneer die dissiplinêre komitee ingevolge regulasie 12.2 besluit het om verdere getuienis in verband met die klagte aan te hoor of te ontvang, gee die dissiplinêre komitee aan die pro forma-aanklaer die geleentheid om getuienis ter stawing van die klagte aan te voer.

13.2 Nadat die pro forma-aanklaer ingevolge regulasie 13.1 getuienis ter stawing van die klagte aangevoer het, gee die dissiplinêre komitee aan die respondent die geleentheid om getuienis in sy verweer teen die klagte aan te voer.

9.1 If any party proposes adducing evidence at the inquiry by way of affidavits he may, at least 21 days before the commencement of the inquiry, deliver or send by registered or certified post copies of such affidavits to the other party and the disciplinary committee, together with a notice requesting such other party, if he objects to such affidavits being admitted as evidence at the inquiry, to furnish him in writing with such objections at least seven days before the commencement of the inquiry and to lodge a copy thereof with the disciplinary committee.

9.2 If any party has objected in terms of regulation 9.1, the affidavits in question shall not be admitted as evidence at the inquiry unless such party agrees at the inquiry to such affidavits being tendered as evidence.

9.3 If any party has not objected in terms of regulation 9.1, the affidavits in question shall be admitted as evidence at the inquiry unless such party satisfies the disciplinary committee that he had sound reasons for not so objecting.

9.4 Affidavits not delivered or sent to the other party and not lodged with the disciplinary committee in terms of regulation 9.1 shall be admitted as evidence at the inquiry only if such party agrees at the inquiry to such affidavits being tendered as evidence.

10.1 At the commencement of the inquiry the chairman of the disciplinary committee shall read the complaint, as set out in the summons referred to in regulation 6.1, to the respondent and shall ask the respondent to plead guilty or not guilty thereto.

10.2 If the respondent refuses or fails to plead to the complaint at the inquiry, it shall be recorded that he pleaded not guilty, and thereupon the inquiry shall be proceeded with as if the respondent had in fact pleaded not guilty to the complaint.

10.3 A respondent shall be entitled to the assistance of his legal adviser at an inquiry.

11.1 Subject to the provisions of regulation 9, evidence at an inquiry shall be given orally or be tendered by way of affidavits.

11.2 The chairman of the disciplinary committee shall administer an oath to or accept an affirmation from any person called to give evidence orally at an inquiry.

12. Whenever the respondent has pleaded guilty to the complaint in terms of regulation 10.1—

12.1 and the disciplinary committee is satisfied that the respondent is guilty of improper conduct, the disciplinary committee, with the concurrence of the respondent, may decide not to hear or accept any further evidence in connection with the complaints;

12.2 the disciplinary committee may and at the instance of the respondent shall hear or accept further evidence in connection with the complaint, irrespective of whether or not the disciplinary committee is satisfied that the respondent is guilty of improper conduct.

13.1 Whenever the respondent has pleaded not guilty to the complaint in terms of regulation 10.1 or whenever the disciplinary committee has decided to hear or accept further evidence in connection with the complaint in terms of regulation 12.2, the disciplinary committee shall give the pro forma complainant the opportunity of adducing evidence in support of the complaint.

13.2 After the pro forma complainant has adduced evidence in support of the complaint in terms of regulation 13.1, the disciplinary committee shall give the respondent the opportunity to adduce evidence in his defence against the complaint.

13.3 Die dissiplinêre komitee kan in enige stadium van die ondersoek enige persoon, behalwe die respondent, tensy hy reeds mondelings by die ondersoek getuig het of tensy 'n beëdigde verklaring deur hom reeds as getuie-nis toegelaat is, as getuie oproep en hom ondervra of, indien hy reeds getuie-nis afgelê het, herondervra.

13.4 Nadat die respondent ingevolge regulasie 13.2 getuie-nis in sy verweer teen die klagte aangevoer het, kan die dissiplinêre komitee die pro forma-aanklaer toelaat om getuie-nis aan te voer wat betrekking het op 'n aangeleentheid wat vir die eerste keer in die getuie-nis vir die respondent ter sprake gekom het, en moet daarna aan die respondent die geleentheid gee om getuie-nis aan te voer ter weerlegging van die getuie-nis wat aldus deur die pro forma-aanklaer aangevoer is.

13.5 'n Getuie wat deur die pro forma-aanklaer opgeroep is, kan deur die respondent onder kruisverhoor geneem word en deur die dissiplinêre komitee ondervra word.

13.6 'n Getuie wat deur die respondent opgeroep is, kan deur die pro forma-aanklaer onder kruisverhoor geneem word en deur die dissiplinêre komitee ondervra word.

13.7 'n Getuie wat deur die dissiplinêre komitee opgeroep is, kan deur die respondent en deur die pro forma-aanklaer onder kruisverhoor geneem word.

13.8 Nadat 'n getuie onder kruisverhoor geneem is, kan hy deur die party wat hom opgeroep het, herondervra word, maar slegs ten opsigte van 'n aangeleentheid wat vir die eerste keer in sy kruisverhoor aan die lig gekom het of ter opheldering van 'n aangeleentheid wat in sy kruisverhoor ter sprake gekom het.

14. Die dissiplinêre komitee kan 'n ondersoek te eniger tyd op goeie gronde verdaag tot 'n datum wat met die instemming van die respondent en die pro forma-aanklaer bepaal word.

15.1 Nadat al die getuie-nis in verband met die klagte aangevoer is of indien die dissiplinêre komitee ingevolge regulasie 12.1 besluit het om geen verdere getuie-nis in verband met die klagte aan te hoor of te ontvang nie, kan die pro forma-aanklaer die dissiplinêre komitee toespreek, en daarna kan die respondent die dissiplinêre komitee toespreek.

15.2 Die pro forma-aanklaer kan repliek lewer op 'n regsaangeleentheid wat die respondent in sy toespraak geopper het en kan met die instemming van die dissiplinêre komitee repliek lewer op 'n feite-aangeleentheid wat die respondent in sy toespraak geopper het.

16.1 Nadat die pro forma-aanklaer en die respondent die dissiplinêre komitee ingevolge regulasie 15 toegesprek het, moet die dissiplinêre komitee die getuie-nis wat by die ondersoek toegelaat is, oorweeg ten einde tot 'n besluit te kom of hy by die raad gaan aanbeveel dat die respondent aan onbehoorlike gedrag soos in die klagte uiteengesit, skuldig of onskuldig bevind moet word.

16.2 'n Besluit wat ingevolge regulasie 16.1 deur die dissiplinêre komitee geneem is, word deur die voorsitter aan die respondent en die pro forma-aanklaer meegedeel.

17.1 Indien die dissiplinêre komitee ingevolge regulasie 16.1 besluit het om by die raad aan te beveel dat die respondent aan onbehoorlike gedrag skuldig bevind moet word, gee hy—

17.1.1 die pro forma-aanklaer die geleentheid om te bewys of die respondent voorheen deur die raad aan onbehoorlike gedrag skuldig bevind is;

17.1.2 die respondent die geleentheid om getuie-nis aan te voer, en die respondent en die pro forma-aanklaer die geleentheid om hom toe te spreek in verband met die straf wat hy by die raad moet aanbeveel die respondent opgelê moet word indien die respondent deur die raad aan onbehoorlike gedrag skuldig bevind word.

13.3 The disciplinary committee may at any stage of the inquiry call any person except the respondent, unless he has already given evidence orally at the inquiry or unless an affidavit by him has already been admitted as evidence, as a witness and examine or, if he has already given evidence, re-examine him.

13.4 After the respondent has adduced evidence in his defence against the complaint in terms of regulation 13.2, the disciplinary committee may allow the pro forma complainant to adduce evidence in relation to a matter raised for the first time in the evidence for the respondent, and thereafter shall give the respondent the opportunity to adduce evidence in rebuttal of the evidence so adduced by the pro forma complainant.

13.5 A witness called by the pro forma complainant may be cross-examined by the respondent and may be examined by the disciplinary committee.

13.6 A witness called by the respondent may be cross-examined by the pro forma complainant and may be examined by the disciplinary committee.

13.7 A witness called by the disciplinary committee may be cross-examined by the respondent and by the pro forma complainant.

13.8 After a witness has been cross-examined he may be re-examined by the party who called him but only in respect of a matter revealed for the first time in his cross-examination or to explain any matter raised in his cross-examination.

14. The disciplinary committee may at any time for sufficient cause adjourn the inquiry to a date determined with the concurrence of the respondent and the pro forma complainant.

15.1 After all the evidence in connection with the complaint has been adduced or if the disciplinary committee has decided in terms of regulation 12.1 not to hear or accept any further evidence in connection with the complaint, the pro forma complainant may address the disciplinary committee and thereafter the respondent may address the disciplinary committee.

15.2 The pro forma complainant may reply on any matter of law raised by the respondent in his address and may with the concurrence of the disciplinary committee reply on any matter of fact raised by the respondent in his address.

16.1 After the pro forma complainant and the respondent have addressed the disciplinary committee in terms of regulation 15, the disciplinary committee shall consider the evidence admitted at the inquiry in order to come to a decision whether to recommend to the board that the respondent be convicted or acquitted of improper conduct as specified in the complaint.

16.2 A decision made by the disciplinary committee in terms of regulation 16.1 shall be conveyed to the respondent and the pro forma complainant by the chairman.

17.1 If the disciplinary committee has decided in terms of regulation 16.1 to recommend to the board that the respondent be convicted of improper conduct, it shall give—

17.1.1 the pro forma complainant the opportunity of proving whether the respondent had previously been convicted of improper conduct by the board;

17.1.2 the respondent the opportunity of adducing evidence and the respondent and the pro forma complainant the opportunity of addressing it in connection with the penalty which the disciplinary committee should recommend to the board for imposition upon the respondent if the respondent is convicted by the board of improper conduct.

17.2 'n Sertifikaat wat deur die sekretaris van die raad onderteken is en voorgee 'n uittreksel uit die notule van die verrigtinge van die raad te wees, en waarin aangegee word die besonderhede van die klagte wat teen die respondent ingebring is, die aanbevelings deur die betrokke dissiplinêre komitee aan die raad, die skuldigbevinding van die respondent deur die raad en die straf wat die respondent deur die raad opgelê is, is by blote voorlegging deur die pro forma-aanklaer aan die dissiplinêre komitee voldoende bewys dat die respondent vantevore aan onbehoorlike gedrag skuldig bevind is totdat die respondent bewys dat hy nie aldus skuldig bevind was nie.

17.3 Nadat die voorskrifte van regulasie 17.1 nagekom is, moet die dissiplinêre komitee die respondent meedeel watter straf hy voornemens is om by die raad aan te beveel die respondent opgelê moet word indien die raad hom aan onbehoorlike gedrag skuldig bevind.

18. Die dissiplinêre komitee moet so gou doenlik na die afhandeling van die ondersoek die notule van die verrigtinge by daardie ondersoek, met inbegrip van enige boek, stuk of verklaring as getuieis by die ondersoek toegelaat en die aanbevelings van die dissiplinêre komitee betreffende die skuldigbevinding al dan nie van die respondent aan onbehoorlike gedrag, en die straf die respondent by skuldigbevinding aan onbehoorlike gedrag opgelê, aan die raad voorlê.

19. Nadat die dissiplinêre komitee die notule van die verrigtinge van die ondersoek ingevolge regulasie 18 aan die raad voorgelê het, moet die raad die respondent en die pro forma-aanklaer by skriftelike kennisgewing, deur die pos bestel of oorhandig, uitnooi om binne 'n tydperk in die kennisgewing vermeld, maar minstens 21 dae na die datum daarvan, skriftelik vertoë aan hom voor te lê betreffende die aanbevelings van die dissiplinêre komitee en enige ander aangeleentheid wat die respondent of die pro forma-aanklaer onder die aandag van die raad wil bring.

20.1 Indien die raad na oorweging van die notule bedoel in regulasie 18 en die vertoë bedoel in regulasie 19—

20.1.1 oortuig is dat die respondent aan onbehoorlike gedrag soos in die klagte uiteengesit, skuldig is, moet hy die respondent aldus skuldig bevind en hom die straf oplê wat hy goedvind: Met dien verstande dat by die oplegging van straf die voorbehoudsbepaling by regulasie 4.5 *mutatis mutandis* van toepassing is;

20.1.2 oortuig is dat die respondent onskuldig is aan onbehoorlike gedrag soos in die klagte uiteengesit, of dat die handeling of versuim wat die respondent in die klagte ten laste gelê word nie onbehoorlike gedrag uitmaak nie, moet hy die respondent onskuldig bevind;

20.1.3 twyfel of the respondent aan onbehoorlike gedrag soos in die klagte uiteengesit, skuldig is, of dat die handeling of versuim wat die respondent in die klagte ten laste gelê word onbehoorlike gedrag uitmaak—

20.1.3.1 kan hy die respondent onskuldig bevind;

20.1.3.2 kan hy die aangeleentheid na die dissiplinêre komitee terugverwys met die opdrag om verdere getuieis in te win oor die aspekte wat die raad aandui, en by so 'n terugverwysing is die bepalings van regulasies 6 tot en met 19 vir sover hulle toegepas kan word, *mutatis mutandis* van toepassing; of

20.1.3.3 kan hy die respondent en die pro forma-aanklaer by skriftelike kennisgewing, deur die pos bestel of oorhandig, uitnooi om oor die aspekte wat hy aandui, skriftelik regsargumente aan hom voor te lê, en kan hy die ander regsadvies wat hy nodig ag, inwin.

17.2 A certificate signed by the secretary to the board and purporting to be an extract from the minutes of the proceedings of the board, stating the particulars of the complaint brought against the respondent, the recommendations to the board by the disciplinary committee in question, the conviction of the respondent by the board and the penalty imposed upon the respondent by the board, shall, upon its mere production by the pro forma complainant to the disciplinary committee, be sufficient proof that the respondent had previously been convicted of improper conduct until the respondent proves that he had not been so convicted.

17.3 After the provisions of regulation 17.1 have been complied with, the disciplinary committee shall convey to the respondent the penalty which it proposes recommending to the board for imposition upon the respondent if the board convicts him of improper conduct.

18. The disciplinary committee shall as soon as may be practicable after the conclusion of the inquiry submit to the board the record of the proceedings at such inquiry, including any book, document or statement admitted as evidence at the inquiry and the recommendations of the disciplinary committee concerning the conviction or acquittal of the respondent of improper conduct and the penalty to be imposed on the respondent if convicted of improper conduct.

19. After the disciplinary committee has submitted the record of the proceedings at the inquiry to the board in terms of regulation 18, the board shall by notice in writing, sent by post or delivered, invite the respondent and the pro forma complainant to submit to it within a period stated in the notice, but not less than 21 days after the date thereof, representations in writing concerning the recommendations of the disciplinary committee and any other matter which the respondent or the pro forma complainant may wish to bring to the notice of the board.

20.1 If the board, having considered the record referred to in regulation 18 and the representations referred to in regulation 19—

20.1.1 is satisfied that the respondent is guilty of improper conduct as specified in the complaint, it shall convict the respondent thereof and impose upon him such penalty as it may think fit: Provided that when imposing a penalty the proviso to regulation 4.5 shall apply *mutatis mutandis*;

20.1.2 is satisfied that the respondent is not guilty of improper conduct as specified in the complaint or that the act or failure with which the respondent has been charged in the complaint does not constitute improper conduct, it shall acquit the respondent;

20.1.3 doubts whether the respondent is guilty of improper conduct as specified in the complaint or whether the act or failure with which the respondent has been charged in the complaint constitutes improper conduct—

20.1.3.1 it may acquit the respondent;

20.1.3.2 it may refer the matter back to the disciplinary committee and direct the said committee to gather further evidence regarding such aspects as the board may specify, and in regard to any matter so referred back the provisions of regulations 6 up to and including 19 shall apply *mutatis mutandis* in so far as they can be applied;

20.1.3.3 it may by notice in writing, sent by post or delivered, invite the respondent and the pro forma complainant to furnish it in writing with arguments of law regarding such aspects as it may specify, and may obtain such other legal advice as it may deem necessary.

20.2 Die raad moet die respondent, die pro forma-aan-
klaer en die klaer onverwyld skriftelik in kennis stel van
'n beslissing wat hy ingevolge regulasie 20.1.1, 20.1.2 of
20.1.3.1 gegee het.

20.3 Niemand is geregtig om persoonlik of deur middel
van sy regsadviseur voor die raad te verskyn of deur
hom aangehoor te word by die uitoefening van sy
bevoegdhede ingevolge regulasie 20.1 nie.

21. Indien die respondent nie ingevolge artikel 31 van
die Wet teen sy skuldigbevinding aan onbehoorlike gedrag
of die oplegging van die straf ooreenkomstig regulasie
20.1.1 appelleer nie, kan die raad 'n kennisgewing in beide
amptelike tale in die *Staatskoerant* publiseer waarby
bekendgemaak word dat die respondent aan onbehoorlike
gedrag skuldig bevind is en die straf opgelê is wat in daar-
die kennisgewing vermeld word.

22. Iemand wat die raad ingevolge artikel 31 (a) van die
Wet skriftelik versoek om sy redes vir 'n beslissing bedoel
in regulasie 20.1.1 of 20.1.2 aan so iemand te verstrek,
moet 'n bedrag van R10 aan die raad betaal.

23. Niemand mag nadat hy—

23.1 behoorlik gedagvaar is om by 'n ondersoek aan-
wesig te wees, sonder wettige rede in gebreke bly om
aldus aanwesig te wees nie;

23.2 as 'n getuie by 'n ondersoek opgeroep is, sonder
wettige rede weier om beëdig te word of 'n bevestiging
te doen of om 'n boek of ander stuk voor te lê of 'n
vraag te beantwoord wat hy aangesê word om voor te
lê of te beantwoord nie.

BYLAE A

WET OP EIENDOMSAGENTE, 1976 (WET 112 VAN 1976)

Vorm van dagvaarding bedoel in regulasie 6.2.

Aan.....
U word hierby gedagvaar om op19.....
omh..... te.....
voor 'n dissiplinêre komitee van die Raad vir Eiendomsagent
te verskyn vir doeleindes van 'n ondersoek na onbehoorlike gedrag deur
u en om die volgende boeke en stukke op voormelde tyd en plek
oor te lê.....

Die klagte wat op voormelde plek en tyd teen u ondersoek sal
word en waarvan u reeds skriftelik op
deur die Raad verwittig is, is die volgende.....

Indien u versuim om sonder wettige rede op die plek en tyd hierbo
vermeld, aanwesig te wees, begaan u 'n misdryf ingevolge artikel 34
van die Wet en is u by skuldigbevinding strafbaar met 'n boete van
hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens
twee jaar, of met sowel daardie boete as daardie gevangenisstraf.

Geteken te op.....19.....

Voorsitter van die Dissiplinêre
Komitee

BYLAE B

WET OP EIENDOMSAGENTE, 1976 (WET 112 VAN 1976)

Vorm van dagvaarding bedoel in regulasie 7.2.

Aan.....
U word hierby gedagvaar om op19.....
omh..... te.....
voor 'n dissiplinêre komitee van die Raad vir Eiendomsagent
te verskyn ten einde getuie af te lê by 'n ondersoek van onbehoorlike
gedrag deur.....
en om die volgende boeke en stukke op voormelde tyd en plek oor
te lê.....

Indien u versuim om sonder wettige rede op die plek en tyd hierbo
vermeld, aanwesig te wees, begaan u 'n misdryf ingevolge artikel 34
van die Wet en is u by skuldigbevinding strafbaar met 'n boete van
hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens
twee jaar, of met sowel daardie boete as daardie gevangenisstraf.

Geteken te op.....19.....

Voorsitter van die Dissiplinêre
Komitee

20.2 The board shall in writing forthwith notify the
respondent, the pro forma complainant and the com-
plainant of any decision which it has given in terms of
regulation 20.1.1, 20.1.2 or 20.1.3.1.

20.3 No person shall be entitled, either personally or
through his legal adviser, to appear before or be heard
by the board when exercising its powers in terms of regu-
lation 20.1.

21. If the respondent has not appealed in terms of
section 31 of the Act against his conviction of improper
conduct or the imposition of a penalty in terms of regula-
tion 20.1.1, the board may publish a notice in the
Gazette in both official languages announcing the con-
viction of the respondent of improper conduct and the
penalty imposed upon him.

22. Any person who requests the board in writing to
furnish him in terms of section 31 (a) of the Act with its
reasons for a decision referred to in regulation 20.1.1
or 20.1.2 shall pay an amount of R10 to the board.

23. No person—

23.1 having been duly summoned to be present at an
inquiry, shall without lawful excuse fail so to appear;

23.2 having been called as a witness at an inquiry,
shall without lawful excuse refuse to be sworn or to
make affirmation or to produce any book or other docu-
ment or to answer any question which he may be
required to produce or answer.

SCHEDULE A

ESTATE AGENTS ACT, 1976 (ACT 112 OF 1976)

Form of summons referred to in regulation 6.2.

To.....
You are hereby summoned to appear on19.....
ath..... at.....
before a disciplinary committee of the Estate Agents Board for the
purposes of an inquiry into improper conduct by you and to produce
the following books and documents at the said time and place

The complaint against you which will be inquired into at the said
time and place and of which you have already been notified in writing
by the board on..... is the
following.....

If you fail, without lawful excuse, to be present at the time and
place stated above, you will be guilty of an offence in terms of section 34
of the Act and liable on conviction to a fine not exceeding R2 000
or to imprisonment for a period not exceeding two years, or to
both such fine and such imprisonment.

Signed at..... on.....19.....

Chairman of the Disciplinary
Committee

SCHEDULE B

ESTATE AGENTS ACT, 1976 (ACT 112 OF 1976)

Form of summons referred to in regulation 7.2.

To.....
You are hereby summoned to appear on19.....
ath..... at.....
before a disciplinary committee of the Estate Agents Board in order
to give evidence at an inquiry into improper conduct by.....
and to produce the following books and documents at the said time
and place.....

If you fail, without lawful excuse, to be present at the time and place
stated above, you will be guilty of an offence in terms of section 34 of
the Act and liable on conviction to a fine not exceeding R2 000 or to
imprisonment for a period not exceeding two years, or to both such
fine and such imprisonment.

Signed at..... on.....19.....

Chairman of the Disciplinary
Committee

No. R. 1472

29 Julie 1977

WET OP EIENDOMSAGENTE 1976

TRUSTREKENING VAN 'N EIENDOMSAGENT
EN BELEGGING VAN TRUSTGELDE

Die Minister van Ekonomiese Sake, het na oorleg met die Raad vir Eiendomsagent, die volgende regulasies ingevolge artikel 33 (1) (j), (k) en (l) van die Wet op Eiendomsagent, 1976 (Wet 112 van 1976), uitgevaardig:

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“die Wet” die Wet op Eiendomsagent, 1976 (Wet 112 van 1976);

“hierdie regulasies” ook die Bylae daarvan;

“trustsaldo” die saldo wat in die boeke en aantekeninge van 'n eiendomsagent in krediet van iemand staan en wat bedrae verteenwoordig wat namens so iemand gehou of ontvang is minus enige bedrag wat ingevolge 'n lasgewing deur so iemand uitbetaal is en minus enige kommissie en invorderingsgelde wat tot op die datum van afsluiting aan daardie eiendomsagent verskuldig is.

2.1 Die verslag wat ingevolge artikel 32 (4) van die Wet deur 'n ouditeur aan die raad voorgelê moet word, moet in die vorm wees soos uiteengesit in die Bylae van hierdie regulasies en moet so gou doenlik, maar nie later nie as drie maande na die sluitingsdatum van die periode waarop die verslag betrekking het, deurgestuur word.

2.2 Indien die ouditeur nie in staat is om 'n ongekwalifiseerde verslag in die vorm van die Bylae hiervan te verstrek nie, moet hierdie feit vermeld en die redes daarvoor volledig uiteengesit word in die verslag wat hy deurstuur in die plek van die verslag bedoel in die Bylae hiervan, en wat andersins so ver moontlik in die vorm van die Bylae hiervan moet wees.

2.3 Elke ouditeur wat 'n audit ingevolge artikel 29 (b) en 32 (3) (b) van die Wet begin of uitgevoer het, moet sonder versuim regstreeks aan die raad rapporteer indien—

2.3.1 dit tot sy kennis kom dat die totaal van die bedrae geld in 'n eiendomsagent se trustrekening gehou ingevolge artikel 32 (1) van die Wet tesame met enige geld beskikbaar in 'n aparte spaar- of ander rentegewende rekening gehou ingevolge artikel 32 (2) (a) van die Wet en enige trustgeld wat volgens die eiendomsagent se rekeningboeke en rekeningaantekeninge gehou word in die vorm van geld in kas, op enige datum minder was as die totaal van die trustsaldo's aangedui in die trustrekening in die grootboek van die eiendomsagent;

2.3.2 daar nie met enige wesenlike ouditeursvrae aangaande die boekhoustelsels, rekeningkundige aantekeninge, die rekeningboeke of die aantekeninge daarin of die trustrekening, spaarrekening of rentegewende rekening in 2.3.1 bedoel, wat hy teenoor sodanige eiendomsagent geopper het, volledig en spoedig tot sy tevredenheid gehandel is nie.

3.1 Na die plaasvind van 'n gebeurtenis beoog in artikel 32 (7) van die Wet—

3.1.1 mag geen gelde sonder die skriftelike toestemming van die raad aan die betrokke trustrekening of spaar- of ander rentegewende rekening onttrek of daaruit betaal word nie;

3.1.2 moet die betrokke eiendomsagent—

3.1.2.1 indien dit 'n gebeurtenis beoog in artikel 32 (7) (b) van die Wet is, onverwyld die raad skriftelik daarvan in kennis stel;

3.1.2.2 so gou doenlik die bank, bouvereniging of instelling bedoel in artikel 32 (2) (a) van die Wet waar hy die betrokke trustrekening of spaar- of ander rentegewende rekening hou, skriftelik van die plaasvind van

No. R. 1472

29 July 1977

ESTATE AGENTS ACT, 1976

TRUST ACCOUNT OF AN ESTATE AGENT
AND INVESTMENT OF TRUST MONEYS

The Minister of Economic Affairs, after consultation with the Estate Agents Board, has made the following regulations in terms of section 33 (1) (j), (k) and (l) of the Estate Agents Act, 1976 (Act 112 of 1976):

1. In these regulations, unless the context otherwise indicates—

“the Act” means the Estate Agents Act, 1976 (Act 112 of 1976);

“these regulations” includes the Schedule thereto;

“trust balance” means the balance standing to the credit of any person in the books and records of an estate agent, representing amounts held or received on behalf of such person, less any amount paid out in terms of a mandate from such person and less any commission and collection fee due to such estate agent up to the date of balancing.

2.1 The Report to be submitted by an auditor to the board in terms of section 32 (4) of the Act shall be in the form specified in the Schedule to these regulations and shall be transmitted as soon as practicable, but not later than three months after the closing date of the period to which the report relates.

2.2 If the auditor is unable to furnish an unqualified report in the form of the Schedule hereto, the fact thereof and the reasons therefor shall be fully set out in the report transmitted by him in place thereof which shall otherwise be as far as possible in the form of the said Schedule.

2.3 Every auditor who has commenced or carried out an audit in terms of sections 29 (b) and 32 (3) (b) of the Act shall without delay report direct to the board if—

2.3.1 it comes to his notice that at any date the aggregate of the amounts of the funds in an estate agent's trust account kept in terms of section 32 (1) of the Act, together with any funds available in a separate savings or other interest-bearing account kept in terms of section 32 (2) (a) of the Act and any trust moneys held according to the estate agent's books of account and accounting records in cash on hand, is less than the total of the trust balances shown in the trust account in the ledgers of the estate agent;

2.3.2 any material queries concerning the accounting systems, accounting records, the books of account or entries therein or the trust account, savings account or interest-bearing account referred to in 2.3.1 which he has raised with such estate agent have not been fully and promptly dealt with to his satisfaction.

3.1 After the occurrence of an event contemplated in section 32 (7) of the Act—

3.1.1 no moneys shall be withdrawn from or paid out of the trust account or savings or other interest-bearing account in question without the consent in writing of the board;

3.1.2 the estate agent concerned shall—

3.1.2.1 if it is an event contemplated in section 32 (7) (b) of the Act, forthwith notify the board in writing thereof;

3.1.2.2 as soon as may be practicable in writing notify the bank, building society or institution referred to in section 32 (2) (a) of the Act with which he keeps the trust account or savings or other interest-bearing account

sodanige gebeurtenis in kennis stel, asook dat geen gelde voortaan sonder die skriftelike toestemming van die raad aan enige sodanige rekening onttrek of daaruit betaal mag word nie: Met dien verstande dat die raad te eniger tyd self daardie bank, bouvereniging of ander instelling aldus in kennis kan stel;

3.1.2.3 die raad so gou doenlik skriftelik in kennis stel van die name van die persone wat geregtig is op geld wat in enige sodanige rekening is, die bedrag waarop elke sodanige persoon geregtig is en die gronde daarvoor;

3.1.2.4 indien die vereistes bedoel in regulasies 3.1.2.1, 3.1.2.2 en 3.1.2.3 nagekom is, en met die skriftelike toestemming van die Raad, aan die persone bedoel in regulasie 3.1.2.3 en aan die ander persone wat na die oordeel van die raad op enige gelde in daardie rekenings geregtig is, uit daardie rekenings die gelde betaal waarop hulle geregtig is.

3.2 Indien daar na betaling ooreenkomstig regulasie 3.1.2.4 'n saldo in enige van die betrokke rekenings is, moet die raad in die *Staatskoerant* en in twee nuusblaaie in omloop in die distrik waar die betrokke eiendomsagent as sodanig opgetree het, 'n kennisgewing laat publiseer waarin vermeld word dat daar so 'n saldo is en waarin persone uitgenooi word om binne 30 dae na die datum van daardie kennisgewing enige aanspraak wat hulle op daardie saldo of 'n deel daarvan het, skriftelik by die raad in te dien.

3.3 Indien niemand ingevolge regulasie 3.2 enige aanspraak op die betrokke saldo of 'n deel daarvan bewys het nie, is die betrokke eiendomsagent daarop geregtig, of na betaling van 'n deel van daardie saldo aan diegene wat ingevolge regulasie 3.2 bewys het dat hulle daarop geregtig is, is die betrokke eiendomsagent op die oorblywende deel geregtig.

3.4 Nadat al die gelde in die betrokke rekenings ingevolge hierdie regulasie aan die persone betaal is wat daarop geregtig is, moet die betrokke eiendomsagent daardie rekenings afsluit en die raad skriftelik daarvan in kennis stel.

4. Enige rente wat ontvang is deur 'n eiendomsagent of waarmee hy gekrediteer is met betrekking tot enige periode eindigende op die laaste dag van Februarie van elke jaar, en wat aan die fonds ooreenkomstig artikel 32 (2) (c) betaalbaar is, moet gereeld en stiptelik maar in elke geval nie later nie as die laaste dag van Mei van daardie jaar aan die fonds of sy benoemde oorbetal word.

5. Vir die doel van die afsluiting van sy boeke en aantekeninge ingevolge artikel 32 (3) (b) van die Wet, moet 'n eiendomsagent met tussenpose van nie meer nie as drie kalendermaande, by uittreksel 'n lys opstel van al die saldo's wat op die laaste dag van die kalendermaand in krediet van enige persoon staan, en hy moet die lyste van sodanige trustsaldo's vir nie minder nie as drie jaar vanaf die datum waarop dit by uittreksel opgestel is, hou.

BYLAE

Vorm van Ouditeursverslag bedoel in regulasie 2.

Die Sekretaris

Raad vir Eiendomsagente

OUITEURSVERSLAG INGEVOLGE ARTIKEL 32 (4) VAN DIE WET OP EIENDOMSAGENTE, 1976 (WET 112 VAN 1976)

1. Ons het die boeke, aantekeninge en boekhoustelsels van vir die jaar wat geëindig het op19..... ondersoek.
2. Na ons mening, gebaseer op ons ondersoek—

2.1 voormelde eiendomsagent gedurende die betrokke tydperk aan die bepalings van artikel 32 (1), (2) en (3) van die Wet voldoen het;

in question of the occurrence of any such event and also that in future no moneys may be withdrawn from or paid out of any such account without the consent in writing of the board: Provided that the board itself may at any time so notify such bank, building society or other institution;

3.1.2.3 as soon as may be practicable in writing furnish the board with the name of the persons entitled to any moneys in any such account, the amount to which any such person is entitled and the reasons therefor;

3.1.2.4 having complied with the requirements of regulations 3.1.2.1, 3.1.2.2 and 3.1.2.3 and with the consent in writing of the board, pay to the persons referred to in regulation 3.1.2.3 and to such other persons who in the opinion of the board are entitled to any moneys in such accounts, out of such accounts the moneys to which they are entitled.

3.2 If after payment in accordance with regulation 3.1.2.4 a balance remains in any of the accounts in question, the board shall publish in the *Gazette* and in two newspapers circulating in the district in which the estate agent concerned acted as such, a notice stating that there is such a balance and inviting persons to lodge, within 30 days after the date of such notice, with the board in writing any claim which they may have to such balance or part thereof.

3.3 If no person has proved any claim in terms of regulation 3.2 to the balance in question or any part thereof, the estate agent concerned shall be entitled to such balance, or after payment of any part of such balance to any person who has proved that he is entitled thereto in terms of regulation 3.2 the estate agent concerned shall be entitled to the remainder.

3.4 After all the moneys in the accounts in question have been paid in terms of this regulation to the persons entitled thereto, the estate agent concerned shall wind up such accounts and in writing notify the board thereof.

4. Any interest received by or credited to an estate agent in respect of any period ending on the last day of February in each year and payable to the fund in terms of section 32 (2) (c) shall be paid regularly and promptly but in any event not later than the last day of May in that year to the fund or its nominee.

5. For the purpose of balancing his books and records in terms of section 32 (3) (b) of the Act an estate agent shall at intervals of not more than three calendar months extract a list of the balances standing to the credit of any person on the last day of the calendar month and shall keep the lists of such trust balances for not less than three years from the date on which the same were extracted.

SCHEDULE

Form of Auditor's Report referred to in regulation 2.

The Secretary

Estate Agents Board

AUDITOR'S REPORT IN TERMS OF SECTION 32 (4) OF THE ESTATE AGENT ACT, 1976 (ACT 112 OF 1976)

1. We have examined the books, records and accounting systems of.....for the year ended on.....19.....
2. In our opinion, based on our examination—
2.1 the said estate agent complied during the period in question with the provisions of sections 32 (1), (2) and (3) of the Act;

- 2.2 op19....., synde die einddatum van die boekjaar, asook op19..... synde 'n ander datum gedurende daardie jaar wat op 'n verrassingsbasis deur ons gekies is, die totale bedrag wat in krediet gestaan het van die trustbankrekening en enige spaar- of ander rentegewende rekening wat deur voormelde eiendomsagent ingevolge artikel 32 (1) en (2) van die Wet gehou word, tesame met enige trustgelde wat volgens daardie eiendomsagent se rekeningkundige aantekeninge deur hom in kontant gehou is (welke gelde ons oortuig is in daardie eiendomsagent se trustbankrekening gestort is op die eerste bankdag volgende op enige voormelde datum, waarop daar redelikerwys verwag kon word dat sodanige gelde aldus gestort moes word), voldoende was om die trustsaldo's op daardie datums te dek;
- 2.3 die omstandighede waaronder verhandelbare dokumente wat voor die datums bedoel in 2.2 in die eiendomsagent se trustbankrekening inbetaal is en daarna nie gehonoreer is nie, bevredigend blyk te wees;
- 2.4 die stelsel waarvan gebruik gemaak word wanneer bedrae vanaf daardie eiendomsagent se trustbankrekening oorgedra word na sy besigheidsrekening, blyk te verseker dat op elke geleentheid waarop so 'n oordrag gemaak word, die saldo wat in krediet van daardie trustbankrekening en enige spaar- of ander rentegewende rekening bedoel in artikel 32 (2) (a) van die Wet bly staan, tesame met trustgelde wat in kontant gehou word, nie minder as die trustsaldo's is nie;
- 2.5 alle rente op gelde wat ingevolge artikel 32 (2) (a) van die Wet belê is, stiptelik en gereeld aan die Eiendomsagentgetrouheidsfonds of andersins kragtens die uitdruklike skriftelike lasgewings wat aan ons getoon is, na gelang van die geval, betaal is.
- *3. Ons het vasgestel dat genoemde maatskappy/onderneming 'n Werkgewersgetrouheidswaarborgpolis, No., ooreenkomstig die bepalings van artikel 26 (b) van die Wet, by (naam van versekeringsmaatskappy) vir versekeringsdekking tot 'n maksimum bedrag van R..... uitgeneem het, en dat die polis vir 'n periode vanmaande, eindigende op diedag van19....., hernieu is.

* Skrap paragraaf indien bepalings van artikel nie van toepassing is nie.

Geoktroieerde Rekenmeesters
(S.A.) Ouditeurs

No. R. 1473 29 Julie 1977

WET OP EIENDOMSAGENTE, 1976 SPESIFISERING VAN DIENSTE

Ek, Jan Christiaan Heunis, Minister van Ekonomiese Sake, spesifiseer hierby die diens in die Bylae as 'n diens vir doeleindes van paragraaf (a) (iv) (cc) van die omskrywing van "eiendomsagent" in artikel 1 van die Wet op Eiendomsagente, 1976 (Wet 112 van 1976).

J. C. HEUNIS, Minister van Ekonomiese Sake.

BYLAE

Optrede as agente vir of verteenwoordiger van 'n finansiële instelling soos omskryf in artikel 1 van die Wet op Finansiële Instellings (Belegging van Fondse), 1964 (Wet 56 van 1964).

No. R. 1474 29 Julie 1977

WET OP EIENDOMSAGENTE, 1976 VRYSTELLING VAN EIENDOMSAGENTE OF KATEGORIE VAN EIENDOMSAGENTE

Die Minister van Ekonomiese Sake het, na oorleg met die Raad vir Eiendomsagenten, kragtens artikel 33 (2) van die Wet op Eiendomsagenten, 1976 (Wet 112 van 1976), die eiendomsagenten of kategorie van eiendomsagenten vermeld in Kolom 1 van die onderstaande Bylae vrygestel

2.2 on19..... being the financial year end date, and also on19..... being one other date during that year selected by us, on a surprise basis, the total amount standing to the credit of the trust banking account and any savings or other interest-bearing account kept by the said estate agent in terms of sections 32 (1) and (2) of the Act, together with any trust moneys which, according to such estate agent's accounting records, were held by him in cash on hand (which moneys we have satisfied ourselves were deposited in such estate agent's trust banking account on the first banking day following any of the said dates on which it might reasonably be expected that such moneys would be banked) were sufficient to cover the trust balances on the said dates;

2.3 the circumstances under which any negotiable instruments deposited before the dates referred to in 2.2 in the estate agent's trust banking account were not honoured subsequently appear to be satisfactory;

2.4 the system employed when transferring amounts from such estate agent's trust banking account to his business account appears to ensure that, on each occasion any such transfer is made, the balance remaining to the credit of such trust banking account and any savings or other interest-bearing account referred to in section 32 (2) (a) of the Act, together with any trust moneys held in cash on hand, amounts to not less than the trust balances;

2.5 all interest on moneys invested in terms of section 32 (2) (a) of the Act has been promptly and regularly paid to the Estate Agents Fidelity Fund or as otherwise provided in the express terms of written mandates exhibited to us, as the case may be.

*3. We have confirmed that the above Company/Undertaking has taken out an Employers Fidelity Guarantee Policy, No. in terms of section 26 (b) of the Act, with (name of Insurance Company) for insurance cover up to a maximum amount of R....., and that the policy has been renewed for a period of months ending on the day of19.....

* Delete paragraph if provisions of section 26 (b) do not apply.

Chartered Accountants (S.A.)
Auditors

No. R. 1473 29 July 1977

ESTATE AGENTS ACT, 1976 SPECIFICATION OF SERVICES

I, Jan Christiaan Heunis, Minister of Economic Affairs, do hereby specify the service in the Schedule as a service for the purposes of paragraph (a) (iv) (cc) of the definition of "estate agent" in section 1 of the Estate Agents Act, 1976 (Act 112 of 1976).

J. C. HEUNIS, Minister of Economic Affairs.

SCHEDULE

Acting as an agent for or a representative of any financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1964 (Act 56 of 1964).

No. R. 1474 29 July 1977

ESTATE AGENTS ACT 1976 EXEMPTION OF ESTATE AGENTS OR CATEGORY OF ESTATE AGENTS

The Minister of Economic Affairs, after consultation with the Estate Agents Board, has in terms of section 33 (2) of the Estate Agents Act, 1976 (Act 112 of 1976), exempted the estate agents or category of estate agents mentioned in Column 1 of the Schedule hereunder, from

van die bepalinge van die genoemde Wet, in die mate vermeld in Kolom 2 van genoemde Bylae, met ingang van die datum vermeld in Kolom 3 van genoemde Bylae:

Kolom 1	Kolom 2	Kolom 3
Eiendomsagente of kategorie van eiendomsagente	Mate van vrystelling	Datum
1. 'n Maatskappy, soos omskryf in artikel 1 (1) van die Maatskappywet, 1973 (Wet 61 van 1973), kragtens artikel 4 (9) van die Bankwet, 1965 (Wet 23 van 1965), as 'n bankinstelling geregistreer	Artikel 9, Hoofstuk II; artikels 29 en 32	1/8/77.
2. 'n Direkteur van 'n maatskappy in paragraaf 1 bedoel.	Artikels 9, 12, 15, 16, 18, 19, 21, 26 en 27	1/8/77.
3. 'n Persoon wat in diens is by 'n maatskappy in paragraaf 1 bedoel	Artikels 9, 12, 15, 16, 18, 19, 21, 26 en 27	1/8/77.

the provisions of the said Act to the extent mentioned in Column 2 of the said Schedule, as from the date mentioned in Column 3 of the said Schedule:

Column 1	Column 2	Column 3
Estate agents or category of estate agents	Extent of exemption	Date
1. A company as defined in section 1 (1) of the Companies Act, 1973 (Act 61 of 1973), registered in terms of section 4 (9) of the Banks Act, 1965 (Act 23 of 1965), as a banking institution	Section 9 Chapter II, sections 29 and 32	1/8/77.
2. A director of a company referred to in paragraph 1	Sections 9, 12, 15, 16, 18, 19, 21, 26 and 27	1/8/77.
3. A person who is employed by a company referred to in paragraph 1	Sections 9, 12, 15, 16, 18, 19, 21, 26 and 27	1/8/77.

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