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Government Notice

Goewermentskennisgewing

DEPARTMENT OF
 GOVERNMENTAL AFFAIRS

DEPARTEMENT VAN OWERHEIDSAKE

No. 210

1987

No. 210

1987

PROMULGATION OF ACT OF
 NATIONAL ASSEMBLY

AFKONDIGING VAN WET VAN
 NASIONALE VERGADERING

The following Act, which has been adopted by the National Assembly and signed by the Administrator-General in terms of the South West Africa Legislative and Executive Authority Proclamation, 1985 (Proclamation R.101 of 1985), is hereby published in terms of section 18 of that Proclamation: —

Die volgende Wet, wat ingevolge die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), deur die Nasionale Vergadering aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 18 van daardie Proklamasie: —

No. 28 of 1987: Estate Agents Amendment Act, 1987.

No. 28 van 1987: Wysigingswet op Eiendomsagente, 1987.

EXPLANATORY NOTE:

_____ Words underlined with solid line indicate insertions proposed.

[] Words in bold typing in square brackets indicate omissions proposed.

ACT

To amend the Estate Agents Act, 1976, so as to further regulate the meaning of "estate agent" and to extend the meaning of "immovable property"; to establish for South West Africa a board and a fidelity fund for estate agents; to regulate the constitution and powers of that board and the application of moneys in that fund; to extend the requirements for the issue of a fidelity fund certificate; to empower the court to cancel fidelity fund certificates in certain circumstances; to further regulate the duties of estate agents in relation to the auditing of their accounting records, the provisions relating to improper conduct, appeals to the Supreme Court and certain matters relating to trust accounts of estate agents; to define the powers and duties of inspectors; to further regulate the power to make regulations; to increase the penalties which may be imposed for certain offences; to regulate the validity of fidelity fund certificates issued before the commencement of this Act; to make provision for the application in the territory of South West Africa of regulations made in the Republic of South Africa before the said commencement; and to validate certain acts performed in the said territory before the commencement of this Act; and to provide for incidental matters.

*(Afrikaans text signed by the Administrator-General on
2 December 1987)*

WYSIGINGSWET OP EIENDOMSAGENTE, 1987 **Wet No. 28, 1987****VERDUIDELIKENDE NOTA:**

- _____ Woorde met 'n volstreep daaronder dui aan in-voegings voorgestel.
- [] Woorde in vet druk tussen vierkantige hake dui aan skappings voorgestel.
-

WET

Tot wysiging van die Wet op Eiendomsagente, 1976, ten einde die betekenis van "eiendomsagent" verder te reël en die betekenis van "onroerende goed" uit te brei; vir Suidwes-Afrika 'n raad en getrouheidsfonds vir eiendomsagente in te stel; die samestelling en bevoegdhede van daardie raad en die aanwending van gelde in daardie fonds te reël; die vereistes vir die uitreiking van 'n getrouheidsfondssertifikaat uit te brei; die hof die bevoegdheid te verleen om in sekere omstandighede getrouheidsfondssertifikate in te trek; die pligte van eiendomsagente met betrekking tot die ouditering van hul rekeningkundige aantekeninge, die bepalings betreffende onbehoorlike gedrag, appèlle na die Hooggeregshof en sekere aangeleenthede betreffende die trustrekeninge van eiendomsagente verder te reël; die bevoegdhede en pligte van inspekteurs te omskryf; die bevoegdheid om regulasies uit te vaardig, verder te reël; die strawwe wat vir sekere misdrywe opgelê kan word te verhoog; die regsgeldigheid van getrouheidsfondssertifikate wat voor die inwerkingtreding van hierdie Wet uitgereik is, te reël; voorsiening te maak vir die toepassing in die gebied Suidwes-Afrika van die regulasies wat voor bedoelde inwerkingtreding in die Republiek van Suid-Afrika uitgevaardig is; en sekere handelingte wat voor die inwerkingtreding van hierdie Wet in bedoelde gebied ver- rig is geldig te verklaar; en om vir bykomstige aange- leenthede voorsiening te maak.

*(Afrikaanse teks deur die Administrateur-generaal
onderteken op 2 Desember 1987)*

BE IT ENACTED by the National Assembly, as follows:-

Amendment of section 1 of Act 112 of 1976.

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 “annual financial statements” of the following definition:

“ ‘auditor’ means any person registered in terms of section 23 of the Public Accountants’ and Auditors’ Act, 1951 (Act 51 of 1951), as an accountant and auditor, and engaged in public practice as such;”;

(b) by the substitution for the definition of “board” of the following definition:

“ ‘board’ means the South West African Estate Agents Board established **[under]** by section 2, and includes, for the purposes of subsections (2) and (3) of section 30, and section 32(7)(a)(ii) in so far as it relates to the said subsections, any disciplinary committee of the board acting pursuant to and in accordance with the provisions of section 8B;”;

(c) by the substitution for the definition of “court” of the following definition:

“ ‘court’ means **[a court of the provincial or local division of]** the Supreme Court of **[South Africa]** South West Africa [having jurisdiction] or a judge of **[any such court]** that Court;”;

(d) 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 72 of 1971); or

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DAAR WORD BEPAAL deur die Nasionale Vergadering, soos volg:-

1. Artikel 1 van die Wet op Eiendomsagente, 1976 (hieronder die Hoofwet genoem), word hierby gewysig –

Wysiging van artikel 1 van Wet 112 van 1976.

(a) deur subparagraaf (iv) van paragraaf (a) van die omskrywing van “eiendomsagent” deur die volgende subparagraaf te vervang:

“(iv) [benewens die verrigting van ’n handeling bedoel in subparagraaf (i), (ii) of (iii) –

(aa) gelde invorder of ontvang wat betaalbaar is uit hoofde van ’n koopkontrak, met inbegrip van ’n ooreenkoms of intermediêre transaksie soos omskryf in artikel 1 van die Wet op die Verkoop van Grond op Afbetaling, 1971 (Wet 72 van 1971); of

(bb) enige ander gelde, met inbegrip van ver-sekeringspremies, invorder of ontvang wat betaalbaar is ten opsigte van onroerende goed of ’n belang in onroerende goed of ’n besigheidsonderneming; of

(cc) enige ander diens lewer wat deur die [Minister] Kabinet op aanbeveling van die raad van tyd tot tyd by kennisgewing in die [Staatskoerant] Offisiële Koerant gespesifiseer word;”;

(b) deur in die omskrywing van “eindomsagent” na paragraaf (c) die volgende paragraaf in te voeg:

“(cA) by die toepassing van artikels 7, 9(1)(a), 16, 26, 27, 28 en 33, ook enige persoon wat in diens is by ’n prokureur of ’n professionele maatskappy soos omskryf in artikel 1 van die Wet op Prokureurs, 1979 (Wet 53 van 1979) in ’n ander hoedanigheid as ’n prokureur of ’n klerk onder leerkontrak, en wie se verpligtinge in die geheel of hoofsaaklik bestaan uit die verrigting van enige handeling bedoel in subparagraaf (i) of (ii) van paragraaf (a) ten behoeve van sodanige prokureur of professionele maatskappy;”;

- (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] Cabinet on the recommendation of the board may specify from time to time by notice in the [Government] Official Gazette;
- (e) by the insertion in the definition of "estate agent" after paragraph (c) of the following paragraph:

"(cA) for the purposes of sections 7, 9(1)(a), 16, 26, 27, 28 and 33, includes any person who is employed by an attorney or a professional company as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979), otherwise than as an attorney or an articulated clerk, and whose duties consist wholly or primarily of the performance of any act referred to in the subparagraph (i) or (ii) of paragraph (a) on behalf of such attorney or professional company;"

- (f) by the substitution for paragraph (d) of the definition of "estate agent" of the following paragraph:

"(d) does not include an attorney who, on his own account or as a partner in a firm of attorneys or as a member of a professional company, as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979), or an articulated clerk as defined in the said section of that Act, who performs any act referred to in paragraph (a) [in connection with his activities as a practising attorney], in the course of and in the name of and from the premises of such attorney's or professional company's practice: Provided that such an act is not performed -

in partnership with any person other than a partner in the practice of that attorney as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979); or

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- (c) deur paragraaf (d) van die omskrywing van "eiendomsagent" deur die volgende paragraaf te vervang:

"(d) nie ook 'n prokureur wat vir eie rekening of as vennoot in 'n prokureursfirma of as lid van 'n professionele maatskappy soos omskryf in artikel 1 van die Wet op Prokureurs, 1979 (Wet 53 van 1979), of 'n klerk onder leerkontrak soos omskryf in genoemde artikel van daardie Wet, wat 'n handeling bedoel in paragraaf (a) [**in verband met sy werksaamhede as a praktiserende prokureur**] in die loop van en in die naam van en vanaf die perseel van sodanige prokureur of professionele maatskappy se praktyk verrig nie: Met dien verstande dat so 'n handeling nie verrig word nie –

(i) in vennootskap met enige ander persoon as 'n vennoot in die praktyk van daardie prokureur soos omskryf in artikel 1 van die Wet op Prokureurs, 1979 (Wet 53 van 1979); of

(ii) deur bemiddeling van of as 'n direkteur van 'n ander maatskappy as so 'n professionele maatskappy;"

- (d) deur by die omskrywing van "eiendomsagent" die volgende paragraaf te voeg:

"(e) by die toepassing van artikel 30(2), (3), (4) en (5) en van regulasies kragtens artikel 33(1)(h) uitgevaardig, ook enige persoon wat 'n eiendomsagent was op die tydstip waarop hy skuldig was aan die handeling of versuim wat volgens bewering onbehoorlike gedrag bedoel in artikel 30 uitmaak:"

- (e) deur die omskrywing van "fonds" deur die volgende omskrywing te vervang:

"'fonds' die Eiendomsagente-getrouheidsfonds vir Suidwes-Afrika ingestel [**kragtens**] by artikel 12(1);"

- (f) deur na die omskrywing van "fonds" die volgende omskrywing in te voeg:

"'gebied' die gebied Suidwes-Afrika;"

(ii) through the medium of or as a director of a company other than such professional company;”;

(g) by the addition to the definition of “estate agent” of the following paragraph:

“(e) for the purposes of section 30(2), (3), (4) and (5) and of regulations made under section 33(1)(h), includes any person who was an estate agent at the time when he was guilty of any act or omission which allegedly constitutes improper conduct referred to in section 30:”;

(h) by the insertion after the definition of “estate agent” of the following definition:

“ ‘executive committee’ means the executive committee appointed in terms of section 8A(1);”;

(i) by the substitution for the definition of “fidelity fund certificate” of the following definition:

“ ‘fidelity fund certificate’ means a fidelity fund certificate referred to in section 16, and includes for the purposes of sections 26(a), 27, 28 and 33(1)(e) and (f), a registration certificate referred to in section 16;”;

(j) by the substitution for the definition of “fund” of the following definition:

“ ‘fund’ the Estate Agents Fidelity Fund for South West Africa established [under] by section 12(1);”;

(k) by the insertion after the definition of “fund” of the following definitions:

“ ‘immovable property’ includes –

- (a) any unit as defined in section 1 of the Sectional Titles Act, 1971 (Act 66 of 1971), and any proposed unit;
- (b) any right to claim transfer of immovable property;
- (c) any undivided share in immovable property;

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- (g) deur die omskrywing van “getrouheidsfondssertifikaat” deur die volgende omskrywing te vervang:

“ ‘getrouheidsfondssertifikaat’ ’n getrouheidsfondssertifikaat bedoel in artikel 16, en by die toepassing van artikels 26(a), 27, 28 en 33(1)(e) en (f), ook ’n registrasiesertifikaat in artikel 16 bedoel;”;

- (h) deur die omskrywing van “hof” deur die volgende omskrywing te vervang:

“ ‘hof’ [**n hof van die provinsiale of plaaslike afdeling van]** die Hooggeregshof van [**Suid-Afrika**] Suidwes-Afrika [**wat regsbevoegdheid het**] of ’n regter van [**so ’n hof**] daardie Hof;”;

- (i) deur na die omskrywing van “hof” die volgende omskrywings in te voeg:

“ ‘inspekteur’ iemand wat ingevolge artikel 6(2) as ’n inspekteur aangewys, is;

‘instituut’ enige enkele liggaam wat die bevordering of handhawing van die belange van eiendomsagente in die gebied op ’n verteenwoordigende grondslag ten doel het en wat die Kabinet vir doeleindes van hierdie wet erken;”;

- (j) deur die omskrywing van “Minister” te skrap;

- (k) deur na die omskrywing van “Minister” die volgende omskrywings in te voeg:

“ ‘onroerende goed’ ook –

(a) ’n eenheid soos omskryf in artikel 1 van die Wet op Deeltitels, 1971 (Wet 66 van 1971), en ook enige voorgestelde eenheid;

(b) ’n reg om oordrag van onroerende goed te eis;

(c) ’n onverdeelde aandeel in onroerende goed;

(d) enige belang in onroerende goed, behalwe ’n reg of belang wat kragtens die Ordonnansie op Myne, Bedrywe en Minerale, 1968 (Ordonnansie 20 van 1968), geregistreer is of vir registrasie geskik is;

(e) ’n aandeel in ’n private maatskappy bedoel in die Maatskappywet, 1973 (Wet 61 van 1973), waar-

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(d) any interest in immovable property, other than a right or interest registered or capable of being registered under the Mines, Works and Minerals Ordinance, 1968 (Ordinance 20 of 1968);

(e) any share in a private company referred to in the Companies Act, 1973 (Act 61 of 1973), the whole or the major portion of whose assets consists of immovable property;

'inspector' means any person designated under section 6(2) as an inspector;

'institute' means any single body having as its aim the promotion and maintenance of the interests of estate agents in the territory on a representative basis and which is recognised by the Cabinet for purposes of this Act;";

(l) by the deletion of the definition of "Minister";

(m) by the deletion of the definition of "Republic"; and

(n) by the insertion after the definition of "Republic" of the following definition:

" 'territory' means the territory of South West Africa;";

Substitution of section 2 of Act 112 of 1976.

2. The following section is hereby substituted for section 2 of the principal Act:

"Establishment of South West African Estate Agents Board.

2. There is hereby established a juristic person to be known as the **[Estate Agents Board]** South West African Estate Agents Board".

Amendment of section 3 of Act 112 of 1976.

3. Section 3 of the principal Act is hereby amended –

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

" (1) The board shall consist of [not fewer than nine and not more than eleven] seven members appointed under subsection (2) by the [Minister] Cabinet";

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

" (2) The [Minister] Cabinet shall appoint as members of the board –

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van die bates geheel en al of hoofsaaklik uit onroerende goed bestaan;

‘ouditeur’ iemand wat ingevolge artikel 23 van die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet 51 van 1951), as rekenmeester en ouditeur geregistreer is, en as sodanig openbare praktyk beoefen;”;

(l) deur die omskrywing van “raad” deur die volgende omskrywing te vervang:

“ ‘raad’ die Suidwes-Afrikaanse Raad vir Eiendomsagente ingestel [kragtens] by artikel 2, en ook, by die toepassing van subartikels (2) en (3) van artikel 30, en artikel 32(7)(a)(ii) vir sover dit op genoemde subartikels betrekking het, ’n tugkomitee van die raad handelende uit hoofde van en ooreenkomstig die bepalings van artikel 8B;”;

(m) deur die omskrywing van “Republiek” te skrap; en

(n) deur na die omskrywing van “Republiek” die volgende omskrywing in te voeg:

“ ‘uitvoerende komitee’ die uitvoerende komitee wat ingevolge artikel 8A(1) aangestel is;”.

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 2 van Wet 112 van 1976.

“Instelling van Suidwes-Afrikaanse Raad vir Eiendomsagente.

2. Daar word hierby ’n regs persoon met die naam die [**Raad vir Eiendomsagente**] Suidwes-Afrikaanse Raad vir Eiendomsagente ingestel.”.

3. Artikel 3 van die Hoofwet word hierby gewysig –

Wysiging van artikel 3 van Wet 112 van 1976.

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die raad bestaan uit [**minstens nege en hoogstens elf**] sewe lede wat ingevolge subartikel (2) deur die [**Minister**] Kabinet aangestel word.”;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Die [**Minister**] Kabinet stel as lede van die raad aan –

- (a) **[not fewer than eight] four estate agents [from among at least fourteen estate agents whose names have been submitted for that purpose by associations or organisations of more than five years standing which, in the opinion of the Minister, are representative of estate agents in the Republic] nominated by the institute;**
- (b) **[not more than] three other persons who, in the opinion of the [Minister] Cabinet, are fit to serve as members of the board.”;**
- (c) by the substitution for subsection (3) of the following subsection:

“ (3) If after the expiry of a period of three months from the date on which the Secretary for **[Commerce] Economic Affairs** in writing requested the **[associations or organisations referred to in subsection (2)(a)] institute** to **[submit a list of estate agents as contemplated in that subsection, such as associations or organisations have] nominate estate agents in accordance with subsection (2)(a), the institute has failed to [submit the said list to the said Secretary or have submitted to the said Secretary a list of estate agents which is defective in some or other respect, the Minister] nominate in accordance with that subsection estate agents, the Cabinet shall appoint suitable estate agents as members of the board in the place of the estate agents he would have appointed if the [said associations or organisations] institute had not so failed to [submit the said list or had not submitted a list defective in some or other respect] so nominate estate agents.**”;

and

- (d) by the substitution for paragraph (d) of subsection (6) of the following paragraph:

“(d) is not **[a South African citizen permanently resident in the Republic] in possession of an identity document issued under section 2 of the Identity of Persons Act, 1979 (Act 2 of 1979).**”.

Amendment of section 4
of Act 112 of 1976.

4. Section 4 of the principal Act is hereby amended –

- (a) by the substitution for subsection (2) of the following subsection:

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- (a) **[nie minder nie as agt] vier eiendomsagente [uit minstens veertien eiendomsagente wie se name vir dié doel voorgelê is deur verenigings of organisasies wat langer as vyf jaar bestaan en wat na die oordeel van die Minister verteenwoordigend is van eiendomsagente in die Republiek] deur die instituut benoem;**
- (b) **[hoogstens] drie ander persone wat na die oordeel van die [Minister] Kabinet geskik is om as lede van die raad te dien.”;**
- (c) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Indien na verstryking van ’n tydperk van drie maande vanaf die datum waarop die Sekretaris van **[Handel] Ekonomiese Sake** die **[verenigings of organisasies bedoel in subartikel (2)(a)] instituut** skriftelik versoek het om **[’n lys van] eiendomsagente [soos beoog in daardie] ooreenkomstig subartikel (2)(a) [voor te lê, daardie verenigings of organisasies]** te benoem, die instituut in gebreke gebly het om **[genoemde lys aan bedoelde Sekretaris voor te lê of ’n lys van eiendomsagente wat in een of ander opsig gebrekkig is aan bedoelde Sekretaris voorgelê het] eiendomsagente ooreenkomstig daardie subartikel te benoem, moet die [Minister] Kabinet** geskikte eiendomsagente as lede van die raad aanstel om in die plek van die eiendomsagente wat hy sou aangestel het indien **[bedoelde verenigings of organisasies] die instituut nie aldus in gebreke gebly het om [genoemde lys voor te lê nie of nie aldus ’n lys voorgelê het wat in een of ander opsig gebrekkig is nie] eiendomsagente aldus te benoem nie.”;** en

- (d) deur paragraaf (d) van subartikel (6) deur die volgende paragraaf te vervang:

“(d) **nie [’n Suid-Afrikaanse burger is wat permanent in die Republiek woonagtig is nie] in besit van ’n identiteitsdokument uitgereik kragtens artikel 2 van die Wet op Identifikasie van Persone, 1979 (Wet 2 van 1979), is nie.”.**

4. Artikel 4 van die Hoofwet word hierby gewysig —

Wysiging van artikel 4 van Wet 112 van 1976.

- (a) deur subartikel (2) deur die volgende subartikel te vervang:

“ (2) The chairman or, in his absence, the vice-chairman may at any time of his own accord or at the written request of not fewer than ~~[six]~~ four members convene a special meeting of the board.”; and

(b) by the substitution for subsection (4) of the following subsection:

“ (4) The quorum for any meeting of the board shall be ~~[six]~~ four members thereof.”

Substitution of section 6 of Act 112 of 1976.

5. The following section is hereby substituted for section 6 of the principal Act:

“Staff of board and designation of inspectors.”

6. (1) The work incidental to the carrying out of its functions by the board shall be performed under its directions and control by persons appointed by the board on such conditions and at such remuneration as the **[Minister may in consultation with the Minister of Finance approve]** board may determine.

(2) The board may designate persons appointed in terms of subsection (1) and any other persons whom he may deem fit, to perform the functions of inspectors under this Act subject to its control.”

Insertion of sections 8A and 8B in Act 112 of 1976.

6. The following sections are hereby inserted in the principal Act after section 8:

“Executive committee.”

8A. (1) The board may appoint two or more of its members as an executive committee of the board which, subject to the provisions of subsection (2) and the directions of the board, shall have the power to exercise all the powers and perform all the functions of the board during the periods between meetings of the board.

(2) Except in so far as the board may direct otherwise, the executive committee shall not have the power to set aside or amend any decision of the board.

(3) Any act performed or decision taken by the executive committee shall be of force and effect except in so far as it is amended or set aside by the board at its next ensuing meeting.

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“(2) Die voorsitter of, indien hy afwesig is, die ondervoorsitter kan te eniger tyd uit eie beweging of op die skriftelike versoek van minstens [ses] vier lede ’n spesiale vergadering van die raad belê.”; en

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Die kworum vir ’n vergadering van die raad is [ses] vier lede daarvan.”.

5. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 6 van Wet 112 van 1976.

“Personeel van raad en aanwysing van inspekteurs.

6. (1) Die werk verbonde aan die verrigting van sy werksaamhede deur die raad word onder sy opdrag en beheer verrig deur persone deur die raad aangestel op die voorwaardes en teen die besoldiging wat die **[Minister in oorleg met die Minister van Finansies goedkeur]** raad bepaal.

(2) Die raad kan persone wat ingevolge subartikel (1) aangestel is en enige ander persone wat hy geskik ag, aanwys om onderworpe aan sy beheer die werksaamhede van inspekteurs kragtens hierdie Wet te verrig.”.

6. Die volgende artikels word hierby in die Hoofwet na artikel 8 ingevoeg:

Invoegings van artikels 8A en 8B in Wet 112 van 1976.

“Uitvoerende komitee.

8A. (1) Die raad kan twee of meer van sy lede as ’n uitvoerende komitee van die raad aanstel wat, behoudens die bepalings van subartikel (2) en die voorskrifte van die raad, bevoeg is om gedurende die tydperke tussen vergaderings van die raad al die bevoegdhede en werksaamhede van die raad uit te oefen of te verrig.

(2) Behalwe vir sover die raad anders gelas, is die uitvoerende komitee nie bevoeg om ’n besluit van die raad tersyde te stel of te wysig nie.

(3) Enige handeling verrig of besluit geneem deur die uitvoerende komitee is van krag behalwe vir sover dit deur die raad by sy eersvolgende vergadering gewysig of tersyde gestel word.

Disciplinary
committees.

8B. (1) The board may from time to time appoint such number of disciplinary committees as it deems fit, each consisting of at least three members, from amongst its members.

(2) A disciplinary committee may exercise or perform any power or function which is granted or entrusted to the board by subsections (2) and (3) of section 30.

(3) The provisions of section 4(5) and (6) shall, subject to subsection (5) of this section, apply *mutatis mutandis* in respect of a disciplinary committee.

(4) The board may, subject to the provisions of this section, alter the constitution of any disciplinary committee before the committee has commenced with an investigation contemplated in section 30(2).

(5) If a vacancy occurs on a disciplinary committee after the committee has commenced with an investigation, the investigation may be proceeded with before at least two members of the committee, but if only two serving members remain, they may take any decision referred to in section 30(3) only by unanimous vote.

(6) Any person who feels aggrieved by any decision taken by a disciplinary committee in the exercise of its powers and the performance of its functions under section 30, may within one month after the disciplinary committee –

(a) has informed him in writing of such decision and upon payment of the prescribed fees request the disciplinary committee in writing to furnish him in writing with its reasons for such decision;

(b) has in accordance with paragraph (a) furnished him with its reasons for such decision and after notice to the disciplinary committee, appeal in writing to the board against such decision, and the board may thereupon –

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Tugkomitees.

8B. (1) Die raad kan van tyd tot tyd die aantal tugkomitees wat hy dienstig ag, wat elkeen uit minstens drie lede moet bestaan, uit sy geledere aanstel.

(2) 'n Tugkomitee kan enige bevoegdheid of werksaamheid wat by subartikels (2) en (3) van artikel 30 aan die raad verleen of opgedra word, uitoefen of verrig.

(3) Die bepalings van artikel 4(5) en (6) is, behoudens subartikel (5) van hierdie artikel, *mutatis mutandis* ten opsigte van 'n tugkomitee van toepassing.

(4) Die raad kan, behoudens die bepalings van hierdie artikel, die samestelling van enige tugkomitee verander voordat die komitee met 'n ondersoek beoog in artikel 30(2) begin.

(5) Indien 'n vakature in 'n tugkomitee ontstaan nadat die komitee met 'n ondersoek begin het, kan met die ondersoek voortgegaan word, maar indien slegs twee dienende lede oorbly, kan hulle 'n beslissing bedoel in artikel 30(3) slegs by eenparige besluit neem.

(6) Iemand wat hom veronreg voel deur 'n besluit wat 'n tugkomitee by die uitoefening van sy bevoegdhede en die verrigting van sy werksaamhede kragtens artikel 30 geneem het, kan binne een maand nadat die tugkomitee –

(a) hom skriftelik van daardie besluit in kennis gestel het en teen betaling van die voorgeskrewe gelde die tugkomitee skriftelik versoek om sy redes vir daardie besluit skriftelik aan hom te verstrek;

(b) sy redes vir daardie besluit ooreenkomstig paragraaf (a) aan hom verstrek het en na kennisgewing aan die tugkomitee, na die raad teen daardie besluit skriftelik appelleer, en daarop kan die raad –

- (i) dismiss the said appeal;
- (ii) if it is of the opinion that the disciplinary committee has not acted in accordance with the relevant provisions of this Act, give an order opposite to the decision of the disciplinary committee or amending the decision of the disciplinary committee;
- (iii) refer the matter back to the disciplinary committee for further consideration; or
- (iv) vary any penalty imposed by the disciplinary committee as it may deem fit."

Amendment of section 9
of Act 112 of 1976.

7. Section 9 of the principal Act is hereby amended –

- (a) by the substitution for subsection (2) of the following subsection:

“ (2) The board shall utilize its funds to defray the expenses incurred by the board in the performance of its functions and the exercise of its powers under this Chapter: Provided that –

- (a) any moneys or other property donated or bequeathed to the board shall be utilized in accordance with the conditions of such donation or bequest;

- (b) if the board –

- (i) after an investigation has found that an estate agent failed to comply with any duty imposed upon him in terms of this Act; or
- (ii) has incurred any liability to pay attorney and client costs in respect of any proceedings instituted by it in terms of this Act for the recovery from an estate agent of any amount which is payable by him to the board or fund,

the board may recover the costs of such investigation in so far as it relates to such duty, or the taxed amount of such attorney and client costs, as the case may be, from the estate agent concerned.”;
and

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- (i) bedoelde appèl van die hand wys;
- (ii) indien hy van oordeel is dat die tugkomitee nie ooreenkomstig die betrokke bepalings van hierdie wet gehandel het nie, 'n bevel gee wat teenoorgesteld is aan die besluit van die tugkomitee of wat die besluit van die tugkomitee wysig;
- (iii) die saak vir verdere oorweging na die tugkomitee terugverwys; of
- (iv) enige straf deur die tugkomitee opgelê, na goeddunke wysig."

7. Artikel 9 van die Hoofwet word hierby gewysig –

Wysiging van artikel 9
van Wet 112 van 1976.

(a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Die raad wend sy fondse aan ter bestryding van die uitgawes wat die raad by die verrigting van sy werksaamhede en die uitoefening van sy bevoegdhede ingevolge hierdie Hoofstuk aangaan: Met dien verstande dat –

(a) geld of ander goed wat aan die raad geskenk of bemaak word, ooreenkomstig die voorwaardes van die betrokke skenking of bemaking aangevend moet word;

(b) indien die raad –

(i) na 'n ondersoek bevind het dat 'n eiendomsagent in gebreke gebly het om enige verpligting na te kom wat hom ingevolge hierdie Wet opgelê is; of

(ii) 'n verpligting opgeloop het om prokureur-en-kliënt-koste te betaal ten opsigte van enige verrigtinge wat hy ingevolge hierdie Wet ingestel het vir die verhaal op 'n eiendomsagent van enige bedrag wat deur hom aan die raad of die fonds betaalbaar is,

die raad die koste van daardie ondersoek vir sover dit op daardie verpligting betrekking het, of die getakseerde bedrag van daardie prokureur-en-kliënt-koste, na gelang van die geval, op die betrokke eiendomsagent kan verhaal.”; en

(b) by the substitution for subsection (4) of the following subsection:

“ (4) The board may invest any moneys received under this Chapter and not required for immediate use **[with the Public Debt Commissioners or]** in such manner as may be determined by the **[Minister in consultation with the Minister of Finance] Cabinet.**”.

Amendment of section 11 of Act 112 of 1976.

8. Section 11 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“ (2) Every report furnished under subsection (1) shall as soon as may be practicable be laid upon the table of the **[Senate and the House of Assembly] National Assembly** by the **[Minister] Cabinet.**”.

Amendment of section 12 of Act 112 of 1976.

9. Section 12 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“There is hereby established a fund to be known as the Estate Agents Fidelity Fund for South West Africa, into which shall be paid –”.

Substitution of section 16 of Act 112 of 1976.

10. The following section is hereby substituted for section 16 of the principal Act:

“Applications for and issue of fidelity fund certificates and registration certificates.”

16. (1) Every estate agent or prospective estate agent, excluding an estate agent referred to in paragraph (cA) of the definition of ‘estate agent’ in section 1, shall, within the prescribed period and in the prescribed manner, apply to the board for a fidelity fund certificate, and such application shall be accompanied by the levy referred to in section 9(1)(a) and the contribution referred to in section 15.

(2) An estate agent or prospective estate agent referred to in paragraph (cA) of the definition of ‘estate agent’ in section 1, shall, within the prescribed period and in the prescribed manner, apply to the board for a registration certificate, and such application shall be accompanied by the levy referred to in section 9(1)(a).

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(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Die raad kan gelde wat hy ingevolge hierdie Hoofstuk ontvang en wat nie vir onmiddellike gebruik nodig is nie, belê [by die Staatskuldkommissaris of] op ’n [ander] wyse wat die [Minister in oorleg met die Minister van Finansies] Kabinet bepaal.”.

8. Artikel 11 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

Wysiging van artikel 11 van Wet 112 van 1976.

“(2) Elke verslag wat kragtens subartikel (1) verstrekk word, word so gou doenlik deur die [Minister] Kabinet in die [Senaat en in die Volksraad] Nasionale Vergadering ter tafel gelê.”.

9. Artikel 12 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

Wysiging van artikel 12 van Wet 112 van 1976.

“Daar word hierby ’n fonds ingestel met die naam die Eiendomsagente-getrouheidsfonds vir Suidwes-Afrika, waarin gestort word —”.

10. Artikel 16 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 16 van Wet 112 van 1976.

“Aansoeke om en uitreiking van getrouheidsfondssertifikaat en registrasiesertifikate.

16. (1) Elke eiendomsagent of voornemende eiendomsagent, uitgesonderd ’n eiendomsagent bedoel in paragraaf (cA) van die omskrywing van ‘eiendomsagent’ in artikel 1, moet binne die voorgeskrewe tydperk en op die voorgeskrewe wyse by die raad om ’n getrouheidsfondssertifikaat aansoek doen, en so ’n aansoek word vergesel van die heffing bedoel in artikel 9(1)(a) en die bydrae bedoel in artikel 15.

(2) ’n Eiendomsagent of voornemende eiendomsagent bedoel in paragraaf (cA) van die omskrywing van ‘eiendomsagent’ in artikel 1, moet binne die voorgeskrewe tydperk en op die voorgeskrewe wyse by die raad om ’n registrasiesertifikaat aansoek doen, en so ’n aansoek word vergesel van die heffing bedoel in artikel 9(1)(a).

~~[(2)]~~ (3) If the board upon receipt of any application referred to in subsection (1) or (2) and the levy and contribution referred to in ~~[subsection (1)]~~ those subsections, is satisfied that the applicant concerned complies with the requirements of this Act, the board shall in the prescribed form issue to ~~[such]~~ the applicant concerned a fidelity fund certificate or a registration certificate, as the case may be, which shall be valid until 31 December of the year to which such application relates.

~~[(3)]~~ (4) No fidelity fund certificate or registration certificate shall be issued unless and until the provisions of this Act are complied with, and any fidelity fund certificate or registration certificate issued in contravention of the provisions of this Act shall be invalid and shall be returned to the board at its request.”

Amendment of section
18 of Act 112 of 1976.

11. Section 18 of the principal Act is hereby amended –

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

“ (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 –

(a) theft, committed after the commencement of [this Act] the Estate Agents Amendment Act, 1987, by an estate agent –

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

(ii) of any moneys collected or received by him and payable in respect or on account of a contract of purchase and sale in respect of immovable property, including any agreement or intermediate transaction as defined in section 1(1) of the Sale of Land on Instalments Act, 1971 (Act 72 of 1971);

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[(2)] (3) Indien die raad by ontvangs van 'n aansoek bedoel in subartikel (1) of (2) en die heffing en bydrae in daardie subartikels bedoel **[in subartikel (1)]**, oortuig is dat die betrokke aansoeker aan die vereistes van hierdie Wet voldoen, reik die raad in die voorgeskrewe vorm aan **[daardie] die betrokke aansoeker** 'n getrouheidsfondssertifikaat of 'n registrasiesertifikaat, na gelang van die geval, uit, wat geldig is tot 31 Desember van die jaar waarop die betrokke aansoek betrekking het.

[(3)] (4) Geen getrouheidsfondssertifikaat of registrasiesertifikaat word uitgereik tensy en totdat aan die bepalings van hierdie Wet voldoen is nie, en 'n getrouheidsfondssertifikaat of registrasiesertifikaat wat in stryd met die bepalings van hierdie Wet uitgereik is, is ongeldig en moet op versoek van die raad aan hom terugbesorg word.”.

11. Artikel 18 van die Hoofwet word hierby gewysig –

Wysiging van artikel 18 van Wet 112 van 1976.

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Behoudens die bepalings van hierdie Hoofstuk word die fonds gehou en aangewend om persone te vergoed wat geldelike verliese ly weens –

(a) die diefstal, na die inwerkingtreding van **[hierdie Wet] die Wysigingswet op Eiendomsagente, 1987**, deur 'n eiendomsagent –

(i) van geld of ander goedere wat deur of namens sodanige persone aan hom in sy hoedanigheid van eiendomsagent toevertrou is;

(ii) van gelde wat hy ingevorder of ontvang het en wat betaalbaar is ten opsigte van of uit hoofde van 'n koopkontrak ten opsigte van onroerende goed, met inbegrip van 'n ooreenkoms of intermediêre transaksie soos omskryf in artikel 1(1) van die Wet op die Verkoop van Grond op afbetaling, 1971 (Wet 72 van 1971);

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(iii) 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;

(b) the failure of an estate agent to comply with the provisions of section 32(1)."; and

(b) by the substitution in subsection (3) for the words preceding paragraph (b) of the following words:

"No person shall have any claim against the board in respect of a theft or failure referred to in subsection (1) unless –

(a) the claimant has, within three months after he became aware of such theft or failure or by the exercise of reasonable care should have become aware of such theft or failure, given notice in writing to the board of such claim;".

Amendment of section 19 of Act 112 of 1976.

12. Section 19 of the principal Act is hereby amended –

(a) by the substitution in subsection (1) for the words preceding the proviso of the following words:

"The board may, at any time after the commission of any theft, or any failure to comply with the provisions of section 32(1), in respect of which a claim against him relating to the fund arose, receive such claim and may, subject to the provisions of section 18, settle such claim."; and

(b) by the addition to subsection (4) of the following paragraph:

"(c) any person as a result of theft, or as a result of any other act or omission in connection with trust moneys held or received on account of any other person, by any person referred to in paragraph (cA) of the definition of 'estate agent' in section 1 of this Act.".

Substitution of section 27 of Act 112 of 1976.

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

"Disqualifications in relation to fidelity fund certificates.

27. [Notwithstanding anything to the contrary contained in this Act, no] No fidelity fund certificate shall be issued to –

(a) any estate agent who or, if such estate agent is a company, any company of which any director –

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(iii) van enige ander gelde, met inbegrip van versekeringspremies, wat hy ingevorder of ontvang het en wat betaalbaar is ten opsigte van onroerende goed, 'n belang in onroerende goed of 'n besigheidsonderneming;

(b) die versuim van 'n eiendomsagent om aan die bepalings van artikel 32(1) te voldoen”; en

(b) deur in subartikel (3) die woorde wat paragraaf (b) voorafgaan deur die volgende woorde te vervang:

“Niemand het 'n eis teen die raad weens enige diefstal of versuim bedoel in subartikel (1) nie tensy –

(a) die eiser binne drie maande nadat hy van die diefstal of versuim te wete gekom het of deur die uitoefening van redelike sorg van diefstal of versuim te wete moes gekom het, die raad skriftelik van daardie eis in kennis gestel het;”.

12. Artikel 19 van die Hoofwet word hierby gewysig –

Wysiging van artikel 19 van Wet 112 van 1976.

(a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“Die raad kan te eniger tyd na die pleging van 'n diefstal of 'n versuim om aan die bepalings van artikel 32(1) te voldoen ten opsigte waarvan 'n eis teen hom met betrekking tot die fonds ontstaan het, daardie eis ontvang en kan, behoudens die bepalinge van artikel 18, daardie eis vereffen;”;

(b) deur die volgende paragraaf by subartikel (4) te voeg:

“(c) iemand ly weens diefstal gepleeg of weens enige ander handeling of versuim in verband met trustgelde op rekening van iemand anders gehou of ontvang, deur 'n persoon bedoel in paragraaf (cA) van die omskrywing van 'eiendomsagent' in artikel 1 van hierdie Wet.”.

13. Artikel 27 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 27 van Wet 112 van 1976.

“Onbevoegdheid met betrekking tot getrouheidsfondssertifikate.

27. [Ondanks andersluidende bepalinge van hierdie Wet word] 'n Getrouheidsfondssertifikaat word nie uitgereik nie aan –

(a) 'n eiendomsagent wat of, indien so 'n eiendomsagent 'n maatskappy is, 'n maatskappy waarvan 'n direkteur –

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[(a)] (i) has at any time by reason of improper conduct been dismissed from a position of trust;

[(b)] (ii) has at any time been convicted of an offence involving an element of dishonesty;

[(c)] (iii) is an unrehabilitated insolvent;

[(d)] (iv) is of unsound mind; [or]

[(e)] (v) has been dealt with in accordance with section 30(3)(a);

(vi) does not comply with the prescribed standard of training;

(b) any estate agent who –

(i) has failed in respect of his financial year which has expired before the date on which application for a fidelity fund certificate is made, to comply with any provision of section 29(b) or section 32(3)(b); or

(ii) has at any time, whether before or after the commencement of the Estate Agents Amendment Act, 1987, been guilty of any act or omission in respect of which any person had to be compensated pursuant to the provisions of section 18 from the fund or the Estate Agents Fidelity Trust Fund, established by the said section 12 before its amendment by section 9 of the last-mentioned Amendment Act, unless the estate agent has repaid the relevant amount in full to the board concerned or the board is of the opinion that satisfactory arrangements for the settlement of such amount have been made and the board concerned has confirmed such arrangements;

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[(a)] (i) te eniger tyd weens onbehoorlike gedrag uit 'n vertrouensposisie ontslaan is;

[(b)] (ii) te eniger tyd skuldig bevind is weens 'n misdryf waarvan oneerlikheid 'n element is;

[(c)] (iii) 'n ongerehabiliteerde insolvent is;

[(d)] (iv) geestelik versteurd is; **[of]**

[(e)] (v) ooreenkomstig artikel 30(3)(a) mee gehandel is;

(vi) nie aan die voorgeskrewe standaard van opleiding voldoen nie;

(b) 'n eiendomsagent wat –

(i) ten opsigte van sy boekjaar wat verstryk voor die datum waarop om 'n getrouheidsfondssertifikaat aansoek gedoen word, versuim het om aan 'n bepaling van artikel 29(b) of 32(3)(b) te voldoen; of

(ii) te eniger tyd, hetsy voor of na die inwerkingtreding van die Wysigingswet op Eiendomsagente, 1987, skuldig was aan 'n handeling of versuim ten opsigte waarvan iemand uit hoofde van die bepaling van artikel 18 uit die fonds of die Eiendomsagentegetrouheidsfonds, ingestel by artikel 12, voor die wysiging daarvan deur artikel 9 van laasgenoemde Wysigingswet, vergoed moes word, tensy die eiendomsagent die betrokke bedrag ten volle aan die betrokke raad terugbetaal het, of die raad van oordeel is dat bevredigende reëlins vir die vereffening deur hom van so 'n bedrag getref is en die betrokke raad die reëlins bekrachtig het;

(c) any estate agent who is a director of a company –

(i) of which the fidelity fund certificate was withdrawn by the board in terms of section 28 or 30; or

(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),

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 was so prohibited, was a director of such company:

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 Cabinet may determine, a fidelity fund certificate to such person when he applies therefor.”

Amendment of section
28 of Act 112 of 1976.

14. Section 28 of the principal Act is hereby amended by the addition of the following subsections:

“ (3) The court may, on good cause and upon application by the board or any other competent person, withdraw any fidelity fund certificate issued to any person, and thereupon such person or any other person having such certificate in his possession or under his control shall forthwith return it to the board.

(4) If it appears to the court that a person in respect of whom the board intends making an application under subsection (3) or section 32(6), has left the territory and that he probably does not intend to return to the territory and that his whereabouts are unknown, the court may order that service on that person of any process in connection with such application may be effected by the publication of such process in an En-

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(c) 'n eiendomsagent wat 'n direkteur is van 'n maatskappy –

(i) waarvan die getrouheidsfondssertifikaat ingevolge artikel 28 of 30 deur die raad ingetrek is; of

(ii) wat ingevolge artikel 32(6) verbied is om op enige wyse op sy trust- of spaar- of ander rentegewende rekening bedoel in artikel 32(2)(a) te werk,

of 'n eiendomsagent wat binne 'n tydperk van ses maande voor of op die datum waarop sodanige getrouheidsfondssertifikaat aldus ingetrek is of maatskappy aldus verbied is, 'n direkteur van daardie maatskappy was:

Met dien verstande dat indien die raad ten opsigte van iemand wat onderhewig is aan 'n onbevoegdheid bedoel in hierdie artikel, oortuig is dat, met behoorlike inagneming van die tersaaklike oorwegings, die uitreiking van 'n getrouheidsfondssertifikaat aan so iemand in belang van geregtigheid sal wees, die raad, op die voorwaardes wat die raad met die instemming van die Kabinet bepaal, 'n getrouheidsfondssertifikaat aan so iemand kan uitreik wanneer hy daarom aansoek doen.”.

14. Artikel 28 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg:

“ (3) Indien daar goeie gronde is, kan die hof op aansoek van die raad of 'n ander bevoegde persoon 'n getrouheidsfondssertifikaat wat aan iemand uitgereik is, intrek, en daarop moet so iemand of iemand wat in besit van of onder wie se beheer daardie sertifikaat is, dit onverwyld aan die raad terugbesorg.

(4) Indien dit vir die hof blyk dat iemand ten opsigte van wie die raad van voorneme is om 'n aansoek ingevolge subartikel (3) of artikel 32(6) te doen, die gebied verlaat het en dat hy waarskynlik nie van voorneme is om na die gebied terug te keer nie en dat dit onbekend is waar hy hom bevind, kan die hof gelas dat die betekening aan daardie persoon van enige prosesstuk in verband met so

Wysiging van artikel 28 van Wet 112 van 1976.

glish and an Afrikaans newspaper circulating in the district in which the said person's last known business address, as entered in the records of the board, is situated."

Amendment of section 29 of Act 112 of 1976.

15. Section 29 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) cause the accounting records referred to in paragraph (a) to be audited by an auditor within four months after the final date of the financial year of the estate agent, which final date shall after the commencement of section 15 of the Estate Agents Amendment Act, 1987, not be altered by him without the prior written approval of the board."

Amendment of section 30 of Act 112 of 1976.

16. Section 30 of the principal Act is hereby amended –

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

"(c) fails to pay any moneys due by him to the board or in respect of the fund within **[three months] one month** after such moneys become due;"

(b) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

"(g) fails to comply with **[the requirements] any provision of section 16(1), (2) or (4), 29 or 32, or contravenes any provision of section 26 or 32A(2)(a) or (b);**"

(c) by the insertion after the said paragraph (g) of the following paragraph:

"(gA) in his capacity as a director of a company 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

(d) by the substitution for paragraph (b) of subsection (3) of the following paragraph:

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'n aansoek kan geskied deur die publikasie van daardie prosesstuk in 'n Afrikaanse en 'n Engelse koerant wat in omloop is in die distrik waarin genoemde persoon se laasbekende besigheidsadres, soos in die stukke van die raad aangeteken, geleë is.”

15. Artikel 29 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

Wysiging van artikel 29 van Wet 112 van 1976.

“(b) die rekeningkundige aantekeninge bedoel in paragraaf (a) deur 'n ouditeur laat ouditeer binne vier maande na die einddatum van die boekjaar van die eiendomsagent, welke einddatum na die inwerkingtreding van artikel 15 van die Wysigingswet op Eiendomsagente, 1987, nie deur hom sonder die vooraf verkreë skriftelike goedkeuring van die raad verander mag word nie.”

16. Artikel 30 van die Hoofwet word hierby gewysig —

Wysiging van artikel 30 van Wet 112 van 1976.

(a) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

“(c) in gebreke bly om gelde wat deur hom aan die raad of ten opsigte van die fonds verskuldig is, te betaal binne [**drie maande**] een maand nadat daardie gelde betaalbaar word;”;

(b) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:

“(g) in gebreke bly om aan [**die vereistes**] 'n bepaling van artikel 16(1), (2) of (4), 29 of 32 te voldoen, of 'n bepaling van artikel 26 of 32A(2)(a) of (b) oortree;”;

(c) deur die volgende paragraaf na genoemde paragraaf (g) in te voeg:

“(gA) as direkteur van 'n maatskappy wat 'n eiendomsagent is en in gebreke gebly het om aan die vereistes van artikel 29 of 32 te voldoen, nie alle redelike stappe gedoen het om sodanige gebrek te voorkom nie;” en

(d) deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:

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“(b) impose on such estate agent a fine not exceeding ~~[R500]~~ R1 000 which is payable to the board;”;

Amendment of section
31 of Act 112 of 1976.

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

“Any person who feels aggrieved by any decision taken by the board in the exercise of its powers under section ~~8B(6)~~, 16, 27, 28 or 30 may **[within a period of]** at any time after he became aware of such decision but not later than one month after the board –”.

Amendment of section
32 of Act 112 of 1976.

18. Section 32 of the principal Act is hereby amended –

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

“(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.”;

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

“(a) Notwithstanding the provisions of subsection (1), any estate agent may invest in a separate savings or other interest-bearing account opened by him with any bank, building society or any institution or class of institution designated by notice in the **[Government]** *Official Gazette* by the **[Minister in consultation with the Minister of Finance]** Cabinet, any moneys deposited in his trust account which are not immediately required for any particular purpose.”;

(c) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) Interest on moneys deposited in a trust account referred to in subsection (1), and on moneys invested in terms of paragraph (a), shall, subject to the express terms of the man-

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“(b) daardie eiendomsagent ’n boete oplê wat [R500] R1 000 nie te bowe gaan nie en aan die raad betaalbaar is;”.

17. Artikel 31 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

Wysiging van artikel 31 van Wet 112 van 1976.

“Iemand wat hom veronreg voel deur ’n besluit wat die raad by die uitoefening van sy bevoegdhede kragtens artikel 8B(6), 16, 27, 28 of 30 geneem het, kan **[binne ’n tydperk van]** te eniger tyd nadat hy van daardie besluit bewus geword het maar nie later nie as een maand nadat die raad – ”.

18. Artikel 32 van die Hoofwet word hierby gewysig —

Wysiging van artikel 32 van Wet 112 van 1976.

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Elke eiendomsagent moet ’n aparte trustrekening, wat ’n verwysing na hierdie artikel moet bevat, by ’n bank open en hou en moet onverwyld daarin die geld stort wat hy op rekening van iemand hou of ontvang;”.

(b) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

“(a) Ondanks die bepalinge van subartikel (1) kan ’n eiendomsagent enige gelde wat in sy trustrekening gestort is en wat nie onmiddellik vir een of ander bepaalde doel benodig is nie, in ’n aparte spaar- of ander rentegewende rekening belê wat deur hom geopen is by ’n bank of bouvereniging of enige instelling of klas instelling wat deur die **[Minister in oorleg met die Minister van Finansies]** Kabinet by kennisgewing in die **[Staatskoerant]** *Offisiële Koerant* aangewys word;”.

(c) deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang:

“(c) Rente op geld wat in ’n trustrekening bedoel in subartikel (1) gestort is, en op gelde wat ingevolge paragraaf (a) belê is, word, behoudens

date in question, which shall be in writing, be paid to the fund by the estate agent concerned.”;

- (d) by the addition to subsection (2) of the following paragraph:

“(d) The board may in the prescribed circumstances refund to an estate agent a prescribed portion of the interest paid by such estate agent to the fund in terms of paragraph (c).”;

- (e) by the substitution for paragraph (b) of subsection (3) of the following paragraph:

“(b) balance his books and records relating to any account referred to in paragraph (a) at intervals of not more than [three months] one month, and cause them to be audited [at least once] annually by the auditor referred to in section 29(b), within four months after the final date of the financial year of the estate agent concerned.”;

- (f) by the substitution for subsection (4) of the following subsection:

“(4) Any auditor who does an audit contemplated in subsection (3)(b), shall [as soon as may be practicable] forthwith after completing such audit, transmit a report in the prescribed form in regard to his findings to the board, and a copy thereof to the relevant estate agent.”; and

- (g) by the substitution for subsection (5) of the following subsection:

“(5) Notwithstanding the provisions of subsection (3), the board may, on good cause, at any time order any estate agent by notice in writing to submit to the board within a period stated in such notice, but not less than 30 days, an audited statement fully setting out the state of affairs [of his trust, savings or other interest-bearing account referred to in subsection (2)(a)] in respect of the matters referred to in section 29(a).”.

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die uitdruklike bepalings van die betrokke lasgewing, wat op skrif moet wees, deur die betrokke eiendomsagent aan die fonds betaal.”;

(d) deur die volgende paragraaf by subartikel (2) te voeg:

“(d) Die raad kan ’n voorgeskrewe gedeelte van die rente wat ingevolge paragraaf (c) deur ’n eiendomsagent aan die fonds betaal is, in die voorgeskrewe omstandighede aan daardie eiendomsagent terugbetaal.”;

(e) deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:

“(b) sy boeke en aantekeninge wat op ’n rekening bedoel in paragraaf (a) betrekking het by tussenpose van hoogstens [**drie maande**] een maand afsluit, en [**minstens een keer**] jaarliks deur die ouditeur bedoel in artikel 29(b) laat ouditeer binne vier maande na die einddatum van die boekjaar van die betrokke eiendomsagent.”;

(f) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) ’n Ouditeur wat ’n oudit beoog in subartikel (3)(b) gedoen het, moet [**so gou doenlik**] onverwyld nadat hy daardie oudit voltooi het, ’n verslag oor sy bevindings op die voorgeskrewe vorm aan die raad, en ’n afskrif daarvan aan die betrokke eiendomsagent, deurstuur.”; en

(g) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Ondanks die bepalings van subartikel (3) kan die raad, indien daar goeie gronde is, te eniger tyd ’n eiendomsagent by skriftlike kennisgewing aansê om binne ’n tydperk in daardie kennisgewing vermeld, maar minstens 30 dae, ’n geouditeerde staat waarin die stand van sake [**van sy trust- of spaar- of ander rentegewende rekening**] ten opsigte van die aangeleenthede bedoel in [**subartikel (2)(a)**] artikel 29(a) volledig uiteengesit word, aan die raad voor te lê.”.

Insertion of section 32A
in Act 112 of 1976.

19. The following section is hereby inserted in the principal Act after section 32:

"Powers of inspectors.

32A. (1) Any inspector furnished with inspection authority in writing by the board may conduct an investigation to determine whether the provisions of this Act are being or have been complied with and may, subject to subsection (5), for that purpose, without giving prior notice, at all reasonable times –

(a) enter any place in respect of which he has reason to believe that –

(i) any person there is performing an act as an estate agent;

(ii) it is connected with an act performed by an estate agent;

(iii) there are books, records or documents to which the provisions of this Act are applicable;

(b) order any estate agent or the manager, employee or agent of any estate agent –

(i) to produce to him the fidelity fund certificate of that estate agent;

(ii) to produce to him any book, record or other document in the possession or under the control of that estate agent, manager, employee or agent;

(iii) to furnish him, at such place and in such manner as he may reasonably specify, with such information in respect of that fidelity fund certificate, book, record or other document as he may desire;

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19. Die volgende artikel word hierby in die Hoofwet na artikel 32 ingevoeg:

Invoeging van artikel 32A in Wet 112 van 1976.

“Bevoegdheid van inspekteurs.

32 A. (1) 'n Inspekteur aan wie die raad skriftelik inspeksiebevoegdheid verleen het, kan ondersoek instel om te bepaal of die bepalings van hierdie Wet nagekom is of word en kan, behoudens subartikel (5), vir daardie doel te alle redelike tye en sonder voorafgaande kennisgewing –

(a) 'n plek betree of binnegaan ten opsigte waarvan hy rede het om te glo dat –

(i) iemand daar 'n handeling as eiendomsagent verrig;

(ii) dit in verband staan met 'n handeling wat deur 'n eiendomsagent verrig word;

(iii) daar boeke, aantekeninge of stukke is waarop die bepalings van hierdie Wet van toepassing is;

(b) 'n eiendomsagent of die bestuurder, werknemer of agent van 'n eiendomsagent gelas om aan hom –

(i) die getrouheidsfondssertifikaat van daardie eiendomsagent te toon;

(ii) enige boek, aantekening of ander stuk in die besit of onder die beheer van daardie eiendomsagent, bestuurder, werknemer of agent te toon;

(iii) op die plek en wyse wat hy redelikerwys aandui die inligting te verstrek wat hy ten opsigte van sodanige getrouheidsfondssertifikaat, boek, aantekening of ander stuk verlang;

(c) examine or make extracts from or copies of such fidelity fund certificate, book, record or other document;

(d) seize and retain any such fidelity fund certificate, book, record or other document to which any prosecution or charge of improper conduct under this act may relate: Provided that the person from whose possession or custody any fidelity fund certificate, book, record or other document was taken, shall at his request be allowed to make, at his own expense and under the supervision of the inspector concerned, copies thereof or extracts therefrom.

(2) No person shall –

(a) fail on demand to place at the disposal of any inspector anything in his possession or under his control or on his premises which may relate to any inspection;

(b) hinder or obstruct any inspector in the exercise of his powers under this section;

(c) falsely hold himself out to be an inspector.

(3) Any inspector shall issue a receipt to the owner or person in control of anything seized and retained under this section.

(4) Any inspector who exercises any power in terms of this section shall, at the request of any person affected by the exercise of that power, produce the inspection authority in writing furnished to him in accordance with subsection (1).

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(c) enige sodanige getrouheidsfondssertifikaat, boek, aantekening of ander stuk inspekteer of uittreksels daaruit of afskrifte daarvan maak;

(d) enige sodanige getrouheidsfondssertifikaat, boek, aantekening of ander stuk waarop 'n vervolging of 'n aanklag weens onbehoorlike gedrag ingevolge hierdie Wet betrekking kan hê, in beslag neem en in bewaring hou: Met dien verstande dat die persoon uit wie se besit of bewaring 'n getrouheidsfondssertifikaat, boek, aantekening of ander stuk geneem is, op sy versoek toegelaat word om, onder toesig van die betrokke inspekteur en op eie koste, afskrifte daarvan of uittreksels daaruit te maak.

(2) Niemand mag –

(a) in gebreke bly om op aanvraag enigiets in sy besit of onder sy beheer of op sy perseel wat betrekking kan hê op 'n inspeksie, tot die beskikking van 'n inspekteur te stel nie;

(b) 'n inspekteur by die uitoefening van sy bevoegdhede kragtens hierdie artikel hinder of dwarsboom nie;

(c) valslik voorgee dat hy 'n inspekteur is nie.

(3) 'n Inspekteur moet 'n kwitansie gee aan die eienaar of persoon in beheer van enigiets wat kragtens hierdie artikel in beslag geneem en in bewaring gehou is.

(4) 'n Inspekteur wat 'n bevoegdheid ingevolge hierdie artikel uitoefen, moet op versoek van iemand wat deur die uitoefening van daardie bevoegdheid geraak word, die skriftelike inspeksiebevoegdhede toon wat ooreenkomstig subartikel (1) aan hom verleen is.

(5) Notwithstanding anything contained in this section, the provisions thereof, excluding subsection (2)(c), shall not apply in respect of –

(a) any attorney, member of a professional company or articled clerk, as defined in section 1 of the Attorneys Act, 1979 (Act 53 of 1979), or any employee of any such attorney, member or company;

(b) any premises from which such attorney or company conducts his or its practice; and

(c) any book, record or document on such premises or in the possession or under the control of any person referred to in paragraph (a).”.

Amendment of section 33 of Act 112 of 1976.

20. Section 33 of the principal Act is hereby amended –

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

“(gA) relating to the standard of training and practical experience of estate agents;”;

(b) by the insertion in subsection (1) after paragraph (i) of the following paragraphs:

“(iA) prescribing the times at which accounting records are to be audited in accordance with section 29(b) and 32(3);

(iB) prescribing the portion of the interest which, and the circumstances in which such portion, may be refunded to the estate agent concerned in terms of section 32(2)(d);”;

(c) by the insertion in subsection (1) after paragraph (k) of the following paragraph:

“(kA) prescribing the conditions on which any person may carry on his business as an estate agent from any residential premises;”;

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(5) Ondanks enigiets in hierdie artikel vervat, is die bepalings daarvan, uitgesonderd subartikel (2)(c), nie van toepassing nie ten opsigte van –

- (a) enige prokureur, lid van 'n professionele maatskappy of klerk onder leerkontrak, soos omskryf in artikel 1 van die Wet op Prokureurs, 1979 (Wet 53 van 1979), of enige werknemer van so 'n prokureur, lid of maatskappy;
- (b) enige perseel vanwaar so 'n prokureur of maatskappy sy praktyk voortsit; en
- (c) enige boek, aantekening of stuk op so 'n perseel, of in die besit of onder die beheer van iemand in paragraaf (a) bedoel.”

20. Artikel 33 van die Hoofwet word hierby gewysig —

Wysiging van artikel 33 van Wet 112 van 1976.

(a) deur in subartikel (1) na paragraaf (g) die volgende paragraaf in te voeg:

“(gA) betreffende die standaard van opleiding van eiendomsagente;”;

(b) deur in subartikel (1) na paragraaf (i) die volgende paragrawe in te voeg:

“(iA) wat die tye voorskryf waarop rekeningkundige aantekeninge ooreenkomstig artikel 29(b) en 32(3) geouditeer moet word;

(iB) waarby die gedeelte van die rente wat en die omstandighede waarin daardie gedeelte ingevolge artikel 32(2)(d) aan die betrokke eiendomsagent terugbetaal kan word, voorgeskryf word;”;

(c) deur in subartikel (1) na paragraaf (k) die volgende paragraaf in te voeg:

“(kA) wat die voorwaardes voorskryf waarop iemand as eiendomsagent sy besigheid vanaf 'n woonperseel kan bedryf;”;

(d) 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.”; and

(e) by the deletion of subsection (2).

Substitution of section 34 of Act 112 of 1976.

21. The following section is hereby substituted for section 34 of the principal Act:

“Offences and penalties.

34. Any person who contravenes or fails to comply with any provision of this Act or any order or request issued or addressed thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding ~~[R2 000]~~ R5 000 or to imprisonment for a period not exceeding ~~[two]~~ five years, or to both such fine and such imprisonment.”.

Amendment of section 35 of Act 112 of 1976.

22. Section 35 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“ (1) The ~~[Minister]~~ Cabinet may upon such conditions as it may deem fit, delegate in writing to an ~~[official officer]~~ in the Department of [Commerce] Economic Affairs any or all the powers conferred upon him by this Act, save the power to make regulations.”.

Substitution of section 36 of Act 112 of 1976.

23. The following section is hereby substituted for section 36 of the principal Act:

“Application of Act to South West Africa.

36. This Act ~~[and any amendment thereof]~~ shall apply ~~[also]~~ in the territory of South West Africa, including the Eastern Caprivi Zipfel.”.

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(d) deur na subartikel (1) die volgende subartikel in te voeg:

“ (1A) Verskillende regulasies kan ingevolge subartikel (1) ten opsigte van verskillende eiendoms-agente of kategorieë eiendomsagente uitgevaardig word.”; en

(e) deur subartikel (2) te skrap.

21. Artikel 34 van die Hoofwet word hierby deur die volgende artikel vervang:

“Misdrywe en strawwe.

34. Iemand wat 'n bepaling van hierdie Wet of 'n bevel of 'n versoek daarkragtens uitgereik of gerig, oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens **[R2 000] R5 000** of met gevangenisstraf vir 'n tydperk van hoogstens **[twee] vyf** jaar, of met sowel daardie boete as daardie gevangenisstraf.”

Vervanging van artikel 34 van Wet 112 van 1976.

22. Artikel 35 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“ (1) Die **[Minister] Kabinet** kan op die voorwaardes wat hy goedgevind enige van of al die bevoegdhede ingevolge hierdie Wet aan hom verleen, behalwe 'n bevoegdheid om regulasies uit te vaardig, skriftelik aan 'n beampte in die Departement van **[Handel] Ekonomiese Sake** delegeer.”

Wysiging van artikel 35 van Wet 112 van 1976.

23. Artikel 36 van die Hoofwet word hierby deur die volgende artikel vervang:

“Toepassing van Wet in Suidwes-Afrika.

36. Hierdie Wet **[en enige wysiging daarvan]** is **[ook]** van toepassing in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel.”

Vervanging van artikel 36 van Wet 112 van 1976.

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Substitution of certain words in Act 112 of 1976.

24. Subject to the provisions of this Act, the principal Act is hereby amended –

- (a) by the substitution for the word “Minister”, wherever it occurs, of the word “Cabinet”; and
- (b) by the substitution for the word “Republic”, wherever it occurs, of the word “territory”.

Validity of fidelity fund certificates issued before commencement of this Act.

25. Any fidelity fund certificate issued under section 16 of the principal Act, by the Estate Agents Board, established by section 2 of the principal Act before the commencement of this Act in respect of the period ending 31 December 1988 shall, notwithstanding the provisions of this Act but subject to the provisions of section 28 of the principal Act, continue to be of force and effect for the said period as if that certificate were issued under the said section 16, as amended by section 10 of this Act, by the South West African Estate Agents Board, established by section 2 of the principal Act, as substituted by section 2 of this Act.

Application in South West Africa of regulations issued under Act 112 of 1976.

26. (1) The regulations published under section 33 of the principal Act in the *Government Gazette* of the Republic of South Africa which were of force and effect in the Republic immediately before the commencement of this Act shall, subject to the provisions of subsection (2), apply in the territory of South West Africa as if it were made by the Cabinet under the said section 33 and published in the *Official Gazette* on the date of commencement of this Act.

(2) For the purposes of the regulations referred to in subsection (1) –

- (a) any reference –
 - (i) to the *Gazette*, shall be construed as a reference to the *Official Gazette*;
 - (ii) to the Estate Agents Act, 1976, shall be construed as a reference to the said Act, as amended by the provisions of this Act;
 - (iii) to the Estate Agents Board, shall be construed as a reference to the South West African Estate Agents Board;

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24. Behoudens die bepalings van hierdie Wet word die Hoofwet hierby gewysig –

Vervanging van sekere woorde in Wet 112 van 1976.

- (a) deur die woord “Minister”, oral waar dit voorkom, deur die woord “Kabinet” te vervang; en
- (b) deur die woord “Republiek”, oral waar dit voorkom, deur die woord “gebied” te vervang.

25. 'n Getrouheidsfondssertifikaat wat voor die inwerkingtreding van hierdie Wet kragtens artikel 16 van die Hoofwet ten opsigte van die tydperk wat op 31 Desember 1988 eindig deur die Raad vir Eiendomsagente, ingestel by artikel 2 van die Hoofwet, uitgereik is, bly, ondanks die bepalings van hierdie Wet maar behoudens die bepalings van artikel 28 van die Hoofwet, van krag vir bedoelde tydperk asof daardie sertifikaat kragtens genoemde artikel 16, soos gewysig deur artikel 10 van hierdie Wet, deur die Suidwes-Afrikaanse Raad vir Eiendomsagente, ingestel by artikel 2 van die Hoofwet, soos vervang deur artikel 2 van hierdie Wet, uitgereik is.

Regsgeldigheid van getrouheidsfondssertifikate voor inwerkingtreding van hierdie Wet uigereik.

26. (1) Die regulasies wat kragtens artikel 33 van die Hoofwet in die *Staatskoerant* van die Republiek van Suid-Afrika afgekondig is en wat onmiddellik voor die inwerkingtreding van hierdie Wet in die Republiek van krag is, is, behoudens die bepalings van subartikel (2), in die gebied Suidwes-Afrika van toepassing asof dit op die datum van inwerkingtreding van hierdie Wet kragtens genoemde artikel 33 deur die Kabinet uitgevaardig en in die *Offisiële Koerant* afgekondig is.

Toepassing van regulasies uitgevaardig kragtens Wet 112 van 1976 in Suidwes-Afrika.

(2) By die toepassing van die regulasies in subartikel (1) bedoel –

(a) word 'n verwysing –

- (i) na die *Staatskoerant*, uitgelê as 'n verwysing na die *Offisiële Koerant*;
- (ii) na die Wet op Eiendomsagente, 1976, uitgelê as 'n verwysing na bedoelde Wet, soos gewysig deur die bepalings van hierdie Wet;
- (iii) na die Raad vir Eiendomsagente, uitgelê as 'n verwysing na die Suidwes-Afrikaanse Raad vir Eiendomsagente;

(iv) to the Estate Agents Fidelity Trust Fund, shall be construed as a reference to the Estate Agents Fidelity Trust Fund for South West Africa;

(v) to the Minister of Commerce and Consumer Affairs, shall be construed as a reference to the Cabinet;

(b) the regulations published by Government Notice R.1409 in *Government Gazette* 8783 of 1 July 1983 shall be deemed to have been amended –

(i) by the substitution for regulation 3 of the following regulation:

“ 3. The examination referred to in regulation 2 shall be conducted in Windhoek or such other places as the board may from time to time determine.”;

(ii) by the substitution for regulations 7 and 8 of the following regulations, respectively:

“ 7. These regulations shall apply to all estate agents or prospective estate agents excluding –

(a) principal estate agents who were on any date before or on 31 December 1982; and

(b) employee estate agents who were on any date before or on 31 December 1979,

issued by the Estate Agents Board of the Republic of South Africa with a fidelity fund certificate and who have since the above-mentioned dates, as the case may be, continuously and uninterruptedly been in possession of fidelity fund certificates.

8. Any principal or employee estate agent to whom a fidelity fund certificate has been issued by the said Board at any time during the periods 1 January 1983 to the date of commencement of the Estate Agents Amendment Act, 1987, and 1 January 1980 to the said date of commencement, respectively, may continue to act as such: Provided that if such estate

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(iv) na die Eiendomsagente-getrouheidsfonds, uitgelê as 'n verwysing na Eiendomsagente-getrouheidsfonds vir Suidwes-Afrika;

(v) na die Minister van Handel en Verbruikersake, uitgelê as 'n verwysing na die Kabinet;

(b) word die regulasies afgekondig by Goewermentskennisgewing R.1409 in *Staatskoerant* 8783 van 1 Julie 1983 geag gewysig te wees –

(i) deur die vervanging van regulasie 3 deur die volgende regulasie:

“ 3. Die eksamens waarna in regulasie 2 verwys word, word in Windhoek of die ander plekke wat die raad van tyd tot tyd bepaal, afgeneem.”;

(ii) deur die vervanging van regulasies 7 en 8 deur, onderskeidelik, die volgende regulasies:

“ 7. Hierdie regulasies is op alle eiendomsagente of voornemende eiendomsagente van toepassing, maar uitgesonderd –

(a) prinsipaal-eiendomsagente wat op enige datum voor of op 31 Desember 1982; en

(b) werknemer-eiendomsagente wat op enige datum voor of op 31 Desember 1979,

deur die Raad vir Eiendomsagente van die Republiek van Suid-Afrika van 'n getrouheidsfondssertifikaat voorsien is en wie vanaf bogenelde datums, na gelang van die geval, deurlopend en ononderbroke in besit van getrouheidsfondssertifikate was.

8. Enige prinsipaal- of werknemer-eiendomsagent aan wie 'n getrouheidsfondssertifikaat op enige tydstip gedurende die tydperke 1 Januarie 1983 tot die datum van inwerkingtreding van die Wysigingswet op Eiendomsagente, 1987, en 1 Januarie 1980 tot bedoelde datum van inwerkingtreding, onderskeidelik, deur genoemde Raad uitgereik is,

agent has not passed the examination referred to in regulation 2 by the 31st day of December 1988, he shall forthwith cease to act as such and may not apply to the board for the issue to him of a fidelity fund certificate until such time as such person has passed the said examination.”; and

(iii) by the repeal of regulation 9.

Validation of certain acts performed in South West Africa in terms of Act 112 of 1976.

27. Anything purporting to have been done by the Estate Agents Board, established by section 2 of the principal Act, before the commencement of this Act under any provision of the principal Act, as amended by the Estate Agents Amendment Act, 1978 (Act 60 of 1978), the Estate Agents Amendment Act, 1980 (Act 57 of 1980), the Estate Agents Amendment Act, 1982 (Act 53 of 1982), and the Estate Agents Amendment Act, 1984 (Act 51 of 1984), and the regulations made thereunder, shall be deemed to have been done as if those Amendment Acts and regulations were at all relevant times also applicable in the territory of South West Africa.

Short title and commencement.

28. (1) This Act shall be called the Estate Agents Amendment Act, 1987, and shall, subject to the provisions of subsection (2), come into operation on a date to be fixed by the Administrator-General by proclamation in the *Official Gazette*.

(2) The provisions of section 13, in so far as it relates to section 27(a)(vi) of the principal Act, shall in relation to an estate agent to whom a fidelity fund certificate referred to in section 25 of this Act, has been issued, come into operation on the date on which he is required to apply, in terms of section 16 of the principal Act, for a fidelity certificate for the period ending 31 December 1989.

WYSIGINGSWET OP EIENDOMSAGENTE, 1987

Wet No. 28, 1987

kan voortgaan om as sodanig op te tree: Met dien verstande dat indien sodanige eiendomsagent nie die eksamen soos bedoel in regulasie 2 teen 31 Desember 1988 geslaag het nie, hy onverwyld moet ophou om as sodanig op te tree en nie by die raad mag aansoek doen om die uitreiking van 'n getrouheidsfondssertifikaat nie alvorens sodanige persoon die genoemde eksamen geslaag het.”; en

(iii) deur die herroeping van regulasie 9.

27. Enigiets wat voor die inwerkingtreding van hierdie Wet heet deur die Raad vir Eiendomsagente, ingestel by artikel 2 van die Hoofwet, kragtens 'n bepaling van die Hoofwet, soos gewysig deur die Wysigingswet op Eiendomsagente, 1978 (Wet 60 van 1978), die Wysigingswet op Eiendomsagente, 1980 (Wet 57 van 1980), die Wysigingswet op Eiendomsagente, 1982 (Wet 53 van 1982), en die Wysigingswet op Eiendomsagente, 1984 (Wet 51 van 1984), en die regulasies daarkragtens uitgevaardig, gedoen te gewees het, word geag gedoen te gewees het asof daardie Wysigingswette en regulasies te alle tersaaklike tye ook in die gebied Suidwes-Afrika van toepassing was.

Geldigverklaring van sekere handelingte ingevolge Wet 112 van 1976 in Suidwes-Afrika verrig.

28. (1) Hierdie Wet heet die Wysigingswet op Eiendomsagente, 1987, en tree, behoudens die bepalings van subartikel (2), in werking op 'n datum deur die Administrateur-generaal by proklamasie in die *Offisiële Koerant* bepaal.

Kort titel en inwerking-treding.

(2) Die bepalings van artikel 13, vir sover dit op artikel 27(a)(vi) van die Hoofwet betrekking het, tree, met betrekking tot 'n eiendomsagent aan wie 'n getrouheidsfondssertifikaat in artikel 25 van hierdie Wet bedoel, uitgereik is, in werking op die datum waarop hy ingevolge artikel 16 van die Hoofwet vir die tydperk wat op 31 Desember 1989 eindig om 'n getrouheidsfondssertifikaat moet aansoek doen.