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CONTENTS • INHOUD

No.

Page
No. Gazette
No.**GENERAL NOTICE****Trade and Industry, Department of***General Notice*

2035	Estate Agents Affairs Act (112/1976): Notice of intention to prescribe examination fees.....	3	28345
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For enquiries and information:

**Mr M Z Montjane
Tel: (012) 334-4653
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GENERAL NOTICE

NOTICE 2035 OF 2005

DEPARTMENT OF TRADE AND INDUSTRY

NOTICE OF INTENTION TO PRESCRIBE EXAMINATION FEES IN TERMS OF THE ESTATE AGENTS AFFAIRS ACT, [ACT NO. 112 OF 1976]

The Minister of Trade and Industry hereby issues a Notice of intention to revise the prescribed Examination Fees in terms of section 33 of the Estate Agents Affairs Act, 112. The proposed fee is herein published for public comment:

1. The examination fee for the purpose of regulation 4(b) of government gazette notice R1409 of 1 July 1983 will be determined at R400,00 [incl. value added tax] per entrant.

Interested persons are hereby invited to furnish written representation on or before Monday 16 January 2006 to –:

Ms. Nozipho Buthelezi
Department of Trade and Industry
Consumer & Corporate Regulations
Division
Private Bag X 84
Pretoria, 0001

the dti campus
Block A, Building B
77 Meintjies Street
Sunnyside,
Pretoria

Fax: 012 394 2540.

ISSUE OF FIDELITY FUND AND REGISTRATION CERTIFICATES

The Minister of Trade and Industry has, after consultation with the Estate Agency Affairs Board ("the Board"), in terms of section 33 of the Estate Agency Affairs Act, 112 of 1976 ("the Act"), made the regulations contained in the schedule.

SCHEDULE

1. In these regulations words and expressions defined or used in the Act have the meaning assigned thereto.
2. Every estate agent, excluding an 'estate agent' referred to in paragraph (cA) of the definition of 'estate agent' in section 1 of the Act, shall –

(a) for the calendar year 2006, and annually thereafter, pay to the Board a levy of –

- (i) R750, 00 (plus VAT) if he/she is principal estate agent
- (ii) R320, 00 (plus VAT) if he/she is non-principal estate agent

(b) for the calendar year 2006, and any subsequent year in respect of which he/she applies for the issue to him/her of a fidelity fund certificate, pay to the Estate Agents Fidelity Fund ("the Fund") a contribution of –

- (i) R415, 00 if he/she is principal estate agent
- (ii) R165, 00 if he/she is non-principal-estate agent;

provided that no such contribution will be payable if the estate agent concerned can show that a valid fidelity fund certificate was issued to him/her in respect of any one of the immediately preceding three calendar years.

3. An estate agent referred to in paragraph (cA) of the definition of 'estate agent' in section 1 of the Act shall pay annually to the Board a levy of:

- (i) R320, 00 (plus VAT) for principal members
- (ii) R185, 00 (plus VAT) for non-principal members,

for the issue of registration certificate.

4. (1) Every estate agent to whom a fidelity fund certificate or registration certificate, as the case may be, has already been issued in respect of a specific calendar year, shall, unless he/she has ceased or will cease before

the end of that year to operate as an estate agent and has advised the Board of such fact in the prescribed manner, by not later than 31 October of that year, apply to the Board for the issue to him/her of a fidelity fund certificate or registration certificate, as the case may be, in respect of the immediately succeeding calendar year.

4. (2) Any person who intends to commence operating as an estate agent during the course of any calendar year shall apply to the Board for the issue to him/her of a fidelity fund certificate or registration certificate, as the case may be, in respect of the remainder of that year.
4. (3) An estate agent who carries on business, otherwise than as an employee or independent contractor, in more than one branch or outlet, shall apply for a separate fidelity fund certificate in respect of each such branch or outlet, irrespective of the trading name or style under which the business is carried on in each such branch or outlet and shall display each such fidelity fund certificate to the satisfaction of the Board in a prominent position in each such branch or outlet; Provided that each such fidelity fund certificate shall be issued to the estate agent free of charge by the Board.
5. The applications referred to in regulation 4 shall be accompanied by the levies referred to in regulation 2 or 3, as the case may be, and by the contribution referred to in regulation 2, if the contribution is applicable.
6. An application by a person who applies in terms of regulation 4(2) for the issue to him/her of a fidelity fund certificate or a registration certificate, as the case may be, for a certain year shall, be accompanied by the full amount of the levy and, if applicable, the contribution referred to in regulation 2 or the full amount of the levy referred to in regulation 3, as the case may be.
7. Any proposed change in the amount of levies and contributions for any particular calendar year shall be published in the *Gazette* for information and interested parties shall be afforded an opportunity of six (6) weeks as from date of publication to submit written comments on the proposed changes to the Department of Trade and Industry.
8. (1) If the Board is satisfied that the applicant concerned is not disqualified in terms of section 27 of the Act and that the requirements of regulations 4 and 5 have been complied with, the Board shall issue to the applicant a fidelity fund certificate or a registration certificate, as the case may be, which certificate shall be expressed to be valid until 31 December of the year to which the application relates.

- (2) The word "Candidate" shall be printed in a conspicuous manner on any fidelity fund certificate issued to a person who in terms of Government Notice No. R1469 of 29 June 1990 has been exempted from complying with the standard of training prescribed by Government Notice No. R1409 of 1 July 1983.

9. (1) Any company or close corporation operating as an estate agency is exempted from the payment of the levy and from payment of the contribution referred to in regulation 2, provided that a fidelity fund certificate has been issued to each of its directors or members, as the case may be, contemplated in paragraph (b) of the definition of 'estate agent' in section 1 of the Act.

- (2) Notwithstanding the provisions of sub-regulation (1), such company or close corporation shall in its own name apply in terms of these regulations for the issue to it of a fidelity fund certificate.

- (3) A fidelity fund certificate referred to in sub-regulation (2) shall be issued free of charge and shall, to the satisfaction of the Board, be displayed in a prominent position on the premises of the company or close corporation concerned.

10. The holder of a fidelity fund certificate or a registration certificate, as the case may be, shall inform the Board within fourteen (14) days of any change in the information supplied to the Board at the time of applying for the issue to him/her of such certificate and, if the information appearing on the certificate is no longer applicable or has changed, such certificate shall forthwith be forwarded to the Board for the appropriate amendment thereof or for the issue of a new certificate in substitution thereof.

11. Every fidelity fund certificate or registration certificate issued in terms of these regulations shall remain the property of the Board.

12. (1) If a fidelity fund certificate was issued to an independent contractor or any person referred to in paragraph (c)(ii) of the definition of 'estate agent' in section 1 of the Act, and such person ceases to be employed by or associated with the employer mentioned in such certificate, that employer shall, within fourteen (14) days of such person ceasing to be in his/her employ, or to be thus associated, return such certificate to the Board together with a notification informing the Board of such fact and, if such information is available, stating with whom that person is taking up employment or becoming associated.

- (2) The provisions of sub-regulation (1) shall *mutatis mutandis* apply to a registration certificate issued to any person referred to in paragraph (cA) of the definition of 'estate agent' in the Act.

- (3) If the employer concerned is unable, for any reason, to return the certificate as required by sub-regulation (1) or (2), as the case may be, the employer shall within fourteen (14) days of the termination of employment or ceasing to be associated, inform the Board of that fact, stating the reasons why it is unable to return such certificate as well as furnishing all available information concerning the whereabouts of such employee or independent contractor.

13. Government Notices R956 of 24 May 1977, R989 of 1 June 1977, R1779 of 31 August 1978, R605 of 23 March 1979, R2500 of 13 November 1981, R1787 of 20 August 1982, R2071 of 23 September 1983, R1935 of 30 August 1985 and R1798 of 29 August 1986 are hereby withdrawn with effect from 01 January 2006.
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