

Chapter 27:05**PREVIOUS CHAPTER****ESTATE AGENTS ACT**

Acts 8/1970, 39/1973 (s. 52), 29/1978, 39/1979, 3/1981, 15/1981 (s. 66), 29/1981 (s. 59) (Part XLVI), 19/1982 (s. 10), 9/1985, 8/1988 (s. 164) (Part XXI), 19/1998 (s. 16); R.G.N. 124/1974.

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SCHEDULE: Practical Experience Required for Registration.

AN ACT to establish an Estate Agents Council; to provide for the registration and regulation of the practice of estate agents in Zimbabwe; to provide for the establishment and operation of an Estate Agents Compensation Fund; to regulate the keeping of moneys held by estate agents on behalf of other persons; and to provide for matters incidental to the foregoing.

[Date of commencement: 2nd October, 1970.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Estate Agents Act [Chapter 27:05].

2 Interpretation

(1) In this Act—

“certificate of registration” means a certificate issued in terms of paragraph (a) of subsection (3) of section twenty-one;

“compensation fund certificate” means a certificate issued in terms of subsection (2) of section thirty-six;

“Council” means the Estate Agents Council established by section three;

“elected member” means a member of the Council elected or deemed to have been elected thereto in terms of paragraph (a) of subsection (1) of section four;

“Fund” means the Estate Agents Compensation Fund established by section thirty-two;

“member” means a member of the Council;

“Mashonaland” means the area served by the deeds registry at Harare in terms of the Deeds Registries Act [Chapter 20:05];

“Matabeleland” means the area served by the deeds registry at Bulawayo in terms of the Deeds Registries Act [Chapter 20:05];

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“recognized institute” means—

(a) The Auctioneers’, Estate Agents’ and Valuers’ Institute of Zimbabwe;

or

(b) such other institution, institute or society as may be prescribed;

“register” means register as an estate agent in terms of this Act;

“Register” means the Register of Estate Agents established in terms of subsection (1) of section twenty-one;

“Registrar” means the Registrar of Estate Agents appointed in terms of section twenty;

(2) For the purposes of this Act—

“practice as an estate agent”, subject to section fifty-two, means the doing for payment or reward of any of the following acts—

(a) in connection with the sale or proposed sale of immovable property belonging to another person—

(i) the bringing together or taking of steps to bring together the parties to the sale or proposed sale;

(ii) the negotiating of the terms of the sale or proposed sale;

(iii) acting as auctioneer in connection with the sale or proposed sale;

or

(b) the valuing for any purpose of immovable property or any part thereof; or

(c) the assessing of the rental value of immovable property or any part thereof.

(3) For the purposes of this Act, a person shall be treated as carrying on business as an estate agent if and only if he, or a partnership of which he is a member—

(a) receives payment or reward for acts done by way of practice as an estate agent by him or by a partner of his or by an employee of his or of all or any of the partners; or

(b) holds himself or itself out as prepared in return for payment to undertake the doing by any such person of acts by way of practice as an estate agent.

(4) In this section—

“employee”, in relation to a body corporate, includes a director;

“immovable property” includes any interest therein, but does not include mines, quarries or minerals;

“payment or reward” does not include payment which is limited to the reimbursement of expenses;

“sale of immovable property” includes—

(a) any lease of immovable property;

(b) any disposal of immovable property for valuable consideration;

(c) the sale or other disposition for valuable consideration of—

(i) the shares in a private company whose principal assets consist of immovable property; or

(ii) any share or shares in a private company which entitle the holder, by virtue of any agreement or arrangement, to occupy immovable property or any part thereof.

PART II

ESTATE AGENTS COUNCIL

3 Establishment of Council

There is hereby established a council to be known as the Estate Agents Council which shall be a body corporate capable of suing and being sued in its corporate name.

4 Composition of Council

(1) The Council shall consist of nine members elected or appointed as follows—

(a) six members who are registered estate agents and have been elected in the manner prescribed by registered estate agents;

(b) three members appointed by the Minister, of whom at least two are not registered estate agents.

(2) Of the elected members at least one shall be ordinarily resident in Mashonaland and at least one shall be ordinarily resident in Matabeleland.

5 Chairman and vice-chairman of Council

(1) There shall be a chairman and vice-chairman of the Council who shall be elected from amongst the members of the Council by members present at the first meeting of the Council and thereafter at the first meeting of the Council held after any vacancy in the office of chairman or vice-chairman, as the case may be, has occurred.

(2) If the chairman of the Council is unable to exercise the functions of chairman by reason of illness, absence from Zimbabwe or other cause, the vice-chairman shall exercise the functions and powers and perform the duties of the chairman.

6 Conditions of office of members

(1) A member shall hold office for a period of three years.

(2) A member shall—

(a) hold office on such conditions; and

(b) be paid out of the funds of the Council such remuneration and allowances, if any;

as the Minister may in each case fix.

(3) A retiring member shall be eligible for re-election or reappointment as a member.

7 Disqualifications for election or appointment as member

No person shall be elected or appointed as a member and no person shall be qualified to hold office as a member who—

(a) has, in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;

or

(b) has, within the period of five years immediately preceding the date of his proposed election or appointment, been convicted—

(i) within Zimbabwe of a criminal offence; or

(ii) outside Zimbabwe of an offence, by whatever name called, which if committed within Zimbabwe would have been a criminal offence;

and sentenced by a court to imprisonment for a term of six months or more, without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon;

or

(c) is a member of Parliament.

8 Vacation of office by member

A member shall vacate his office and his office shall become vacant—

(a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiration of such shorter period as he and the Minister may agree; or

(b) thirty days after the date he is sentenced by a court to imprisonment referred to in paragraph (b) of section seven after conviction of an offence referred to

in that paragraph:

Provided that if, during the said period of thirty days, an application for a free pardon is made or an appeal is filed the question whether the member is to vacate his office shall not be determined until the final disposal of such application or appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless he is granted a free pardon, his conviction is set aside, his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted; or

(c) if he becomes disqualified in terms of paragraph (a) or (c) of section seven to hold office as a member; or

(d) if he is required in terms of section nine to vacate his office; or

(e) if he is absent without the permission of the Council from two consecutive meetings of the Council of which he has had notice to attend; or

(f) if he was a registered estate agent at the date of his election or appointment and subsequently ceases to be so registered.

9 Minister may require member to vacate office

(1) The Minister may require a member to vacate his office if the Minister is satisfied that the member—

(a) has been guilty of conduct which renders him unfit to be a member; or

(b) has ceased or failed to comply with the conditions of his office fixed by the Minister in terms of subsection (2) of section six; or

(c) is mentally or physically incapable of efficiently performing his duties.

(2) If at any time the Minister is satisfied that—

(a) an elected member was at the time of his election or appointment ordinarily resident in Mashonaland or Matabeleland, as the case may be, and has since ceased to be ordinarily resident therein; and

(b) by virtue of such elected member ceasing to be ordinarily resident in Mashonaland or Matabeleland, as the case may be, there is no elected member ordinarily resident in Mashonaland or Matabeleland, as the case may be;

he shall require that elected member to vacate his office.

10 Filling of vacancies on Council

(1) If the registered estate agents referred to in paragraph (a) of subsection (1) of section four for any reason fail, neglect or refuse to elect any of the members referred to in that paragraph, the Minister may appoint such of those members as the registered estate agents fail, neglect or refuse to elect.

(2) A member appointed by the Minister in terms of subsection (1) shall be deemed, for the purposes of this Act, to have been duly elected to the Council in terms of paragraph (a) of subsection (1) of section four.

(3) On the death of or the vacation of office by a member—

(a) who was an elected member, registered estate agents shall elect a registered estate agent in the manner prescribed;

(b) who was appointed by the Minister, the Minister shall appoint a person;

to fill the vacancy until the expiration of the period during which the member would, but for his death or the vacation of his office, have continued in office:

Provided that, if the period during which a member referred to in paragraph (a) would, but for his death or the vacation of his office, have continued in office is less than six months, the Council may co-opt a registered estate agent to fill the vacancy.

(4) If an elected member is granted leave of absence by the Council, the Council may co-opt a registered estate agent to fill the vacancy during his absence.

11 Meetings and decisions of Council

(1) The Council shall hold its first meeting on such date and at such place as the Minister may specify and thereafter the Council shall meet together for the dispatch of business and adjourn, close and otherwise regulate its meetings and proceedings as

it thinks fit:

Provided that the Council shall meet not less than once in each calendar year.

(2) The chairman of the Council may himself at any time and shall, at the request in writing of not less than three members, convene a special meeting of the Council.

(3) A notice convening a special meeting of the Council shall state the purposes for which the meeting is to be convened.

(4) The chairman or, in his absence, the vice-chairman shall preside at any meeting of the Council:

Provided that, if both the chairman and the vice-chairman are absent from a meeting of the Council, the members present shall elect from their number an acting chairman who shall preside at that meeting.

(5) Five members shall form a quorum at a meeting of the Council.

(6) All acts, matters or things authorized or required to be done by the Council may be decided by a majority vote at a meeting of the Council at which a quorum is present.

(7) At all meetings of the Council each member present shall have one vote on a question before the Council and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

12 Validity of decisions and acts of Council

No decision or act of the Council or act done under the authority of the Council shall be invalid by reason only of the fact that—

(a) the Council did not consist of the full number of members for which provision is made in section four; or

(b) a disqualified person acted as a member of the Council at the time the decision was taken or the act was done or authorized.

13 Functions of Council

(1) It shall be the function of the Council to hold inquiries for the purposes of this Act and to do all things required to be done by the Council in terms of this Act and such other things as may be done by the Council in terms of this Act as, in the opinion of the Council, are necessary for ensuring that the competence and conduct of estate agents practising in Zimbabwe are of a standard sufficiently high for the protection of the public

(2) Subject to section seventeen, the expenses incurred by the Council in the exercise of its functions in terms of this Act shall be met out of the funds of the Council.

(3) For the purpose of carrying out its functions the Council shall have power—

(a) if it is reasonably necessary for the detection of any offence in terms of this Act, to investigate at all reasonable times and without giving prior notice any person practising or suspected to be practising as an estate agent, and for such purpose the Council may appoint in writing an investigator, approved either generally or specifically for the purpose by the Minister, with authority to—

(i) enter any premises; and

(ii) question any persons employed on the premises; and

(iii) inspect, make copies of and take extracts from any books, records or other documents;

connected with or related to the practice of the person investigated and report to the Council;

(b) to call for an affidavit from any person in respect of any matter arising from the implementation of its functions.

(4) An investigator appointed in terms of paragraph (a) of subsection (3) shall—

(a) before entering any premises that form the subject of an investigation, notify the officer commanding the police district in which the premises are situated of his intention to do so; and

(b) be accompanied by a police officer assigned to him by the police officer referred to in paragraph (a):

Provided that where an investigator has reason for believing that any

delay involved in obtaining the accompaniment of a police officer would defeat the object of the investigation, he may enter any premises that form the subject of an investigation without such police officer.

(5) Any person who hinders, obstructs or makes any false representation to an investigator appointed in terms of paragraph (a) of subsection (3) shall be guilty of an offence.

14 Funds of Council

Subject to Part VII, the funds of the Council shall consist of—

(a) fees and other moneys payable to the Council in terms of this Act; and

(b) such other moneys and assets as may vest in or accrue to the Council,

whether in the course of the exercise of its functions or otherwise.

15 Accounts of Council

(1) The Council shall keep proper books of account and other records relating thereto.

(2) The accounts of the Council shall be audited once, at least, in each calendar year by an auditor registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] appointed by the Council.

16 General meetings of registered estate agents

(1) The Council shall at least once in each calendar year convene a general meeting of all registered estate agents.

(2) The Council shall ensure that not less than fourteen days' notice in writing of a general meeting of registered estate agents is sent to each registered estate agent, which notice shall set out the matters to be dealt with at that general meeting.

(3) The Council shall submit to the annual general meeting called in terms of subsection (1) a report setting out the activities of the Council since the previous annual general meeting.

17 Inquiries by Council

(1) The Council shall have power to hold inquiries for the purposes of this Act and for such other purposes as the Minister may approve.

(2) For the purposes of holding an inquiry in terms of subsection (1) the Council shall have the same powers, rights and privileges as are conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and sections 15 and 16 of that Act shall apply, mutatis mutandis, in relation to an inquiry held in terms of subsection (1) and to any person summoned to give evidence or giving evidence at the inquiry.

(1) and to any person summoned to give evidence or giving evidence at the inquiry.

18 Committees of Council

(1) The Council may—

(a) establish committees to assist the Council in the exercise of its functions under this Act; and

(b) appoint such registered estate agents as it may consider expedient to be members of a committee referred to in paragraph (a).

(2) The Council may assign to a committee referred to in subsection (1) such of the functions of the Council under this Act as the Council may consider expedient.

(3) The Council shall not be treated as having divested itself of any function assigned to a committee referred to in subsection (1) and the Council may vary or revoke any decision of a committee made in the exercise of that function.

(4) The Council may appoint a legal practitioner entitled to audience before a magistrates court to advise the Council in the exercise of its functions under this Act or a committee of the Council referred to in subsection (1) in the exercise of any function assigned to it in terms of subsection (2).

19 Recovery by Council of costs and fees

The Council may by action in a competent court recover any—

(a) any expenses, costs or fine ordered to be paid by a registered estate agent in terms of section twenty-eight;

(b) fee referred to in paragraph (a) or (b) of subsection (2) of section fifty-one which is not paid to the Council within the prescribed time.

PART III

REGISTRAR AND REGISTER OF ESTATE AGENTS

20 Appointment of Registrar of Estate Agents

The Minister shall appoint a person, to be known as the Registrar of Estate Agents, who shall exercise the powers conferred, and perform the duties imposed, on the Registrar by or in terms of this Act.

21 Register of Estate Agents and certificates of registration

(1) The Registrar shall establish a Register of Estate Agents.

(2) It shall be the duty of the Registrar to—

(a) enter in the Register the names and addresses and such other particulars as may be prescribed of each person whom the Council directs, in terms of subsection (1) of section twenty-seven, shall be registered; and

(b) make in the Register any necessary alterations in the name, address or prescribed particulars of a registered estate agent; and

(c) delete from the Register the name of a registered estate agent who dies; and

(d) when required to do so by or under this Act or in pursuance of the order of a Tribunal—

(i) mark in the Register the registration of an applicant or, as the case may be, the suspension from practice of a registered estate agent; and

(ii) cancel in the Register the registration of a registered estate agent; and generally in connection with the Register to comply with the provisions of this Act and any order by a Tribunal.

(3) If, in the performance of the duties imposed upon him by or under this Act, the Registrar—

(a) registers an applicant, he shall issue to him a certificate of registration;

(b) cancels the registration of a registered estate agent or marks in the Register the suspension from practice of a registered estate agent, he shall notify him in writing accordingly.

22 Offences in connection with Register, etc.

A person who—

(a) makes or causes to be made an unauthorized entry or alteration or deletion in the Register or a certified copy thereof or extract therefrom or on a certificate of registration; or

(b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or the concealment of a material fact; or

(c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his identity; or

(d) wilfully destroys or injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or

(e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or

(f) forges or utters, knowing the same to be forged, a document purporting to be a certificate of registration;

shall be guilty of an offence and liable to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

23 Register as evidence

A certificate under the hand of the Registrar—

(a) of the entry of the name of a person in the Register shall be prima facie evidence that the person is a registered estate agent;

(b) that the name of a person has been deleted from or does not appear in

the Register shall be prima facie evidence that the person is not a registered estate agent;

(c) that a registered estate agent has been suspended from practice as such for a period specified in that certificate shall be prima facie evidence that the person has been suspended from practice for that period.

PART IV

REGISTRATION

24 Qualifications for registration

(1) For the purposes of this Part, a person shall be qualified to be registered as an estate agent if—

(a) he has attained the age of twenty-one years; and

(b) he has passed the examinations set by the board of examiners or otherwise recognized by the Council in terms of section forty-seven; and

(c) he meets the requirements relating to practical experience specified in the Schedule.

(2) Nothing in subsection (1) contained shall be construed as nullifying the existing registration of any person as an estate agent.

25 Applications for registration

(1) An application for registration shall be made to the Registrar and shall be accompanied by such documents and information, including evidence of identity, as may be prescribed.

(2) The Registrar may or, when so directed by the Council, shall require a statement made in an application for registration or in connection with an application for registration to be supported by an affidavit.

26 Applications for registration to be referred to Council

(1) The Registrar shall refer an application for registration, the documents and information mentioned in subsection (1) of section twenty-five and any report he may wish to make on the application for registration to the Council.

(2) Nothing in subsection (1) shall be construed as precluding the Registrar from registering an applicant provisionally in accordance with the provisions of regulations before referring the application for registration to the Council as in subsection (1) is provided.

27 Procedure by Council in connection with application for registration

(1) The Council shall direct the Registrar to register any applicant who qualifies for registration in terms of subsection (1) or (2) of section twenty-four:

Provided that if any person applying for registration has, during the period of five years immediately preceding his application, been found guilty of any offence involving dishonesty, the Council may reject his application.

(2) If the Council decides that an applicant is not a suitable person for registration, the Council shall give notice to the Registrar and the applicant in writing of its decision and of the reasons for its decision.

(3) If an applicant who has been notified by the Council of a decision of the Council referred to in subsection (2) fails to lodge notice with the Registrar of his intention to appeal to the Administrative Court as in Part VI is provided or, having lodged such a notice, withdraws the notice or abandons his appeal, the Registrar shall reject his application for registration and notify him in writing accordingly.

PART V

CANCELLATION OF REGISTRATION AND DISCIPLINARY POWERS OF COUNCIL

28 Disciplinary powers of Council

(1) If, after due inquiry, the Council decides that a registered estate agent—

(a) is not a suitable person to remain registered; or

(b) has been guilty of disgraceful conduct or negligence in his capacity as an estate agent; or

(c) without derogation from the generality of paragraphs (a) and (b), has

contravened section 4 of the Prevention of Discrimination Act [Chapter 8:16];
the Council may do one or more of the following—

- (i) direct that his registration be cancelled or that he be suspended from practice as an estate agent for a period determined by the Council;
- (ii) order him to pay the expenses of holding the inquiry and any expenses incidental to the inquiry or any part of those expenses;
- (iii) impose a fine not exceeding two thousand dollars, which shall be payable to the Council;
- (iv) censure him;
- (v) caution him;

and the Council shall give notice thereof and the reasons for its decision to the Registrar and the estate agent concerned.

(2) If a registered estate agent who has been given notice by the Council of a direction of the Council referred to in subparagraph (i) of subsection (1) fails to lodge notice with the Registrar of his intention to appeal to the Administrative Court as in Part VI is provided or, having lodged such notice, withdraws the notice or abandons his appeal, the Registrar shall cancel his registration or, as the case may be, mark his suspension from practice in the Register for the period determined by the Council.

29 Persons employed by estate agents

(1) If, after due inquiry, the Council decides that a person who is not a registered estate agent but acts as a director of a company or a partner in a partnership carrying on business as an estate agent, or is employed by a person practising or carrying on business as an estate agent—

- (a) is not a suitable person to perform the work of an estate agent or to be associated with an estate agency business; or
- (b) has been guilty of conduct which would have constituted disgraceful conduct or negligence if such person had been a registered estate agent; or
- (c) has contravened section 4 of the Prevention of Discrimination Act [Chapter 8:16];

the Council may order that such person shall not in any capacity participate in or have any financial interest in any estate agency business or be employed in any such business for such period as the Council may determine and the Council shall give notice thereof and the reasons for its decision to the Registrar, the person concerned and the estate agent, if any, by whom such person is employed at the time of the order.

(2) No person in respect of whom an order has been made in terms of subsection (1) shall, during the period in which the order is in force—

- (a) be employed by any person practising or carrying on business as an estate agent; or
- (b) hold, or attempt to obtain, any financial interest in any estate agency practice.

(3) Any person practising or carrying on business as an estate agent who, during the period in which an order in terms of subsection (1) is in force—

- (a) employs in any capacity; or
- (b) permits to obtain or hold any financial interest in that practice or business;

the person in respect of whom that order has been made shall be guilty of an offence unless he shows that he was not aware of the existence of the order or that it referred to the person employed by him or permitted to obtain or hold the financial interest, as the case may be.

30 Exercise of disciplinary powers by Council on conviction of offence: court to forward evidence

(1) A registered estate agent, or any person referred to in subsection (1) of section twenty-nine who has been convicted, within or outside Zimbabwe, of an offence by a court of law shall be liable to be dealt with by the Council in accordance with this

Part if the Council is of the opinion that the offence constitutes disgraceful conduct or if the offence consists of a contravention of section 4 of the Prevention of Discrimination Act [Chapter 8:16].

(2) The Council may, if it thinks fit, on proof before it of a conviction referred to in subsection (1) and without hearing further evidence, deal with the convicted person in accordance with this Part:

Provided that the convicted person shall be afforded an opportunity of tendering in writing or in person, as he may elect, an explanation to the Council in extenuation of his conduct.

(3) Whenever, after the termination of proceedings before a court of law in Zimbabwe, it appears to the court that there is prima facie evidence of disgraceful conduct on the part of a registered estate agent, or any person referred to in subsection (1) of section twenty-nine, the court shall direct that a copy of the record of the proceedings or a copy of such portion of the proceedings as is material to the issue shall be transmitted to the Council.

PART VI

APPEALS

31 Notices of appeal

(1) Any person who is aggrieved by any decision, direction, order or action of the Council in terms of section twenty-seven, twenty-eight or twenty-nine, as the case may be, may, within thirty days of the date on which he is given notice thereof by the Council, lodge notice with the Registrar of his intention to appeal to the Administrative Court.

(2) A notice of appeal lodged in terms of subsection (1) shall be in writing and shall specify in detail the grounds on which it is made.

(3) The Registrar shall furnish copies of a notice of appeal lodged in terms of subsection (1) to the Council and the Registrar of the Administrative Court

PART VII

ESTATE AGENTS COMPENSATION FUND

32 Establishment of Estate Agents Compensation Fund

(1) There is hereby established a fund to be known as the Estate Agents Compensation Fund.

(2) The Fund shall be vested in the Council which shall, subject to this Act, administer the Fund.

33 Constitution of Fund

The Fund shall consist of—

(a) all contributions paid to the Fund under section thirty-six; and

(b) all income accruing from the investment of moneys in the Fund; and

(c) all moneys borrowed for the purposes of the Fund; and

(d) all moneys received by the Fund under any insurance effected on behalf of the Fund; and

(e) all moneys received by the Fund under section thirty-five; and

(f) any other moneys lawfully paid into the Fund.

34 Compensation for loss due to estate agents' dishonesty

(1) Where it is proved to the satisfaction of the Council that a person has suffered loss by reason of theft committed by a registered estate agent or an agent or employee of a registered estate agent, or by a person carrying on business as an estate agent—

(a) of any moneys or other property held in trust; or

(b) of any moneys collected or received and payable on account of a contract of purchase and sale, including any agreement for sale by instalments; or

(c) of any other moneys collected or received in respect of any interest in immovable property or any business undertaking;

the Council shall, subject to this Part, make a grant out of the Fund to that person upon his application for the purpose of making good that loss.

(2) Before considering an application for a grant under this section, the Council may

in its discretion require an applicant to exhaust all legal remedies available to him in respect of the loss to which the application relates.

(3) A grant shall be made under this section whether or not the estate agent was in possession of a valid compensation fund certificate when the act of dishonesty was committed and notwithstanding that subsequent to the commission of that act the estate agent has died or ceased to practise or has been suspended from practice or his registration has been cancelled.

(4) No grant shall be made under this section in respect of any loss unless notice of that loss has been given by the loser in such manner and at such time after the loss first came to his knowledge as may be prescribed.

(5) No grant shall be made under this section in respect of an act of dishonesty which occurred before the appointed date.

(6) If, during any financial year of the Fund, the Council becomes liable in terms of subsection (1) to pay any single or aggregate amount exceeding thirty thousand dollars, the Council may pay pro rata the amount of any grants thereafter in such instalments and at such intervals as it deems fit:

Provided that the period within which any individual loss is to be made good shall not, without the approval of the Minister, exceed five years.

35 Subrogation of Council

(1) On the making of a grant under section thirty-four to a person in respect of a loss—

(a) the Council shall to the amount of that grant be surrogated to any rights and remedies in respect of that loss of the person to whom the grant is made or of the estate agent, agent or employee who committed the act of dishonesty;

(b) the person to whom the grant is made shall have no right under insolvency, other legal proceedings or otherwise to receive any sum out of the assets of the estate agent, agent or employee in respect of the loss until the Council has been reimbursed the full amount of the grant.

(2) Any reference in subsection (1) to the person to whom the grant is made or to the estate agent, agent or employee shall include, in the event of his death, insolvency or other disability, a reference to his personal representative or any other person having authority to administer his estate.

36 Compensation fund certificates and contributions

(1) An application for a compensation fund certificate shall be made to the Council in the prescribed form—

(a) if the applicant intends to practise or carry on business as an estate agent, before he commences to practise or carry on business as such;

(b) if the applicant is practising or carrying on business as an estate agent and is in possession of a valid compensation fund certificate, before that certificate ceases to be valid.

(2) Subject to subsection (5), upon receipt of—

(a) an application in terms of subsection (1); and

(b) such contribution to the Fund as may be prescribed;

the Council shall issue to the applicant a compensation fund certificate in the prescribed form.

(3) A compensation fund certificate shall be valid until the 31st December of the year for which it is issued.

(4) A person practising or carrying on business as an estate agent shall submit to the Council at such time or times as may be prescribed a certificate relating to his practice or business as an estate agent in the form prescribed and shall submit any additional certificate required by the Council relating to any matter affecting such practice or business as may be specified by the Council.

(5) For the purposes of subsection (4), the receipt of rentals or deposits referred to in subsection (1) of section fifty by a person carrying on business as an estate agent shall be deemed to be part of that business.

(6) No compensation fund certificate shall be issued in terms of subsection (2) unless—

- (a) subsection (1) has been complied with; and
- (b) any certificate required in terms of subsection (4) has been submitted;

and

(c) in the case of an applicant who purports to be a principal in terms of section fifty-three, the Council is satisfied that he is a principal; and any compensation fund certificate issued in contravention of this subsection shall be invalid:

Provided that no certificate shall be required in the case of the application for a compensation fund certificate by an estate agent in terms of paragraph (a) of subsection (1).

(7) Whenever the holder of a compensation fund certificate changes his name, the Secretary of the Council may amend the certificate accordingly.

(8) If at the end of any financial year of the Fund the aggregate sum of the grants paid during that year in terms of section thirty-four exceeds an amount of thirty thousand dollars, the Council may levy a surcharge not exceeding one hundred dollars on each contribution to the Fund in terms of this section.

37 Practising without compensation fund certificate an offence

(1) No person shall—

- (a) practise or carry on business as an estate agent; or
- (b) describe himself or hold himself out or allow himself to be held out as

an estate agent;

unless he is in possession of a valid compensation fund certificate.

(2) A person who is convicted of contravening subsection (1) shall be liable to a fine not exceeding one thousand dollars or, in default of payment, to imprisonment for a period not exceeding five years.

(3) A conviction for a contravention of subsection (1) shall not be a bar to a further prosecution or prosecutions for the continuance of the offence.

38 Estate agent without compensation fund certificate barred from recovering fees

No person shall be entitled to maintain an action or suit for the recovery of any fee, reward or reimbursement for or in respect of—

- (a) any business, matter or thing done by him as an estate agent; or
- (b) the collection of any rental or deposit referred to in subsection (1) of

section fifty while carrying on business as an estate agent;

at a time when he was not in possession of a valid compensation fund certificate.

39 Contributions may be refunded

The Council may in its discretion refund to an estate agent or his estate the whole or part of his contributions to the Fund.

40 Insurance

The Council may enter into a contract with an insurer registered under the Insurance Act [Chapter 24:07], whereby the Fund will be indemnified to the extent and in the manner provided by such contract against the making of grants under this Part.

41 Investments

Any moneys in the Fund which are not immediately required for the purposes thereof shall be invested in such securities as the Council may determine.

42 Borrowing

The Council may borrow moneys for the purposes of the Fund and may charge any investments of the Fund by way of security for such loan:

Provided that the aggregate sum owing at any one time in respect of any such loan or loans shall not exceed such limit as may be prescribed.

43 Audit

The accounts of the Fund shall be audited once at least in each calendar year by an auditor registered in terms of the Public Accountants and Auditors Act [Chapter

27:12] appointed by the Council.

44 Expenditure from Fund

Subject to this Act, there shall be payable from the Fund all or any of the following—

- (a) payment of any costs, charges and expenses of establishing, maintaining, administering and applying the Fund;
- (b) payment of a grant under section thirty-four;
- (c) payment of any costs, charges and expenses incurred by the Council in an inquiry for the purposes of this Part;
- (d) a refund of contributions under section thirty-nine;
- (e) payment of premiums on insurance effected on behalf of the Fund;
- (f) repayment of moneys borrowed for the purposes of the Fund and payment of any interest thereon;
- (g) payment for any other matter approved by the Minister.

45 Fidelity cover

(1) If at any time the moneys of the Fund fall below a level that the Council considers to be sufficient for the purposes of the Fund, it shall inform the Minister in writing to that effect and the Minister may, by notice in the Gazette, declare that no person shall after the expiration of three months from the date specified in the notice practise as an estate agent unless he is in possession of a valid fidelity bond in the form prescribed in rules made by the Council, or of a valid fidelity insurance policy, issued by a person approved by the Council for such amount as may be prescribed in the notice.

(2) The Minister shall revoke any notice in terms of subsection (1) if at any time after the publication of such notice the Council informs him in writing that it considers the moneys of the Fund to be sufficient for the purposes of the Fund.

(3) Section thirty-seven shall apply, mutatis mutandis, in relation to fidelity bond or fidelity insurance policy required to be held in accordance with a notice published in terms of subsection (1).

46 Rules of Fund

(1) For the proper administration of the Fund the Council may make rules—

- (a) prescribing the forms to be used and the procedure to be adopted in applications for and payments of grants under section thirty-four;
- (b) prescribing the form of any fidelity bond that may be required in terms of section forty-five and the classes of persons whom the Council shall approve for the purpose of issuing such a bond or other forms of fidelity insurance;
- (c) prescribing such other matters as are under this Part required or permitted to be prescribed;
- (d) generally for the proper administration of the Fund and all matters incidental thereto.

(2) Rules made in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in a statutory instrument.

PART VIII

GENERAL

47 Board of examiners and external examinations

(1) For the purpose of conducting any local examinations required to be passed by a person for registration in terms of Part IV, the Minister shall, after consultation with the Council, appoint a board of examiners consisting of—

- (a) three members of the Council, one of whom shall be chairman; and
- (b) one member who shall be nominated by the Auctioneers', Estate Agents' and Valuers' Institute of Zimbabwe and who is not a member of the Council; and

(c) one member from the teaching staff of the University of Zimbabwe who lectures on any of the subjects prescribed for examination by the Council in terms of paragraph (c) of subsection (4) of section fifty-one.

(2) The procedure at meetings of the board of examiners shall be as prescribed or, in respect of any matter that is not prescribed, as may be determined by the board.

(3) The Minister may, after consultation with the Council, prescribe by notice in statutory instrument any external examinations which the Council shall recognize for the purpose of registering a person in terms of Part IV.

48 Offences by or in respect of unregistered persons

(1) Subject to this Act, no person shall—

(a) practise or carry on business as an estate agent, or describe himself or allow himself to be described or hold himself out as an estate agent unless he is registered; or

(b) in the case of a company or partnership, practise or carry on business as an estate agent under any personal name which is not the name of a registered estate agent who is or was a principal, assistant or working partner of the company or partnership concerned:

Provided that the Council may exempt any company or partnership from the provisions of this paragraph on good cause shown.

(2) No person carrying on business as an estate agent shall employ in any capacity whatsoever any person—

(a) whose registration has been cancelled in terms of this Act; or

(b) who has been suspended from practice in terms of this Act while he is so suspended;

unless with the written consent of the Council which may be given for such period and subject to such conditions as the Council may think fit.

(3) A person who is convicted of contravening subsection (1) or (2) shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(4) On conviction of any person on a charge of contravening subsection (1) or (2) the court may, in addition to any penalty which may be imposed therefor in terms of subsection (3), order the person convicted to pay a fine not exceeding the amount of any commission or remuneration paid in respect of any transaction which was the subject of the charge and for such purposes a court of a magistrate shall, notwithstanding anything to the contrary contained in any other law, have jurisdiction to order any such payment.

(5) A conviction for a contravention of subsection (1) or (2) shall not be a bar to a further prosecution or prosecutions for the continuance of the offence.

49 Incorporated estate agents

(1) No person shall describe himself or hold himself out or allow himself to be held out as an “incorporated estate agent” or use a name, title, addition or description or letters indicating that he is an “incorporated estate agent” unless he is a member or fellow of a recognized institute.

(2) A person who contravenes subsection (1) shall be liable to a fine not exceeding two hundred dollars or, in default of payment, to imprisonment for a period not exceeding six months

50 Trust accounts

(1) A person carrying on business as an estate agent shall—

(a) open and keep a separate trust account at a bank registered in terms of the Banking Act [24:01] in which he shall, within six days of receiving them, deposit all moneys held or received by him on account of any person in the course of his business as an estate agent or by way of a rental or deposit due to such person in terms of a lease of immovable property:

Provided that, in addition to any trust account referred to in this paragraph, a person carrying on business as an estate agent may open and keep a trust account bearing interest at a bank or building society or with an institution approved by the Council for the purposes of this proviso in which he may, unless otherwise instructed by the person for whom or on whose account the money is held, deposit any such moneys as are not immediately required for any purpose; and

(b) keep proper books of account containing particulars and information

as to moneys received, held or paid by him for or on account of any person and as to any interest earned by moneys in an account referred to in the proviso to paragraph (a) which are payable to any such person.

(2) A person referred to in subsection (1) shall, at least once in every year, cause his trust account and books of that account kept in terms of subsection (1) to be examined by an auditor who is registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] and shall at such time or times as may be prescribed submit to the Council a report from such auditor in the prescribed form relating to his trust account.

(3) Notwithstanding the provisions of subsection (2), the Council may at its own expense appoint an auditor registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] to inspect at any time it deems fit the books of account of any person practising as an estate agent in order to ascertain that this section and of any relevant regulations or rules are being observed:

Provided that—

(i) such auditor shall report to the Council in such general terms as not to disclose confidential information entrusted to the estate agent whose books of account he has inspected;

(ii) if it is found from an inspection by an auditor appointed in terms of this subsection that the person practising as an estate agent has not complied with this section or of any relevant regulations or rules, the Council shall be entitled to recover the cost of the inspection from that person.

(4) No amount standing to the credit of a trust account kept in terms of subsection (1) by a person referred to in that subsection shall form part of the assets of that person and no such amount shall be liable to attachment at the instance of any creditor of that person:

Provided that any excess remaining after payment of the claims of all persons whose moneys have or should have been deposited in such trust account shall be deemed to form part of the assets of that person.

(5) Upon application made by the Council and upon good cause being shown the High Court or a judge thereof in chambers may prohibit any person referred to in subsection (1) from operating in any way on his trust account and may appoint a curator bonis to control and administer such trust account with such rights, duties and powers in relation thereto as the High Court or judge, as the case may be, may deem fit.

(6) Upon the death, insolvency or winding up of or the assignment of his estate by a person referred to in subsection (1) or in the event of an estate agent being suspended from practice or having his registration cancelled or being declared by a court of competent jurisdiction to be incapable of managing his own affairs or abandoning his practice, the Master of the High Court may, upon application made by the Council or by any person having an interest in the trust account of such person, appoint a curator bonis to control and administer such trust account with such of the prescribed rights, duties and powers as the Master may deem fit.

(7) A person aggrieved by a decision of the Master of the High Court under subsection (5) may, within thirty days after the decision became known to him, appeal against that decision to the High Court and the High Court may confirm or vary the decision of the Master or give such other decision as in its opinion the Master ought to have given.

(8) Nothing in subsection (3), (4) or (5) contained shall be construed as preventing an estate agent who was practising in partnership with an estate agent referred to in subsection (5) from continuing to operate on the trust account of that partnership.

(9) A bank at which a person keeps a trust account in terms of subsection (1) shall not, by reason only of the name or style by which the account is distinguished, be deemed to have knowledge that that person is not entitled absolutely to all moneys paid or credited to the said account:

Provided that nothing in this section contained shall relieve a bank from any liability

or obligation under which it would be apart from this Act.

(10) Notwithstanding anything in subsection (8) contained, a bank at which a person referred to in subsection (1) keeps a trust account in terms of that subsection shall not, in respect of any liability of that person to the bank, not being a liability arising out of or in connection with the said account, have or obtain any recourse or right, whether by way of set-off, counterclaim, charge or otherwise, against moneys standing to the credit of the said account.

(11) Nothing in this section contained shall be construed so as to—

- (a) deprive a bank of any right existing on the appointed date; or
- (b) take away or affect any just claim, lien, counterclaim, right or set-off or charge of any account which an estate agent may under any law have against or upon any moneys held or received by him on account of any person; or
- (c) require that where two or more registered estate agents have formed a partnership for the purpose of carrying on business as an estate agent each such registered estate agent shall open a separate trust account.

(12) Where a company and another company which is a wholly-owned subsidiary, as determined in terms of section 143 of the Companies Act [Chapter 24:03], of that company are both carrying on business as an estate agent—

(a) it shall not be necessary for such subsidiary company to open and keep a separate trust account in terms of subsection (1) from that opened and kept by the firstmentioned company;

(b) if such subsidiary company, as provided in paragraph (a), does not open and keep a separate trust account, the trust account opened and kept by the first-mentioned company shall be regarded for the purposes of this section as though it were being kept in terms of subsection (1) also by such subsidiary company.

(13) In the case of a company or partnership which is employing a principal in the circumstances referred to in subsection (1) of section fifty-three—

(a) the management and operation of the trust account referred to in subsection (1) shall be under the control of such principal; and

(b) it shall be the duty of such principal to ensure that the provisions of this section are complied with by the company or partnership:

Provided that, where such principal ceases to be employed by the company or partnership concerned and his place is taken by another person in terms of subsection (2) of section fifty-three—

(a) the management and operation of the trust account shall be placed under the control of, and the duty referred to in paragraph (b) of this subsection shall devolve upon, such other person; and

(b) the company or partnership concerned shall immediately on appointing such other person notify the Council of his appointment and the fact that the trust account has been placed under his control.

51 General regulatory powers

(1) The Minister may by regulation prescribe all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) In the exercise of the powers conferred upon him by subsection (1) the Minister may provide for—

(a) the fees which shall be payable by applicants, the fees which shall be payable on registration and the annual fees which shall be payable by persons so long as they remain registered estate agents;

(b) the issue of certificates and duplicate certificates of registration and the fees in connection therewith;

(c) the cancellation of certificates of registration of persons who are no longer registered and the delivery of such certificates and compensation fund certificates of such persons to the Registrar for that purpose;

(d) the provisional registration of persons before their applications for registration are referred to the Council and the cancellation of provisional registrations;

(e) the deletion from the Register of entries made in error or through fraudulent representations or concealment of material facts or in circumstances not authorized by law;

(f) the notification to the Registrar of changes of address and prescribed particulars of registered estate agents;

(g) the powers, rights and privileges of the Council in connection with any matter which is not the subject of an inquiry;

(h) the appointment of a committee consisting of estate agents and not more than two persons who are not estate agents to perform the functions of the Council under this Act pending the first election and appointment of the members and the functions, powers, duties and procedure of the committee and the allowances payable to its members.

(3) The fees to which paragraphs (a) and (b) of subsection (2) relate shall be paid to the Council.

(4) Subject to subsection (7), the Council may make rules providing for—

(a) the rules of conduct to be observed by registered estate agents, including the acts or omissions by a registered estate agent which shall be treated as disgraceful conduct;

(b) a minimum scale of fees to be charged by registered estate agents in their practice as such;

(c) the procedure to be followed by the board of examiners appointed in terms of section forty-seven, the subjects to be set for examination by the board, the syllabuses for such examinations and the fees payable in connection with the sitting of such examinations.

(5) Nothing in any rules made in terms of paragraph (a) of subsection (4) shall be construed as precluding the Council from—

(a) holding an inquiry into an allegation of disgraceful conduct which is not an act or omission specified in those rules; and

(b) exercising the powers conferred upon the Council by subsection (1) of section twenty-eight in relation to a registered estate agent found guilty by the Council of such disgraceful conduct.

(6) Nothing in any rules made in terms of paragraph (a) of subsection (4) shall be construed as precluding the Council from exercising its discretion in terms of subsection (1) of section twenty-seven in deciding whether an applicant is a suitable person for registration.

(7) The Council shall ensure that a copy of any rules made in terms of subsection (4) is sent to each registered estate agent by registered post to his address as shown in the Register and such rules need not be published in a statutory instrument.

(8) Rules referred to in subsection (4) shall be subject to the approval of the Minister.

52 Persons not regarded as practising as estate agent

(1) For the purposes of this Act, the following persons shall not be regarded as practising or carrying on business as an estate agent—

(a) a person in the bona fide employment of a registered estate agent whilst he is working under the direction and control of a registered estate agent who is employed full-time in that capacity at the premises where that first-mentioned person is employed;

(b) a person in the bona fide employment of a company or partnership referred to in section fifty-three whilst he is working under the direction and control of a principal or assistant referred to in paragraph (a) or (b), respectively, of subsection (1) of that section or a person taking the place of such principal or assistant, as the case may be, in terms of subsection (2) of that section, who is employed full-time in that capacity at the premises where that first-mentioned person

works;

(c) a legal practitioner or an auditor registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] in the course of his practice as such;

(d) a person employed by the State, a municipality, a town, a rural district council or a local board;

(e) the Agricultural Finance Corporation or any employee or agent thereof whilst carrying out his official duties;

(f) a building society or any employee or agent of a building society whilst carrying out his official duties;

(g) the Sheriff or a messenger or deputy messenger of the High Court or a magistrates court whilst carrying out his official duties;

(h) an executor of a deceased estate, trustee, liquidator or judicial manager whilst exercising any powers conferred upon him by the law relating to deceased estates, insolvency or companies, as the case may be;

(i) any person whilst doing an act which is regarded as constituting “practice as an estate agent” in connection with immovable property belonging to himself or his employer or which is to be purchased by himself or his employer.

(2) For the purposes of this Act, a member of the Institute of Chartered Secretaries and Administrators in Zimbabwe shall not be regarded as practising or carrying on business as an estate agent whilst—

(a) bringing together or taking steps to bring together the parties to a lease or proposed lease of immovable property; or

(b) negotiating the terms of a lease or proposed lease of immovable property;

in the course of his practice as such.

(3) For the purposes of this Act the following persons shall not be regarded as practising or carrying on business as an estate agent whilst doing any act referred to in paragraph (b) or (c) of the definition of “practice as an estate agent” in subsection (2) of section two—

(a) an architect registered in terms of the Architects Act [Chapter 27:01] in the course of his practice as such;

(b) a member of the Quantity Surveyors Division of the Royal Institution of Chartered Surveyors or the Zimbabwe Institute of Quantity Surveyors in the course of his practice as such.

53 Special provisions relating to companies and partnerships

(1) A company or partnership may, notwithstanding section forty-eight, practice or carry on business as an estate agent or describe itself or hold itself out or allow itself to be held out as an estate agent if—

(a) the business of the company or partnership, in so far as it relates to the practice of an estate agent, is under the direct control and management of a principal who—

(i) is a registered estate agent; and

(ii) does not act at the same time in a similar capacity for any other company or partnership or on his own behalf; and

(iii) is an executive director in the case of a company or a working partner in the case of a partnership;

and

(b) in every premises where any business referred to in paragraph (a) is carried on which is not personally conducted by the principal referred to in paragraph (a), such business is conducted under the direction of that principal by an assistant who is a registered estate agent.

(2) If any principal referred to in paragraph (a) of subsection (1) ceases to be an executive director or working partner, as the case may be, or if any assistant referred to in paragraph (b) of subsection (1) ceases to be employed by the company or partnership concerned, his place may be taken by a person who is not a registered

estate agent for a period not exceeding one month or for such longer period not exceeding twelve months as the Council may for good cause permit and subject to such conditions as the Council may impose.

(3) If for any reason whatsoever any principal or assistant referred to in paragraph (a) or (b) of subsection (1) is or intends to be absent for a continuous period of forty-five days from the premises where he ordinarily works, the company or partnership concerned shall notify the Council immediately of such absence or intended absence, and subsection (2) shall apply in respect of that company or partnership as if the absentee principal or assistant had ceased to be an executive director or working partner, or had ceased to be employed, as the case may be, for the period of his absence.

(4) Where a company practises or carries on business as an estate agent, every principal or assistant referred to in paragraph (a) or (b) of subsection (1) who is employed by or a director of the company shall be personally liable for any loss sustained by any person in consequence of any dishonesty or negligence on his part or on the part of any other such principal or assistant.

54 Supervision of employees

A registered estate agent—

(a) who employs any person who is not a registered estate agent in the work of an estate agent; or

(b) under whose direction and control an employee referred to in paragraph (a) or (b), as the case may be, of subsection (1) of section fifty-two is working;

shall supervise the work of that employee and, if an order in terms of subsection (1) of section twenty-nine is made in respect of that employee, the registered estate agent concerned shall be deemed to be guilty of gross negligence in his capacity as an estate agent unless he proves that—

(i) he did not connive at the unsuitability of the employee; or

(ii) he took all reasonable steps to prevent the conduct of the employee;

as the case may be, in respect of which the order was based.

55 Failure to pay contributions and fees

If a registered estate agent fails to pay—

(a) the annual fee by the 31st March of the year in which it becomes due and payable;

(b) the prescribed contribution due to the compensation fund by the 31st January of the year in which it becomes due and payable;

his registration shall be suspended as from the date such fee or contribution, as the case may be, became due and payable, until it is paid.

56 Suspension because of sequestration

Whenever the estate of any registered estate agent is sequestrated or assigned, the registration of such registered estate agent shall be suspended until the Council, for good cause shown, orders the removal of the suspension.

57 Notice of registration, order cancellation or suspension thereof, etc.

(1) Subject to subsection (3), the Council shall cause notice to be given in the Gazette and may give notice to all registered estate agents of—

(a) the registration of any estate agent; or

(b) the cancellation or suspension of any registration as an estate agent.

(2) Subject to subsection (3), the Council shall give notice to all registered estate agents of any order made in terms of subsection (1) of section twenty-nine.

(3) No notice in terms of subsection (1) or (2) shall be given of any cancellation, suspension or order until the time for noting an appeal against any such cancellation, suspension or order has elapsed or, if any such appeal has been lodged, it is withdrawn or abandoned or the cancellation, suspension or order has been confirmed on appeal or review.

58 Information to be notified to Registrar

(1) Any person practising or carrying on business as an estate agent shall, in terms of subsection (2), give notice to the Registrar in writing—

- (a) of the fact that he is doing so;
- (b) of the name or style under which such practice or business is being conducted;
- (c) of the address or addresses, as the case may be, where such practice or business is being conducted;
- (d) in the case of a company, of the names and residential addresses of all directors;
- (e) of the names of all registered estate agents who are directors, partners or employees of the practice or business;
- (f) of the name of the principal or assistant appointed in terms of paragraph (a) or (b), respectively, of subsection (1) of section fifty-three;
- (g) of the names of all employees and the functions performed by them.

(2) The notification required by subsection (1) shall be communicated to the Registrar within thirty days of any person commencing practice or business, and thereafter annually at the time when the annual registration fee payable in terms of paragraph (a) of subsection (2) of section fifty-one is paid.

(3) Any person referred to in subsection (1) shall give notice to the Registrar in writing of any change of information which has been given to the Registrar in terms of subsection (1) within fourteen days of such change.

59 Commission or remuneration not recoverable in certain cases

No commission or remuneration shall be recoverable in any court of law in respect of any act pertaining to the practice of an estate agent when performed by a person—

- (a) who was required in terms of this Act to be registered and who was not registered at the time; or
- (b) whose employment was prohibited in terms of this Act at the time.

60 Offences and penalties

(1) If any person contravenes any provision of this Act with which it is his duty to comply, he shall be guilty of an offence.

(2) Any person who is guilty of an offence in terms of this Act for which no penalty is specially provided shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(3) The prosecution or conviction of any person for an offence in terms of this Act shall not be deemed to debar any other proceedings that may be taken against him in respect of the act or omission which formed the subject of the charge.

SCHEDULE (Section 28 (1) (c))

PRACTICAL EXPERIENCE REQUIRED FOR REGISTRATION

1. Employment in Zimbabwe for a period of not less than three years—
 - (a) in the office of a registered estate agent, including any period of employment as a property negotiator on commission; or
 - (b) for a period not less than three years in a Government, parastatal or local authority department of valuation and estates or other employment acceptable to the Council that requires functions related to the profession of estate agency.
2. Employment outside Zimbabwe in such occupation and for such periods considered by the Council to provide substantially similar experience as that required within Zimbabwe, coupled with at least one year's experience in Zimbabwe in any of the occupations specified in paragraph 1.