

SCHEDULE

1. In this Code of Conduct, unless the context otherwise indicates, each word or phrase shall have the meaning assigned thereto in the Act, and –

- (i) “client” means the person on whose instructions an estate agent acts with regard to the performance of any act of the rendering of any service referred to in paragraph (a) of the definition of “estate agent” in section 1 of the Act;
- (ii) “franchise” means a concession in terms of which an estate agent is entitled or required to operate under a trade name which is registered on behalf of another person, or which is associated with the business of such other person; and
- (iii) “the Act” means the Estate Agents Act, 1976 (Act 112 of 1976).

2. Subject to the provisions of the Act and any regulation made thereunder –

- (a) an estate agent shall in the course of his business –
 - (i) exercise that degree of care and skill which may, in the opinion of the board, be reasonably expected of an estate agent;
 - (ii) protect the interests of his client at all times to the best of his ability, with due regard to the rights of any other person;
 - (iii) inform a prospective purchaser or lessee of any immovable property or an interest therein or a business undertaking in respect of which instructions to sell or let or to canvass a purchaser or lessee therefor has been given to him, of all facts concerning such immovable property or interest therein or business undertaking within his personal knowledge and which are or may be material to such purchaser or lessee;

BYLAE

1. In hierdie Gedragskode, tensy uit die samehang anders blyk, het elke uitdrukking of woord die betekenis wat daaraan toegeken word in die Wet, en beteken –

- (i) “die Wet” die Wet op Eiendomsagente, 1976 (Wet 112 van 1976);
- (ii) “kliënt” die persoon in wie se opdrag ’n eiendomsagent optree in verband met die verrigting van ’n handeling of lewering van ’n diens bedoel in paragraaf (a) van die omskrywing van “eiendomsagent” in artikel 1 van die Wet; en
- (iii) “konsessie” ’n vergunningssooreenkoms waarkragtens ’n eiendomsagent geregtig is of verplig is om ’n handelsnaam, geregistreer ten behoeve van ’n ander persoon of wat met die besigheid van sodanige persoon geassosieer word, te gebruik.

2. Behoudens die bepalings van die Wet en enige regulasie daarkragtens uitgevaardig –

- (a) moet ’n eiendomsagent in die loop van sy besigheid –
 - (i) dié mate van sorg en bedrewenheid aan die dag lê wat na die oordeel van die raad redelikerwys van ’n eiendomsagent verwag kan word;
 - (ii) die belange van sy kliënt te alle tye na die beste van sy vermoë beskerm, met inagneming van die regte van enige mand anders;
 - (iii) aan ’n voornemende koper of huurder van enige onroerende goed of ’n belang daarin of ’n besigheidsonderneming ten opsigte waarvan ’n opdrag aan hom gegee is om dit te verkoop of te verhuur of om ’n koper of huurder daarvoor te werf, alle feite met betrekking tot sodanige onroerende goed of belang daarin of besigheidsonderneming wat binne sy persoonlike kennis val en wat vir sodanige koper of huurder daarvan van wesenlike belang is of mag wees, meedeel;

- (iv) furnish upon request a copy of any agreement of sale or lease, offer, option, mandate or similar document in respect of which he acted as estate agent, without undue delay and in so far as he is able, to any person who is a party to such document;
- (v) if he conducts it in terms of a franchise, clearly disclose in all his correspondence, circulars, advertisements, forms and other documents that he operates under such franchise and state therein his name as well as the name of the person from whom he obtained that franchise;
- (vi) if he conducts it under any other name than his own, clearly disclose his own name in all his correspondence, circulars, advertisements, forms and other documents and, in the case of a company, also the registration number thereof; and
- (b) an estate agent shall not in the course of his business –
- (i) perform any act which may damage the good name, standing or integrity of estate agents in general;
- (ii) publish or cause to be published any advertisement which could create the impression that it was published by a person other than an estate agent or upon the instructions of such other person;
- (iii) in any advertisement which offers any immovable property or interest therein or business undertaking for sale or for letting, cause a misrepresentation with regard to any material aspect pertaining to such immovable property or interest therein or business undertaking;
- (iv) 'n afskrif van enige koopkontrak, huurkontrak, aanbod, opsie, opdrag of soortgelyke dokument in verband waarmee hy as eiendomsagent opgetree het, sonder onnodige versuim en in die mate waarin hy daartoe in staat is, op versoek verskaf aan enige persoon wat 'n party tot sodanige dokument is;
- (v) indien hy dit ingevolge 'n konsessie bedryf, op ondubbelsinnige wyse in al sy korrespondensie, sirkulêres, advertensies, vorms en ander dokumente te kenne gee dat hy kragtens sodanige konsessie handel, en sy naam sowel as die naam van die persoon van wie hy die konsessie verkry het, vermeld;
- (vi) indien hy dit onder enige ander naam as sy eie naam bedryf, sy eie naam in sy korrespondensie, sirkulêres, advertensies, vorms en ander dokumente duidelik vermeld en, in die geval van 'n maatskappy, ook die registrasienommer daarvan; en
- (b) mag 'n eiendomsagent nie in die loop van sy besigheid –
- (i) enige handeling verrig wat die goeie naam, aansien of integriteit van eiendomsagente in die algemeen kan skaad nie;
- (ii) enige advertensie publiseer of laat publiseer wat die indruk mag skep dat dit deur 'n ander persoon as 'n eiendomsagent of in opdrag van sodanige ander persoon gepubliseer is nie;
- (iii) in enige advertensie waarin enige onroerende goed of 'n belang daarin of 'n besigheidsonderneming te koop of te huur aangebied word, 'n wanvoorstelling maak ten opsigte van enige wesenlike aangeleentheid wat op sodanige onroerende goed of belang daarin of besigheidsonderneming betrekking het nie;

- (iv) acquire any interest in immovable property or in a business undertaking of which his client is the owner, or alienate any interest in immovable property or in a business undertaking of which his client is the owner, unless his client had knowledge beforehand that he was in truth the party who stood to acquire or alienate such interest;
- (v) offer, purport or attempt to offer any immovable property or an interest therein or a business undertaking for sale or to let, or negotiate or offer to canvass a purchaser or lessee therefor, without having been instructed beforehand to do so (which shall be in writing in the case of a sole mandate) by the owner or lessor of such immovable property or interest therein or business undertaking, or by the agent of such person;
- (vi) offer, purport or attempt to offer to purchase or lease any immovable property or an interest therein or a business undertaking on behalf of any prospective purchaser or lessee, or negotiate or offer to canvass a seller or lessor therefor, without having been instructed beforehand to do so (which shall be in writing in the case of a sole mandate) by such prospective purchaser or lessor, or by the agent of such person;
- (vii) give or offer any gift or consideration to any person as an inducement to secure business, except to –
- (aa) another estate agent who is in possession of a valid fidelity fund certificate;
- (iv) enige belang in onroerende goed of in 'n besigheidsonderneming waarvan sy kliënt die eienaar is, verkry, of enige belang in onroerende goed of in 'n besigheidsonderneming waarvan hy die eienaar is, aan sy kliënt vervreem nie, tensy sy kliënt vooraf daarvan bewus was dat hy inderwaarheid die party is wat sodanige belang staan te verkry of te vervreem;
- (v) enige onroerende goed of 'n belang daarin of 'n besigheidsonderneming te koop of te huur aanbied, of voorgee of poog om dit aldus aan te bied, of onderhandel of aanbied om 'n koper of huurder ten opsigte daarvan te werf nie, sonder dat hy vooraf opdrag daartoe ontvang het (wat skriftelik moet wees in die geval van 'n alleenopdrag) van die eienaar of verhuurder van sodanige onroerende goed of belang daarin of besigheidsonderneming, of van die agent van sodanige persoon;
- (vi) namens enige voornemende koper of huurder aanbied om enige onroerende goed of 'n belang daarin of 'n besigheidsonderneming te koop of te huur, of voorgee of poog om dit aldus aan te bied, of onderhandel of aanbied om 'n verkoper of verhuurder ten opsigte daarvan te werf nie, sonder dat hy vooraf opdrag daartoe ontvang het (wat skriftelik moet wees in die geval van 'n alleenopdrag) van sodanige voornemende koper of huurder, of van die agent van sodanige persoon;
- (vii) 'n geskenk of vergoeding aan iemand gee of dit aanbied by wyse van aansporing ten einde besigheid te bekom nie, behalwe aan –
- (aa) 'n ander eiendomsagent wat in besit is van 'n geldige getrouheidfondssertifikaat;

(bb) an attorney referred to in paragraph (d) of the definition of "estate agent" in section 1 of the Act; or

(cc) any other person or institution which the board may determine from time to time:

Provided that the foregoing shall not be so construed as to prohibit an estate and his client from negotiating the amount of any consideration payable to such estate agent;

(viii) act or offer to act on behalf of any person in any capacity in regard to a matter which is the subject of judicial or quasi-judicial proceedings on the basis that no consideration shall be claimed unless the proceedings are concluded in favour of such person, or that the amount of any consideration required by him will be related to the degree of success attained in such proceedings;

(ix) intentionally use any confidential information obtained by him from any other estate agent with regard to any immovable property or an interest therein or a business undertaking to the prejudice of such other estate agent;

(x) as well as outside the scope of his business, convey any confidential information which he possesses concerning the business, trade secrets, technical methods or processes of a client or employer to another person without just cause;

(xi) with regard to the sale or lease of any immovable property or an interest therein or a business undertaking, or a prospective purchaser or lessee thereof, particulars of which or whom have been obtained

(bb) 'n prokureur bedoel in paragraaf (d) van die omskrywing van "eiendomsagent" in artikel 1 van die Wet; of

(cc) enige ander persoon of liggaam wat die raad van tyd tot tyd mag bepaal:

Met dien verstande dat die voorafgaande nie so uitgelê word dat dit 'n eiendomsagent en sy kliënt verbied om oor enige bedrag wat as vergoeding aan so 'n eiendomsagent betaalbaar is, te beding nie;

(viii) optree of aanbied om namens 'n persoon op te tree nie in enige hoedanigheid in verband met 'n saak wat die onderwerp is van geregtelike of kwasi-geregtelike verrigtinge op die veronderstelling dat geen vergoeding gevorder sal word tensy die verrigtinge suksesvol vir sodanige persoon afloop nie, of dat die bedrag van enige vergoeding deur hom gehef gebasseer sal word op die mate van sukses wat in sodanige verrigtinge behaal word;

(ix) enige vertroulike inligting wat deur hom verkry is van enige ander eiendomsagent in verband met enige onroerende goed of 'n belang daarin van 'n besigheidsonderneming, opsetlik tot nadeel van die besigheid van sodanige ander eiendomsagent gebruik nie;

(x) asook buite die bestek van sy besigheid, enige vertroulike inligting waarvoor hy mag beskik rakende die besigheid, bedryfsgeheime, tegniese metodes of prosesse van 'n kliënt of werkgewer, sonder redelike gronde aan 'n ander persoon oordra nie;

(xi) in verband met die verkoop of verhuring van enige onroerende goed of 'n belang daarin of 'n besigheidsonderneming, of 'n voornemende koper of huurder daarvan waarvan besonderhede verkry is van 'n ander

- from another estate agent, negotiate in any manner with such prospective purchaser or lessee or the seller or lessor of such immovable property or interest therein or business undertaking, without the consent of such other estate agent for as long as it is offered for sale or to let by that agent or such purchaser, lessee, seller or lessor is a client of such estate agent;
- (xii) perform any act through a legal person or natural person which it would not be possible for him to do if he was acting in his capacity as estate agent;
- (xiii) accept any instructions with regard to immovable property or an interest therein or a business undertaking if such would affect the interests of any existing client, unless he had disclosed particulars of such instructions beforehand to such client in writing;
- (xiv) knowingly make any false statement, whether orally or in writing, or assist any other person to make such statement, or knowingly prepare or possess any books, accounts or records of which the contents are inaccurate or calculated to mislead;
- (xv) undertake any work for his own account or in partnership or for any other estate agent, if he is in the service of a particular estate agent, unless such estate agent consents thereto in writing;
- (xvi) accept a sole mandate for the resale of any immovable property or an interest therein or a business undertaking in respect of which he acted as estate agent during the initial sale
- eiendomsagent, op enige wyse met sodanige voornemende koper of huurder of die verkoper of verhuurder van sodanige onroerende goed of belang daarin of besigheidsonderneming onderhandel sonder die toestemming van sodanige ander eiendomsagent nie, vir solank dit deur daardie eiendomsagent te koop of te huur aangebied word of sodanige koper, huurder, verkoper of verhuurder 'n kliënt van sodanige eiendomsagent is;
- (xii) enige handeling deur middel van 'n regs persoon of natuurlike persoon verrig wat nie deur hom in sy hoedanigheid as eiendomsagent verrig mag word nie;
- (xiii) enige opdrag in verband met enige onroerende goed of 'n belang daarin of 'n besigheidsonderneming aanvaar indien dit die belange van enige bestaande kliënt daarin sal raak nie, tensy hy besonderhede van sodanige opdrag vooraf skriftelik aan sodanige kliënt geopenbaar het;
- (xiv) bewustelik enige valse verklaring, hetsy mondelings of skriftelik, maak, of enige ander persoon bystaan om sodanige verklaring te maak nie, of bewustelik enige boeke, rekeninge of rekords voorberei of in sy besit hou waarvan die inhoud onjuis of bereken is om te mislei nie;
- (xv) enige besigheid vir eie rekening of in vennootskap met of namens 'n ander eiendomsagent onderneem indien hy in die diens van 'n bepaalde eiendomsagent is nie, tensy sodanige eiendomsagent skriftelik daartoe toestem;
- (xvi) 'n alleenopdrag aanvaar nie vir die herverkoop van enige onroerende goed of 'n belang daarin of 'n besigheidsonderneming ten opsigte waarvan hy as eiendomsagent by die aanvanklike verkoop daarvan opgetree

thereof prior to the final transfer of same to the initial purchaser;

(xvii) without good cause and in any manner whatsoever, encourage, persuade or influence any person to utilise or refrain from utilising the services of a particular attorney, conveyancer, firm or attorneys or professional person with regard to the sale or lease of any immovable property or an interest therein or a business undertaking;

(xviii) accept or demand any consideration arising from the sale or lease of any immovable property or an interest therein or a business undertaking which is subject to a condition, unless such condition has been fulfilled or he and the parties to such sale or lease, expressly agreed otherwise.

3. An estate agent who is the sole owner of an estate agency or a partner in such agency or a director of a company referred to in paragraph (b) of the definition of "estate agent" in section 1 of the Act and which carries on business as an estate agent, shall be held responsible for any contravention of or failure to comply with this Code of Conduct by any other partner, director or person in the service of such agency unless it was not reasonably in his power to have prevented such contravention of failure.

4. Government Notice R. 1799 of 29 August 1986 is hereby repealed.

het, alvorens dit nie finaal aan die aanvanklike koper oorgedra is nie;

(xvii) sonder goeie gronde en op enige wyse hoegenaamd, enige persoon aanmoedig, oorhaal of beïnvloed om, in verband met die verkoop of verhuring van enige onroerende goed of 'n belang of 'n besigheids-onderneming, van die dienste van 'n bepaalde prokureur, transportbesorger, prokureursfirma of ander professionele persoon gebruik te maak of nie gebruik te maak nie;

(xviii) enige vergoeding ontvang of vereis nie wat voortspruit uit die verkoop of verhuring van enige onroerende goed of 'n belang daarin of 'n besigheids-onderneming wat aan 'n voorwaarde onderworpe is, tensy sodanige voorwaarde vervul is of hy en die partye tot sodanige verkoping of verhuring, uitdruklik andersins ooreengekom het.

3. 'n Eiendomsagent wat die alleeneienaar is van 'n eiendomsagentskap of 'n vennoot in sodanig agentskap of 'n direkteur is van 'n maatskappy bedoel in paragraaf (b) van die omskrywing van "eiendomsagent" in artikel 1 van die Wet en wat sake doen as 'n eiendomsagent, is verantwoordelik vir enige oortreding van of versuim om te voldoen aan 'n bepaling van hierdie Gedragskode deur enige ander vennoot, direkteur of persoon in diens van sodanige agentskap tensy dit nie redelikerwys binne sy vermoë was om sodanige oortreding of versuim te verhoed nie.

4. Goewermentskennisgewing R. 1799 van 29 Augustus 1986 word hierby herroep.

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