

**THE REAL ESTATE AGENTS BILL, 2025**

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(BILL NO.     of 2025)

(to be presented by the Minister for Housing and Urban Development)

**MEMORANDUM OF OBJECTS AND REASONS**

The objects of this Bill is to provide for the –

- (a) regulation and control of the activity and conduct of real estate agents in Eswatini;
- (b) establishment of the Real Estate Agents Board;
- (c) promotion of transparency, accountability and integrity in real estate agency work: and
- (d) incidental matters.

**S.M KHUMALO**

ATTORNEY GENERAL

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A BILL

ENTITLED

**AN ACT** to provide for the regulation and control of the activity and conduct of real estate agents in Eswatini; establishment of the Real Estate Agents Board; promote transparency, accountability and integrity in real estate agency work and incidental matters.

**ENACTED** by the King and the Parliament of Eswatini.

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**PART I**  
**PRELIMINARY PROVISIONS**

***Short title commencement.***

1. (1) This Act may be cited as the Real Estate Agents Act, 2024
- (2) This Act shall come into force on the date of publication on the government gazette.

***Interpretation.***

2. In this Act, unless the context otherwise requires -

“AML or CFT” means anti-money laundering and combatting the financing of terrorism;

“advertisement” includes any public or private form of advertisement, whether done –

- (a) orally or in writing;
- (b) in printed or electronic form;
- (c) in a newspaper or other publication;
- (d) by television or radio;
- (e) by the display of posters, notices, signs, labels, showcards or goods;
- (f) by the distribution of notices, circulars, brochures, pamphlets, catalogues, price lists or any other material;
- (g) by the exhibition of pictures, models or films; or
- (h) in any other form or manner whatsoever, and any reference to the issue or publication of advertisements is to be construed accordingly;

“Board” means the Real Estate Agents Board established under section 6 of this Act;

“certificate” means a certificate issued by the Board which serves as proof that a person is authorized or certified to engage or practice in real estate agency work;

“certificate holder” means a person granted a certificate of registration to practice real estate agency work by the Board under this Act;

“client” means a person who retains the services of a real estate agent to carry out a real estate transaction and includes prospective clients or customers;

“EFIU” has the same meaning as ascribed to it in terms of the Money Laundering and Financing of Terrorism (Prevention) Act, 2011 or its successor;

“Minister” means the Minister responsible for real estate agents in Eswatini;

“person” means legal person which may include an individual, company or other entity which has legal rights and is subject to obligations;

“property” means immovable property;

“property transaction” means property sales or lease, rental or advisory work for a fee, commission or reward is paid or payable to the real estate agents for real estate transactions;

“property owner” means the owner of immovable property;

“real estate” means immovable property together with the improvements or attachments;

“real estate agent” means a legal person who holds or is deemed to hold a current certificate of registration and carries out a real estate transaction by –

- (a) negotiating the sale, exchange, purchase or lease of real estate;
- (b) directing or assisting in the procuring of prospects, or the negotiation or closing of transactions which result in the sale, exchange, purchase or lease of real estate;
- (c) taking part in the procuring of sellers, purchasers, lessors, lessees, landlords or tenants of real estate;
- (d) engaging in real estate management, either as a consultant or as an agent;
- (e) advertising or holding oneself out as being engaged in the business of negotiating the sale, exchange, purchase or lease of real estate; and
- (f) receiving payment for a real estate transaction, either personally, by a partner, employee or agent;

“real estate agency agreement” means a legally binding contract between a client and a real estate agent.

“ real estate agency work” means any work done in the course of business for a client or work done for or in expectation of a fee, whether or not in the course of business for a client, being work relating to the negotiation for the acquisition or disposal of immovable property;

“register” means the real estate agent register in terms of section 23 of this Act;

“Tribunal” means the Appeals Tribunal established in terms of section 37 of this Act.

***Application of the Act.***

3. (1) This Act shall apply to a real estate agent who -

- (a) practices or intends to practice property transactions internal and external of Eswatini, after the commencement of this Act; or
- (b) negotiates the terms of a sale, lease or a proposed sale or lease in the course of business in respect of immovable property belonging to another person.

(2) Notwithstanding the provisions of subsection (1), the application of this Act shall not supersede laws relating to immovable property on Eswatini Nation Land.

***Exemptions.***

4. The activities and persons exempted under this Act shall include -

- (a) a person who does an act in accordance with this section in connection with immovable property belonging to that person or to that person's employer or which is to be purchased by that person's employer;
- (b) a person in the bona fide employment of a real estate agent whilst that person is working under the direction and control of the real estate agent;
- (c) an administrator or executor of the estate of a deceased person, in relation to that estate;
- (d) a trustee, liquidator or judicial manager whilst exercising any powers conferred upon that person by the law relating to insolvency;
- (e) the sheriff and other officers, in the performance of their functions;
- (f) a legal practitioner, an accountant or a valuation surveyor in the course of practicing as such;
- (g) a public officer;



- (h) a person employed by a bank or financial institution whilst carrying out the functions of the bank or financial institution; or
- (i) any other person who, or any category of persons which, the Minister may, by a statutory instrument declare as not being regarded as practicing or carrying on business as a real estate agent.

***Power of Minister.***

5. The Minister may by notice in the gazette –
- (a) exempt any activity or person from all or any of the provisions of this Act, subject to any conditions deemed necessary; or
  - (b) make, amend or repeal a Schedule under this Act.

**PART II**  
**THE REAL ESTATE AGENTS BOARD**

***Establishment of Board.***

6. There is established the Real Estate Agents Board.

***Composition of Board.***

7. (1) The Board under sub-section (6) shall be appointed by the Minister.
- (2) The Board shall consist of -
- (a) the chairperson, from the private sector, having experience and background in the real estate sector;
  - (b) four (4) members from the public sector with the relevant expertise and experience in property valuation, conveyancing, law or anti- money laundering;
  - (c) two (2) members from registered real estate association(s), to be recommended by the association(s) where applicable;
  - (d) two (2) members from the private sector with relevant experience and expertise; and
  - (e) a secretary from the department responsible for real estate.

- (3) Where a person is nominated for membership to the Board, the Minister shall be satisfied as to the fitness of that person to discharge efficiently the duties vested in the Board and that the

nominee possesses management or technical expertise related or equivalent to real estate agency work.

(4) The Board may co-opt a person with certain expertise or experience who may participate at a meeting, but that person shall not vote.

(5) A member of the Board shall vacate office -

(a) upon death;

(b) upon being declared insolvent;

(c) if incapacitated by physical or mental illness;

(d) upon conviction of a criminal offence in Eswatini or elsewhere of theft, fraud, forgery, perjury, corruption or an act of terrorism;

(e) if absent for three (3) consecutive meetings of the Board without the permission of the chairperson; or

(f) on resignation from office by writing a notice of one (1) month to the Minister;

(6) If an appointed member vacates office in terms of subsection (5), the Minister may appoint another person to fill the vacancy.

***Tenure of office.***

8. (1) A member of the Board shall, subject to section 7 (5), hold office for a period not exceeding three (3) years.

(2) Members of the Board shall be eligible for re- appointment at the discretion of the Minister.

***Meeting of Board.***

9. (1) The Board shall hold meetings as are necessary for the efficient performance of its functions.

(2) The Chairperson may convene a meeting at any time by giving seven (7) days written notice to the members or upon receipt of a written request signed by at least two (2) members.

(3) Where the Chairperson is for any reason unable to attend at any meeting of the Board the members at the meeting may elect another member to be a Chairperson for the purposes of the meeting.

(4) A decision by a majority of members present at a meeting of the Board constitutes a decision of the Board and if there is an equality of votes the Chairperson shall have a casting vote in addition to a deliberative vote.

(5) A member of the Board shall not be present during the consideration by the Board of any matter in which that member has a direct or indirect interest.

(6) The quorum of all Board meetings shall be two thirds of the appointed members.

(7) The Board may, for the purpose of dealing with any matter before it, determine its own internal rules and procedures.

(8) The validity of any proceedings of the Board shall not be affected by a vacancy among the members.

***Allowances of members.***

10. The members of the Board shall be paid such allowances as the Minister may, in consultation with the Minister responsible for Finance, determine.

***Disclosure of interest.***

11. (1) Where a member or person is present at a meeting of the Board or of a Committee at which a matter which is the subject of consideration is a matter in which that member or person or the immediate family member of that member or person or the member or person's professional or business partner is directly or indirectly interested in a private or professional capacity, that person or member shall, as soon as practicable after the commencement of the meeting disclose such interests.

(2) The Board or the Committee may direct that a member or person who has disclosed interest in terms of subsection (1), not participate in the deliberation where there is a conflict of interest.

(3) A disclosure of interest shall be recorded in the minutes of the meeting at which the disclosure is made.

***Immunity of member.***

12. An action, suit or other proceeding shall not be instituted against a member of the Board, Committee or a person authorized under this Act in respect of an act done, in good faith, in the course of carrying out the provisions of this Act.

***Secretary of Board.***

13. (1) The Secretary designated in terms of section 7(2) (e), shall not have the right to vote at Board meetings.

(2) The Secretary shall -

- (a) keep proper minutes of the proceedings and decisions of the Board; and
- (b) perform other functions conferred upon the Secretary under this Act, or as assigned by the Board .

***Powers of Board.***

14. The Board shall -

- (a) in accordance with this Act grant, renew, suspend, or revoke a real estate certificate of registration issued under this Act;
- (b) cause to be carried out investigations and disciplinary proceedings in relation to offences and misconduct in relation to real estate agency work;

- (c) cause the closure of real estate premises or other premises where real estate agency work is purported to be conducted, where the Board reasonably believes a provision of this Act is being or is about to be violated;
- (d) without prejudice, grant to the applicant advise on the appropriate cause of action to take in relation to real estate agency certification;
- (e) recommend to the Minister fees that are payable by real estate agents;
- (f) lawfully cause to be done or do anything to ensure that the objectives or purpose of this Act is carried into effect, are not defeated or compromised.

***Functions of Board.***

15. (1) The Board shall-

- (a) regulate and control the practice and activities of real estate agents in Eswatini;
- (b) consider applications for or relating to real estate agency work;
- (c) accredit activities, courses and programmers for continuing professional education for or in respect of real estate agents;
- (d) administer examinations and a professional development framework for the purposes of certification and registration under this Act;
- (e) regulate activities of real estate agents and their conduct by development of binding rules for professional conduct and ethics to promote the integrity and competence among estate agents and to maintain or enhance their status;
- (f) keep and maintain a register in the prescribed form and manner of real estate agents;
- (g) monitor the operations and activities of registered real estate agents in Eswatini in order to ensure compliance with the provisions of this Act;
- (h) carry out disciplinary enquiries; and

- (i) perform such other functions or Ministerial directive as maybe conferred on the Board by this Act;

(2) Subject to this Act and regulations made under this Act, the Board shall have exclusive authority to grant, renew, revoke or suspend a certificate of registration under this Act.

(3) The Board in the exercise of its functions under this Act shall, be professional, independent and not influenced by any person or authority and be accountable to the Minister.

***Continuing professional development.***

16. (1) The Board may, for the purpose of promoting continuing professional development designate and maintain a list of regular activities, courses and programmers that are relevant to real estate agency work.

(2) A real estate agent shall participate in the activities, courses and programmers as may be prescribed by the Board.

(3) A failure by a real estate agent to comply with this section shall result in suspension or revocation of a certificate of registration issued by the Board in exercise of the powers conferred under this Act.

***Committee of Board.***

17. (1) The Board may, for the purpose of performing its functions under this Act, establish committees and delegate to any committee its powers, functions or duties as it considers necessary under this Act.

(2) The Board may appoint not more than three (3) persons on an *ad hoc* basis with the relevant competent qualification, experience and expertise in real estate and related matters to be members of the committee under sub-section (1).

(3) Where a committee is appointed under this section, the Board shall –

- (a) appoint a person to be the chairperson of that committee; and
- (b) determine or vary the terms of reference of the committee.

(4) Subject to a specific or general direction of the Board, a committee appointed under this section may regulate its own procedure.

(5) A function or power delegated under subsection (5), to a committee or person may be performed or exercised by the committee or person on behalf of the Board.

### **PART III**

#### **REGISTRATION OF REAL ESTATE AGENTS**

##### ***Registration of agents.***

18. (1) A person shall not trade or engage in real estate agency work, or be permitted to conduct a real estate transaction without a certificate of registration issued by the Board under this Act.

(2) A person who -

- (a) exercises or carries on, or is willing to exercise or carry on, the business of conducting estate agency work as an estate agent;
- (b) acts as a real estate agent; or
- (c) advertises or ostensibly holds themselves out to the public as being ready to undertake, whether or not for payment or other remuneration, estate agency work as an estate agent,

without a certificate of registration commits an offence under this Act.

(3) A person who contravenes this section shall on conviction, be liable to a fine not exceeding E250, 000 or to imprisonment for a term not exceeding ten (10) years, and in the case of a continuing offence, to a further fine not exceeding E10, 000 for every day or part of a day during which the offence continues after conviction.

##### ***Application for registration.***

19. (1) A person shall apply to the Board for a certificate of registration to practice as a real estate agent in accordance with Form A to the Schedule.

(2) An application made under subsection (1) shall be accompanied by -

- (a) payment of the prescribed application fee;
- (b) certificates, or other documents and declarations as may be required to prove education and practical requirements for certification as provided under this Act;

- (c) any other information as the Board may reasonably require for the purpose of determining the application.

(3) The Board shall consider an application made in terms of subsection (1), and may grant or renew the certificate of registration, with or without conditions, or refuse to grant or renew the certificate and give written reasons.

(4) A certificate of registration issued by the Board under this Act shall not be transferable and is valid for a period of three (3) years.

(5) A person shall not in an application for the grant or renewal of a certificate of registration submit false documents or make a statement which is false or misleading in support of the application.

(6) An application for a renewal of a certificate of registration to practice as a real estate agent shall be made in accordance with Form B to the Schedule on payment of the prescribed fee.

(7) A person who contravenes subsection (5), commits an offence and shall on conviction, be liable to a fine not exceeding fifty thousand Emalangeneni (E50, 000) or to imprisonment for a term not exceeding three (3) years.

***Eligibility for registration.***

20. (1) A person shall be eligible for registration as a real estate agent if -

(a) in the case of a natural person -

(i) is over eighteen (18) years of age ;

(ii) holds a degree in real estate or has other equivalent and relevant qualification recognized and approved by the Board, and has continuously served under a registered real estate agent for a period of twelve (12) months; or

(iii) satisfies the Board as to possess a minimum of three (3) years' experience in real estate agency work and has passed the courses of instruction or examinations and that has the practical training as may be prescribed or approved by the Board;

(b) in the case of a juristic person, at least one principal agent or director or an owner of the company involved in real estate agency work shall be a registered as a real agent.

(2) For purposes of this Act, a person shall not be eligible for registration as an estate agent if -



- (a) not qualified in terms of this Act;
- (b) not a fit and proper person in terms of section 21;
- (c) that person been convicted of a financial crime domestically or internationally;
- (d) the name of the person appears on the United Nations Sanctions List;
- (e) disqualified or deregistered as an estate agent in any State;
- (f) that person is an un-rehabilitated insolvent; and
- (h) the person is a subject of extradition proceedings.

***Fit and proper person.***

21. (1) A person who practices or carries on a real estate agency work shall be a fit and proper person.

(2) A fit and proper person under this Act shall be a person who has not -

- (a) been –
  - (i) convicted of an offence involving dishonesty or fraud;
  - (ii) convicted of any offence under this Act;
  - (iii) declared insolvent;
  - (v) subject to liquidation;
  - (vi) subject to winding up order; or
  - (vii) declared mentally incapacitated;
- (b) had a judgment entered against that person which involve a finding of fraud, dishonesty or breach of fiduciary duties.

***Declaration of information by a real estate agency company.***

22. A company involved in real estate agency work shall -

- (a) furnish the Board with up to date information relating to an employee duly registered as a real estate agent and mandated to conduct real estate agency work on behalf of the company, annually or as and when required; and

- (b) keep an up to date information relating to principal agents, directors and owners of the company for submission to the Board or other statutory bodies when required.

***Register.***

23. (1) The Board shall keep and maintain a register for estate agents in the manner and form as may be prescribed.

(2) For purposes of this Part, the Secretary of the Board shall be the Registrar.

(3) The Registrar may enter in the register -

(a) as regards to certificates granted under this Act -

- (i) the name of the person in the certificate;
- (ii) the period for which the certificate was granted, or renewed;
- (iii) if the certificate is suspended or revoked, the period of suspension or date of revocation; or
- (iv) the date of registration of the estate agent and period of registration;

(b) such other particulars as may be prescribed in respect of -

- (i) the real estate agents that an agent had acted for in the past;
- (ii) the admonishment or reprimand of the Disciplinary Committee under this Act;
- (iii) the conviction of an estate agent for any offence under this Act; and
- (v) any action as may have been taken by the Board or a Disciplinary Committee against an estate agent.

(4) A registered real estate agent under this section shall pay with the Secretary a yearly subscription fee to be determined by the Board in consultation with the Minister.

(5) The Board may by notice in the gazette at least once at the beginning of each year publish the information from the register as it considers appropriate.

(6) The Board shall make the register available for public inspection, in a manner and at a reasonable time as may be determined.

(7) Where a person applies to the Board for a copy of or an extract from any part of the register to be signed and certified, the Board shall provide the person with the copy or extract applied for on payment of the prescribed fee.

***Registered address.***

24. (1) A registered estate agent under this shall have a registered address to which all communications and notices may be served.

(2) The registered address shall be stated in the application for the grant or renewal of a certificate.

(3) Subject to subsection (4), if there is a change in the registered address of certificate holder, the Board shall be notified in writing of the change and of the new address immediately within a period of fourteen (14) days from the date of the change.

(4) The Board shall cause the new address provided in the notification to be entered appropriately in the register.

(5) A registration holder who fails to comply with this section commits an offence and shall on conviction, be liable to a fine not exceeding twenty thousand Emalangeni (E20, 000) or to a period of one (1) year imprisonment.

***Security by real estate agent.***

25. (1) An individual who intends to practice as a sole trader or company engaged in real estate transaction shall submit to the satisfaction of the Board security to the value or range of the real estate transaction in the manner and form as may be prescribed.

(2) For purposes of subsection (1), the security shall be submitted by cash deposited with the Accountant General and the proof of payment submitted to the Board, bond from a bank, policy of insurance company duly registered under the Insurance Act, or by mortgage on immovable property which has to be sufficient to cover the value of the transaction and to obtain for that transaction.

(3) The security submitted under this section shall be used to satisfy judgment debts, penalties, legal costs against estate agents arising from or omission to discharge their function under this Act.

***Request for information.***

26. (1) Where the Board requires additional information in terms of other laws of Eswatini before determining an application for a certificate under this Act, the Secretary shall notify the applicant to submit the necessary information within fifteen (15) days.

(2) A failure by an applicant to furnish further information within the time period in subsection (1), the application shall be deemed to be cancelled, this is not a bar on an applicant from making a subsequent application.

***Board decision.***

27. A person whose application for a certificate to be registered as an estate agent is refused by the Board may appeal the decision to the Tribunal in such a manner and form as provided for under this Act.

***Suspension of registration.***

28. (1) The Board may suspend a certificate of registration granted to an estate agent where the holder of the certificate has failed to trade in accordance with the conditions of the certificate.

(2) A suspension under this section shall be for such period as the Board may determine to enable the holder of the certificate to take remedial action to comply with the requirements of the certificate and the provisions of this Act.

***Revocation of registration.***

29. The Board may revoke a registration, if -

- (a) the holder of the certificate of registration fails to take remedial action before the expiration of the time given by the Board;
- (b) the certificate holder fails to comply with the provisions of this Act;
- (c) a report made by the Appeals Tribunal recommends a revocation; or
- (d) the certificate holder has been convicted of an offence under this Act.

**PART IV**

**CONDUCT OF REGISTERED REAL ESTATE AGENTS**

***Code of practice, ethics and conduct.***

30. (1) The Board may prescribe or issue and publish a code of practice, ethics and conduct for real estate agents in Eswatini.

(2) A failure to observe a requirement of any code that is prescribed or issued and published under subsection (1), shall result in the estate agent being liable to disciplinary action.

***Fees.***

31. (1) The fee for a real estate agent engaged in real estate agency work shall be of such percentage, as may be prescribed by the Board, of the value of the transaction.

(2) Notwithstanding subsection (1), a real estate agent shall charge other fees for giving advice as regards a real estate transaction or for other service not specified in this Act.

***Keeping of accounts.***

32. (1) A real estate agent shall –

- (a) keep a record of accounts including receipts and expenditure in relation to transactions, showing clearly and separately any amount received from, or on behalf of clients or any amount paid to clients or any other person;
- (b) record all information relating to a client that is kept or obtained by the real estate agent through the customer due diligence process;
- (c) provide each supporting document relied on in support of any information referred to in paragraphs (a) and (b); and
- (d) such other document or information as may be prescribed.

(2) The accounts for a real estate agent shall be maintained for a period of ten (10) years after the completion of the transaction.

(3) A real estate agent shall cause the accounts to be audited yearly by an auditor registered with the Chartered Accountancy Institution recognized by the Board.

(4) The auditor shall submit a written report of the audit to the Board.

(5) The documents and information provided in subsection (1), shall be immediately submitted to the Board on request.

***Complaints.***

33. (1) A complaint in connection with the conduct of a real estate agent shall be made to the Secretary, for purposes of submission of the complaint to the Chairperson of the Board.

(2) The Chairperson may by motion refer the information concerning the conduct of a real estate agent to the Board.

(3) The Board shall require any complaint to be supported by affidavit and relevant evidentiary documents.

(4) The Board on receipt of a complaint shall refer the matter for investigation by the Investigatory Committee.

(5) The Board shall consider the report or recommendations submitted by the Investigatory Committee and if there is a case of misconduct to answer by the real estate agent refer the matter to the Disciplinary Committee for determination.

(6) The Board after considering the report and recommendations submitted under subsection (5), may -

- (a) impose on the registered estate agent a financial penalty of an amount that the Board may deem necessary; or
- (b) admonish the real estate agent concerned.

(7) The Board shall, before making any decision under subsection (5), give the real estate agent written notice of the Board's intended decision.

(8) A real estate agent may, on receipt of the notice under subsection (7), within fourteen (14) days after the date of the notice, show cause to the Board as to why the Board shall not take any or both of the actions under subsection (6).

(9) The Board shall, after a real estate agent has shown cause under subsection (8) or the time to do so has expired, give written notice to the real estate agent of the Board's decision under subsection (6).

(10) The Board's decision under subsection (9), shall come into effect after the Board has served the written notice under subsection (9), to the real estate agent.

(11) If the Board considers it appropriate, the Board may, instead of making any decision under subsection (6), refer the matter to a Disciplinary Committee.

### ***Disciplinary Committee.***

34. (1) The Board shall appoint a Disciplinary Committee of not less than three (3) persons, to form the Disciplinary Committee of the Board.

(2) A Disciplinary Committee may be appointed to formally inquire in connection with one or more matters as the Board may deem necessary.

(3) A person who participates in the investigation of any matter shall not be a member of the Disciplinary Committee inquiring into the same matter.

(4) An act done by or under the authority of the Board or Committee shall not be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the members.

***Powers and procedures of Disciplinary Committee.***

34. (1) A Disciplinary Committee in the exercise of its functions under this Act, shall -
- (a) cause to be taken evidence on oath;
  - (b) summon any person to attend any hearing of the Disciplinary Committee and give evidence or produce any document or other article in the person's possession, except that no person is bound to answer any question or produce any document or other article in respect of any matter which would have been protected from disclosure on the ground of privilege if the proceedings had been held in any court; and
  - (c) do anything which is necessary or expedient to enable the Committee to perform its functions.
- (2) A Disciplinary Committee is not bound by the rules of evidence applicable to civil proceedings but may inform itself of any matter as it deem fit and necessary.
- (3) Subject to the provisions of this Act, a Disciplinary Committee may regulate its own procedure.
- (4) The quorum of a Disciplinary Committee shall be three (3) members, one of whom is the Chairperson, who presides at the proceedings.
- (5) The proceedings before a Disciplinary Committee shall be decided by a majority of votes of the members present.
- (6) The proceedings of a Disciplinary Committee shall not be open to the public.

***Disciplinary action.***

36. (1) The Disciplinary Committee when determining a matter shall consider all reports of an inspector or person authorized by the Board.
- (2) The Disciplinary Committee shall according to the circumstances of each matter, determine that –
- (a) there is no sufficient cause for disciplinary action against the real estate agent under investigation;
  - (b) there is sufficient cause for disciplinary action against the real estate agent under investigation; or
  - (c) despite there being no sufficient cause for disciplinary action against the estate agent under investigation, the real estate agent be subject to admonishment or reprimand.
- (3) For purposes of section 2(b), sufficient cause for disciplinary action may be shown by proof that a real estate agent -

- (a) has been guilty of unsatisfactory conduct or misconduct in relation to real estate agency work;
- (b) has breached the provisions of this Act or regulations or code made under this Act; or
- (c) has breached any order of a Disciplinary Committee, if the conduct, misconduct or breach warrants disciplinary action.

(4) Where the Disciplinary Committee determines that there is sufficient cause for disciplinary action against a real estate agent, the Disciplinary Committee may, subject to this section, impose a financial penalty not exceeding two hundred and fifty (E250, 000) Emalangeni.

(5) A Disciplinary Committee shall make recommendation to the Board, if the decision involves -

- (a) suspension of the real estate agent or registration; or
- (b) revocation of the certificate of the real estate agent or de-registration,

whether or not a financial penalty is imposed under subsection (4).

(6) The Disciplinary Committee may, through the Chairperson in writing admonish or reprimand the real estate agent, where the Disciplinary Committee determines a matter in terms of section 35 (2) (c) of this Act.

(7) Where the Disciplinary Committee exercises powers under section 35(2) (b) or 35 (5) (a), it may -

- (a) attach specific conditions to the certificate of registration concerned;
- (b) vary any condition attached to the certificate of registration.

(8) The Disciplinary Committee shall, before exercising any power under this section give the real estate agent concerned a reasonable opportunity to be heard and make representations, examine witnesses and address the Disciplinary Committee either personally or through legal counsel.

(9) The Disciplinary Committee shall, after considering any representations made, communicate its decision to the real estate agent concerned either in person or in writing.

(10) The decision or order of the Disciplinary Committee shall come into effect immediately after pronouncement, provided it is ordered otherwise by the Disciplinary Committee or Appeals Tribunal.

(11) If a certificate of registration of a real estate agent is suspended or revoked, the fee or other amount paid in respect of the grant or renewal of the certificate of registration shall not be refunded.



(12) A financial penalty imposed upon, or costs ordered to be paid by, a real estate agent under this Act may be recovered as a civil debt due to the Board.

## **PART V**

### **THE APPEALS TRIBUNAL**

#### ***Appeals Tribunal.***

37. (1) The Minister may, by Notice published in the gazette, appoint a Tribunal for the adjudication and determination of appeals from decision of the Board.

(2) The Appeals Tribunal shall be appointed for a term not exceeding three (3) years and be composed of-

(a) an admitted attorney of not less than ten (10) years' experience; and

(b) two (2) persons qualified in the real estate industry.

(3) There shall be a designated Secretary appointed by the Minister to assist the Appeals Tribunal in the discharge of its duties and functions.

(4) The Minister may, at any time, revoke the appointment of a member of the Appeals Tribunal or Secretary to the Appeals Tribunal and fill any vacancy.

(5) A member of the Appeals Tribunal may resign from office by written notice to the Minister.

(6) The Appeals Tribunal may regulate its own procedure.

(7) The members of the Appeals Tribunal may be paid a remuneration and allowance as the Minister in consultation with the Minister for Finance, may determine.

#### ***Filing of appeal.***

38. (1) A person aggrieved by a decision taken by the Board or Disciplinary Committee under this Act, may lodge a written appeal with the Secretary against the decision within thirty (30) days after receipt of the decision.

(2) The Secretary of the Tribunal shall within seven (7) days of receiving the notice of the appeal, forward the full record of the proceedings to the Tribunal.

(3) The Appeals Tribunal shall determine the manner and procedure for filing appeals

***Appeal.***

39. (1) A person who makes an appeal under this Part shall -
- (a) state as concisely as possible the circumstances under which the appeal arises, the issues and grounds for the appeal; and
  - (b) submit to the Secretary all relevant facts, evidence and arguments for or against the appeal, as the case may be.
- (2) The Tribunal in the discharge of its functions under this Act shall -
- (a) take evidence on oath;
  - (b) summon any person to attend a hearing of the Tribunal to give evidence or produce, extract or a document or other article in their possession, except that where the evidence is protected from disclosure on the ground of privilege that person is not bound to answer any question or produce any document or other article in the proceedings;
  - (c) do anything which is necessary or expedient to enable it to perform its functions; and
  - (d) exercise the powers of the appeals tribunal under this Act.
- (3) A party to proceedings before the Tribunal may be represented by legal counsel, who may examine witnesses and make submissions before the Tribunal.
- (4) The Tribunal is not bound by the rules of evidence applicable to civil proceedings but may inform itself of any matter as it deem necessary.

***Compliance pending appeal.***

40. (1) Where an appeal is lodged under this Part, and if on application of the Board the Tribunal orders otherwise, a decision, direction or issue appealed against shall be complied with until the determination of the appeal.
- (2) The Tribunal may determine an appeal under this section-
- (a) by confirming, varying or reversing any decision taken by the Board or; or
  - (b) by directing the Board to reconsider its decision, direction, code of practice of performance, as the case may be.

(3) If the Board makes an order for revocation or suspension of a certificate of registration of a real estate agent, and an appeal is lodged, that order shall be stayed pending the determination of the appeal.

(4) The decision of the Tribunal shall be final and may be communicated to the appellant and respondent in person, or in writing by the Secretary.

## **PART VI**

### **COMPLIANCE WITH ANTI MONEY LAUNDERING AND COMBATING FINANCING OF TERRORISM MEASURES**

#### ***Application.***

41. (1) This Part shall be an addition to, and not in derogation from the Money Laundering and Financing of Terrorism (Prevention) Act of 2011 or its successor.

(2) For purposes of this Act, this Part shall apply to registered real estate agents or company dealing with the acquisition and disposition of immovable property inside and outside of Eswatini and prevents the proceeds from the property from being used to facilitate money laundering, and the financing of terrorism or both.

(3) Notwithstanding any other law, the FIU under the Money Laundering and Terrorist Financing Act, shall be the authority responsible for the supervision of real estate agents or companies engaged in real estate agency work in Eswatini.

(4) A real estate agent or company engaged in real estate agency work for purposes of prevention of money laundering and financing terrorism and proliferation, shall abide by all international laws and conventions and any other Act, on money laundering and terrorist financing.

#### ***Customer due diligence.***

42. A registered real estate agent or company shall perform customer due diligence measures, if –

- (a) engaged in real estate agency work or activity for a client;
- (b) the real estate agent has reasonable believe to suspect money laundering or terrorism financing;
- (c) the real estate agent has reason to doubt the veracity or adequacy of information obtained from earlier customer due diligence measures; and

(d) under circumstances prescribed for the purposes of this section.

***Trust accounts and Keeping of records.***

43. (1) A registered real estate agent or company under this Act shall open and maintain a client's account in the name of the real estate agent, with a recognized and registered financial institution in Eswatini, where all moneys received on behalf of the client are to be deposited.

(2) The client account shall have a credit balance and be kept separate from the business bank account of the real estate agent.

(3) The interest or other benefit accruing to the money held in the clients account shall be for the benefit of the client.

(4) A real estate agent or company under this Act shall periodically or on request by the client make available or provide a statement of account relating to the money the real estate agent or company holds and receives on behalf of the client.

(5) A registered real estate agent or company shall -

- (a) keep and maintain records, documents and information of all real estate agency work for the period of ten (10) years;
- (b) record all information relating to a client that is kept or obtained by the real estate agent or company through the customer due diligence process;
- (c) provide each supporting document relied on in support of information referred to in paragraphs (a) and (b); and
- (d) keep such other document and information as may be prescribed.

(6) The documents and information provided in subsection (1), shall be immediately submitted to the Board on request.

***Disclosure of suspicious transactions.***

44. (1) Notwithstanding any other law, a registered real estate agent or company under this Act shall disclose any suspicious transaction or activity relating to corruption, drug trafficking and any other serious crimes.

(2) A registered real estate agent or company that contravenes subsection (1), shall be liable to disciplinary action under this Act.

***Breach of AML or CFT measures.***

45. Where the FIU has reasonable cause to believe that a registered real estate agent or company under this Act has breached the AML or CFT measures domestic and international, or any regulations made or guidelines issued under those Acts, the FIU shall -

- (a) take the relevant disciplinary and enforcement measures provided for by the Money Laundering Act and Terrorism, and any relevant international law , guidelines and guidelines against the real estate agent; and
- (b) where appropriate, refer the matter to the Board for any additional disciplinary measure the Board may deem necessary against the real estate agent or company under this Act.

**PART VII**  
**ENFORCEMENT**

***Inspector.***

46. (1) The Minister shall appoint persons employed within the civil service in the Ministry to serve as Inspectors under this Act.

(2) Inspectors under sub-section (1), shall be published by notice in Government Gazette.

(3) The Board shall provide an Inspector with an identification card.

(4) An Inspector shall, when exercising any power under this Act, on demand produce the identification card to the person affected by the exercise of that power.

***Powers of Inspector.***

47. (1) An Inspector shall, during regular business hours, for the purpose of ensuring compliance with this Act, enter a private property with or without a warrant and upon presentation of an identification document of that Inspector.

(2) For purposes of sub-section (1), an Inspector shall -

- (a) carry out periodic inspections of all real estate agency establishments which carry on estate agency transactions to determine whether the provisions of this Act are being complied with;

- (b) require production, inspection, examination or copying of certificates of registration, records or any other document relating to the provisions this Act;
  - (c) to investigate or cause to be investigated complaints relating real estate agency work; and
  - (d) seize any equipment, document, record, or other evidential material that the Inspector reasonably believes has been used in contravention of the provisions of this Act.
- (3) The Inspector shall, when executing the duties under this Act -
- (a) prepare an inventory in the prescribed form and give a copy of such inventory to the real estate agent or the person in lawful custody of such item; or
  - (b) where an item has been seized, and no contravention has been found after the necessary inquiry or prosecution, promptly return the item or material to the real estate agent.
- (4) The Inspector may, when executing duty under this Act, engage the assistance of a Police Officer and shall as soon as practicable report any violation to the Board for prompt and appropriate action.
- (5) An Inspector shall be responsible for reporting violations of this Act to the Board and where a violation is noted or imminent, remove or require the real estate agent, employee, or a person in charge of the premises to remove the certificate of registration and further close the business premises.
- (6) A person who obstructs or fails to comply with an instruction, order or notice issued under this Part, commits an offence and shall on conviction, be liable to pay a fine not exceeding ten thousand Emalangeni (E10,000,00) or to a term of imprisonment not exceeding two (2) years.
- (7) Inspectors shall be immune from any legal proceedings for any act or conduct done in good faith in the performance and execution of duties under this Act.

(8) The decision of the Court in legal proceedings instituted under this Act, shall prevail over that of any Inspector or authorized person in regard to the disposition of an item seized under section 43 (2) (d) of this Act.

***Application for warrant.***

43. (1) Subject to sub-section (2) an Inspector or Police officer shall not enter any dwelling except with the consent of the occupier or under the authority of a search warrant.

(2) If an Inspector accompanied by a police officer believes on reasonable grounds that the delay in enforcing an order would defeat the object and purpose of the inspection, the Inspector or Police officer may enter the dwelling, land, premises, or question any person found in that private property.

(3) If it appears to a regional Magistrate on an application by an Inspector or Police officer that there are reasonable grounds to believe that-

- (a) there is in a dwelling, room, land, or premises anything in respect of which this Act applies;
- (b) entry into the dwelling, room, land, or premises is necessary for a purpose relating to the administration of this Act; or
- (c) entry to a dwelling, room, land, or premises has been refused or there are reasonable grounds to believe that entry will be refused-

The Magistrate may at any time sign and issue a warrant authorizing the Inspector and enforcement agent to enter and search the private property subject to conditions that may be specified in the warrant.

(4) An Inspector or Police officer may use such force as may be reasonably necessary to execute a warrant under this section.

**PART VIII**  
**MISCELLANEOUS PROVISIONS**

***Professional misconduct.***

49. (1) A real estate agent shall commit an act of professional misconduct under this Act, if that real estate agent –

- (a) is dishonest or demonstrates gross incompetence in the discharge of the functions and exercise of the powers as a real estate agent;
- (b) engages in conduct of grave impropriety or gross negligence in the discharge of the functions and exercise of the powers as a real estate agent;
- (c) uses another real estate agent's description, photograph or other information relating to a real estate to procure the services as a real estate agent;
- (c) fails, without reasonable excuse, to produce any record, document or article when required by the Disciplinary Committee to do so, or to answer any question put to the estate agent by the Disciplinary Committee during its proceedings;
- (d) knowingly makes a false or misleading statement or any material omission in or from an answer to any question put to the estate agent by the Disciplinary Committee during its proceedings;
- (e) advertises real estate for sale, exchange, purchase or lease and fails to disclose personal particulars in relation to the name and the fact that the person is a real estate agent in such manner so as to misrepresent to the public that the real estate agent is the owner of the property;
- (f) holds themselves out as a real estate agent having authority to carry out real estate transactions on behalf of an owner without the owner's consent;
- (g) accepts a commission, rebate or profit on expenditures made while acting as a real estate agent in the management of real estate without the owner's consent;
- (h) acquires an interest in a real estate listed with the estate agent for sale, exchange, purchase or lease of the real estate without disclosing complete details of personal interest to the owner of the real estate;
- (i) induces a party to a contract for the sale, exchange, purchase or lease of real estate to breach the contract for the purpose of entering into a contract with another person;
- (j) acts as a dual agent without the written consent of the parties involved in a transaction and without disclosing the nature and scope of the representation to the client in the transaction;



- (k) assigns a contract without providing full and honest disclosure to all the parties involved in the transaction;
- (l) employs or uses the services of a person whose application for registration as a real estate agent has been refused on grounds of character or whose name has been removed from the register and has not been reinstated or who is suspended as real estate agent;
- (m) breaches the Code of Conduct and Practice;
- (n) is disqualified to be registered as a real estate agent under this Act;
- (o) acts in a way likely to bring the business of real estate into disrepute.

(2) Where in relation to a real estate agent which is a company or any similar body, any act done by or with the knowledge, consent or connivance of or was attributable to any director, manager, secretary or similar officer of the company or similar body, or any person purporting to act as any such officer, such act shall be deemed to be an act done on the part of the company.

***Offence and penalty.***

50. (1) A person who -

- (a) obstructs, hinders, impedes or deceives the Board, Tribunal, or any Committee lawfully carrying out any function or duty in the exercise of any power conferred by this Act; or
- (b) after being summoned –
  - (i) fails to attend at a hearing of the Disciplinary Committee or Tribunal to give evidence;
  - (ii) fails to produce any document or other article, without reasonable excuse refuses or neglects to do so; or
  - (iii) refuses to answer any questions put to the person by the Disciplinary Committee or Tribunal,

commits an offence and shall on conviction, be liable to a fine not exceeding fifty thousand Emalangeni (E50,000) or to imprisonment for a term not exceeding two (2) years.

(2) A person who commits an offence under this Act for which no penalty is expressly provided shall on conviction, be liable to a fine not exceeding ten thousand Emalangeni (E10, 000) or to imprisonment for a term not exceeding twelve (12) months and, in the case of a continuing offence, to a further fine not exceeding E5, 000 for every day or part of a day during which the offence continues after conviction.

***Transitional provisions.***

51. A person who, prior to the commencement of this Act, was acting as a real estate agent shall, not later than six (6 ) months after the commencement of this Act, make an application to be registered as a real estate agent with the Board.

***Regulations.***

52. (1) The Minister in consultation with the Board may, make regulations to give effect to the provisions and purpose of this Act.

(2) Without derogating from the generality of subsection (1), the Minister may delegate in writing to the Board to make rules, guidelines and standards in respect of all or any of the following matters –

- (a) applications for a certificate of registration, including the form and manner of application, and the particulars, information, and declarations to be provided with such applications;
- (b) particulars to be contained in the register, including the form in which it must be kept and public access to the register;
- (c) requirements for a certificate or registration, including minimum ages, educational qualifications, professional examinations, and practical experience;
- (d) professional indemnity insurance for estate agents;
- (e) continuing professional education requirements for the renewal of a certificate or registration;
- (f) accreditation of any activities, courses and programmes for continuing professional education for or in respect of estate agents;
- (g) codes of practice, ethics and conduct for estate agents;
- (h) the books, accounts and records to be opened and kept by a real estate agent, and the manner of keeping the documents
- (i) the information and records to be kept by registered real estate agents;
- (j) the particulars or other matters to be included in estate agency agreements, in order to ensure that clients are aware of -
  - (i) the parties, and the rights and obligations conferred on or imposed by any particular such agreement of the parties to it; and
  - (ii) the amount or rate of any commission or other fee payable by the client under the agreement, and the time and manner of payment;

- (k) the fees and charges payable under this Act, including the interest or penalty for the late payment of any fee or charge, and the waiver, refund or remission, whether wholly or in part, of such fees and charges;
- (l) the requirements and restrictions on the business names of real estate agents, and the use or display of the names;
- (m) the form and manner of the keeping of registers or records under this Act, their inspection, the taking of extracts, the supply of copies, and the returns to be made to the Board including financial records;
- (n) the use of advertisements by or on behalf of real estate agents, or any solicitation or canvassing for business by or on behalf of real estate agents;;
- (o) the forms and procedure for Disciplinary Committee proceedings, including the fees payable, the costs that may be awarded, and the records to be kept;
- (p) requirements in relation to the detection and prevention of money laundering or the financing of terrorism, or for the reporting of transactions suspected of involving money laundering or terrorism financing;
- (q) requirements, conditions and restrictions in relation to the receipt, holding, handling and transmission of money by real estate agents which may include requirements for separate trust accounts; and
- (r) to prescribe all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.

## **SCHEDULE**

### **FORM A**



## **APPLICATION FOR REGISTRATION TO PRACTICE AS A REAL ESTATE AGENT (Under Section 19)**

**PERSONAL DETAILS (Provide certified copies to each of the below)**

<b>Title</b>	
<b>Name (s)</b>	
<b>Surname</b>	
<b>Date of Birth</b>	
<b>Identification No.</b>	
<b>Nationality</b>	
<b>Passport No. (For Non Swazi)</b>	
<b>Date of Passport Expiry( Swap wih above)</b>	
<b>Work Permit No.</b>	
<b>Postal Address</b>	
<b>Residential Address</b>	
<b>Telephone No.</b>	
<b>Cell phone No.</b>	
<b>Email address</b>	

<b>ACADEMIC DETAILS (Provide certified copies of qualifications)</b>			
	<b>Qualification</b>	<b>College/ University</b>	<b>Year</b>
1.			
2.			
3.			
4.			
5.			

<b>PROFESSIONAL MEMBERSHIP (Including affiliation to any Real Estate Association)</b>		
<b>Membership</b>	<b>Registration No.</b>	<b>Date Issued</b>


<b>PRACTICAL EXPERIENCE</b>		
<b>Present employment</b>	<b>Position</b>	<b>Period in position</b>

**NATURE OF WORK UNDERTAKEN (IN REFERENCE TO THE PRACTICAL EXPERIENCE):**

1. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
2. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
3. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
4. \_\_\_\_\_  
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 \_\_\_\_\_
5. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
6. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

This section shall only apply to persons who require registration under this section. Kindly provide a work profile for real estate work undertaken to support your application.

**Declaration:**

I, the above named, solemnly declare that the above particulars are true and correct record in all respects.

Signed: \_\_\_\_\_ At: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR OFFICE USE ONLY**

Date Received: \_\_\_\_\_

<b>Attachments:</b>	<b>YES</b>	<b>NO</b>
Payment		
Copy of ID/ Passport		
Copy of Academic Qualifications		
Copy of Real Estate Association		
Copy of other professional membership		
Proof of residency		
Copy of work permit		
Job Profile		

Approved for Registration as a Real Estate Agent:

Approved on: \_\_\_\_\_ Registration No. \_\_\_\_\_

Chairperson's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Stamp:

<b><u>APPLICATION CHECKLIST (Make a tick on each provided)</u></b>		
1.	Complete application form	
2.	Certified copy of id/ passport	
3.	Proof of payment for application	
4.	Academic Qualifications/ Job profile	
5.	Certified copy of Real Estate Agents association	
6.	Other Professional membership certificates	
7.	Proof of residency	
8.	Certified copy of work permit	
9.	no criminal offences in or outside Eswatini	

## FORM B



### APPLICATION FOR RENEWAL OF CERTIFICATE TO PRACTICE AS A REAL ESTATE AGENT ( Under Section 19)

<b>PERSONAL DETAILS (Provide certified copies to the below)</b>	
<b>Title</b>	
<b>First Name (s)</b>	

<b>Surname</b>	
<b>Date of Birth</b>	
<b>Identification No.</b>	
<b>Nationality</b>	
<b>Passport No. (For Non Swazi)</b>	
<b>Work Permit No.</b>	
<b>Date of Passport Expiry</b>	
<b>Postal Address</b>	
<b>Residential Address</b>	
<b>Telephone No.</b>	
<b>Cell phone No.</b>	
<b>Email address</b>	
<b>Company employed</b>	
<b>Company Number</b>	<b>Contact</b>
<b>Real Estate Agency Number</b>	

I \_\_\_\_\_, hereby apply for the renewal of my certificate to practise a Real Estate Agent which expires on \_\_\_\_\_ day of \_\_\_\_\_ and I attach herewith the prescribed fee of \_\_\_\_\_.

**Signature of applicant** \_\_\_\_\_

**FOR OFFICE USE ONLY**

Date received \_\_\_\_\_

Receipt no \_\_\_\_\_

**Signature of Chairperson** \_\_\_\_\_

**Stamp:**



DRAFT