

Short notes on:

## **NEW RULES FOR THE PROPERTY SECTOR**

### ***Introduction***

President Cyril Ramaphosa has signed the Property Practitioners Act 22 of 2019 (“PPA”) into law. Previously we were uncertain as to when the obligations under the PPA would take effect. However, it has now been determined that the PPA is to commence application as of 01 February 2022.

The PPA is to repeal the Estate Agencies Affairs Act 112 of 1976 (“EAAA”) and brings about new protections for property consumers. The PPA has furthermore added a number of other parties under the definition of a “Property Practitioner” increasing its area of applicability whereas the EAAA only applied estate agents.<sup>1</sup>

The PPA expands the statutory mandate of the Estate Agencies Affairs Board (“EAAB”)<sup>2</sup> and brings about significant changes for the property sector.

### ***Overview***

Under chapter 10, section: 67 of the PPA a property practitioner may not accept a mandate unless the seller of the property has completed the mandatory disclosure form in respect of defects. Practitioners are also required to obtain fidelity fund certificates, BEE certificates and tax clearance certificates.

In addition, the EEAB shall have the power to inspect including the power to appoint inspectors, issue compliance notices, issue fines and resolve disputes. Property practitioners will also be required to keep a trust account and are obligated to keep accounting records amongst others.

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<sup>1</sup> “*New Property Laws for South Africa in February*” (2021), Businesstech, [www.businesstech.co.za](http://www.businesstech.co.za) Accessed on: 26 January 2022.

<sup>2</sup> “*Big Change for Real Estate*” (2019), Estate Agencies Affairs Board. [www.eaab.org.za](http://www.eaab.org.za) Accessed on 26 January 2022.

The PPA was aimed at the following:<sup>3</sup>

- Transforming South Africa's property market to ensure that it is reflective of its demographics,
- Aligning property legislation with other existing and applicable legislation in SA,
- To professionalise the property sector,
- Greater efficiency.

### **Conclusion**

It is yet to be seen whether the PPA lives up to the objectives it was intended for. However, for the most part the PPA appears to have been positively received in the property sector. In saying that, considering the scope of its applicability, it is important for role players in the property industry to familiarise themselves with the provisions of the PPA. This will allow for a better understanding of the obligations placed upon property practitioners and will allow greater awareness of protective mechanisms for property consumers.

Contact an attorney at Schoemanlaw for your legal needs.

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<sup>3</sup> *"Property Practitioners Act and Regulations: Department Briefing with Deputy Minister"* (2021), Parliamentary Monitoring Group, [www.pmg.org.za](http://www.pmg.org.za) Accessed on: 26 January 2022.