



Frequently Asked Questions Handbook



Estate Agency Affairs Board
Block A & B, 63 Wierda Road East
Wierda Valley, Sandton, 2196
Tel: +27 11 731 5600
Fax: +27 11 880 9831
Website: www.eaab.org.za
E-mails: eab@eaab.org.za
renewals@eaab.org.za
audit@eaab.org.za
pde@eaab.org.za
legal@eaab.org.za
contactdetails@eaab.org.za



ESTATE AGENCY AFFAIRS BOARD
OF SOUTH AFRICA



ESTATE AGENCY AFFAIRS BOARD
OF SOUTH AFRICA

**ESTATE AGENTS
FREQUENTLY ASKED QUESTIONS
HANDBOOK**

Compiled by the Estate Agency Affairs Board

FOREWORD BY THE CHIEF EXECUTIVE OFFICER (ACTING)

The EAAB routinely receives numerous queries, both written and oral, from estate agents and stakeholders alike covering virtually the entire gamut of its regulatory functions and activities on a daily basis. These enquiries essentially cover such diverse functional areas as the registration of estate agents and the issuing, or renewal, of fidelity fund certificates to qualifying applicants; mandatory education and training requirements; statutory compliance, disciplinary matters and the conduct of inspections; claims against the Estate Agents Fidelity Fund; compliance with respect to the auditing of estate agency enterprises and reporting thereon; and finance and administration issues. It has, thus, become increasingly apparent that there is a definite need for the EAAB efficiently to disseminate the required information to all interested parties.

It is anticipated, therefore, that this newly compiled '**Frequently Asked Questions Handbook**' will serve as an accessible, authoritative and user-friendly guide in providing estate agents and stakeholders with the essential information regarding the EAAB and its regulatory functions that they so often require. By so doing the Handbook will not only facilitate full compliance by estate agents with their professional duties and obligations but, in addition, assist stakeholders and consumers in becoming aware of, and duly exercising, their rights. It is, indeed, hoped that this Handbook will not only readily provide the practical and hands-on direction, information and guidelines that estate agents and stakeholders need but, also, accommodate the various questions that they frequently seek to have answered.

In the end result the Handbook has a two-pronged thrust. While it is primarily aimed at supporting, assisting and guiding estate agency practitioners in being aware of, and complying with, their statutory obligations it is also designed to inform stakeholders and consumers of the various services and assistance that the EAAB is able to render to them in their dealings with estate agency practitioners.

I do trust that the Handbook will serve these worthy objectives and that, in so doing, it will spare estate agents and stakeholders precious time and effort in dealing with the estate agency related problems and queries that will inevitably continue to arise.

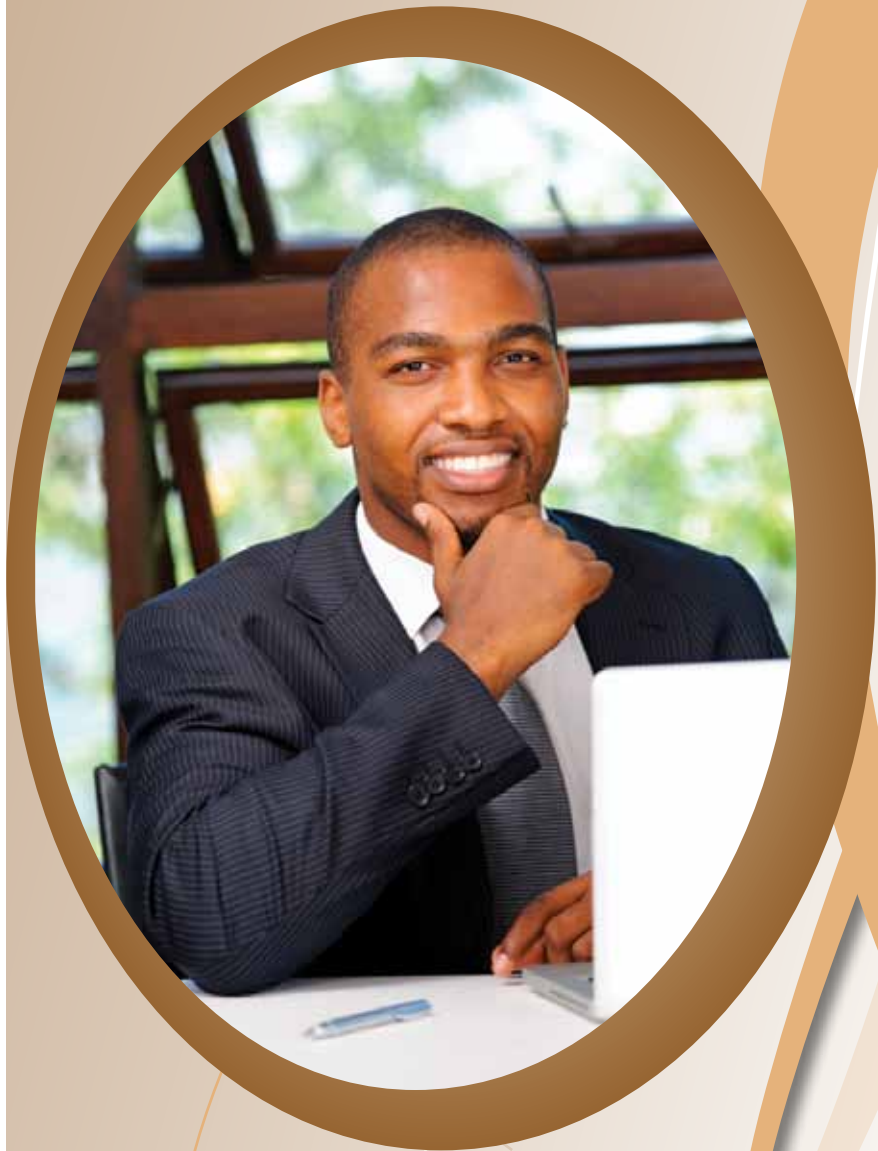
**BRYAN CHAPLOG
ACTING CHIEF EXECUTIVE OFFICER
ESTATE AGENCY AFFAIRS BOARD**

Table of Content

1. Registration	2
2. Education and Training	12
3. Disciplinary and Inspection	37
4. Claims	43
5. Audit Compliance	49
6. Finance and Administration	55

Disclaimer

While the Estate Agency Affairs Board has made every possible effort to ensure that the information contained in this publication is as timely, accurate and inclusive as possible, it is not able, in a rapidly changing and continuously evolving environment, to make any claims, promises or guarantees as to the accuracy, completeness or adequacy of such information. The Estate Agency Affairs Board, accordingly, hereby expressly disclaims liability for any possible errors, omissions or incorrect information that might be contained in this publication.



REGISTRATION

REGISTRATION

1. How to register as a new Intern estate agent?

To become a newly registered Intern estate agent, a person must first be employed by a registered firm which is in possession of a valid Fidelity Fund Certificate. The estate agent is then therefore required to serve a period of 12 month internship as an intern, and complete the **Further Education and Training Certificate: Real Estate**, a qualification that is intended to enhance the provision of entry-level service within the property and real estate professions. A mentor-protégé relationship will, thus, be created. The intern estate agent must also keep a logbook (also referred to as a 'Portfolio of Evidence') reflecting the various estate agency functions and activities that have been undertaken and performed during the course of the internship period.

2. Which documents are required to register as an Intern estate agent?

- A fully completed and signed application forms
- Certified copy of a valid I.D book
- Certified copy of a valid passport if not a South African
- Valid work permit if not a South African
- Required payment, or proof of payment of R529.80
- Letter of employment signed by the Principal of the firm confirming employment of the applicant as an estate agent

Please Note: It is a requirement that New Intern Estate Agents must register with one of the accredited RPL colleges for NQF Level 4 qualification and ensure that they serve a full 12 months internship period.

No Registration will be done without any of the required document.

3. How to register as a Non-Principal estate agent?

The following conditions should be met by any Intern Estate Agent before registering as a new Full Status Estate Agent:

- A person must serve as an Intern Estate Agent, for a continuous and unbroken compulsory 12 months internship period under active supervision of a principal estate agent, or of a full status estate agent who have at least three years practical experience.
- Must keep a logbook (Portfolio of Evidence) reflecting the various estate agency functions and activities undertaken during internship period.
- Must have completed the Further Education and Training Certificate: Real Estate or be in possession of an appropriate NQF level 4 qualification
- Only on submission of the competence certificates will the status on the FFC be amended from Intern to Full Status.
- Must ensure that renewal to be issued with the Fidelity Fund Certificate is done on time

Please Note: It is a requirement that the agents renew their FFCs for the following year for the status amendments to take effect.

4. Which documents are required to register as a Full Status agent?

- A fully completed and signed application forms.
- Certified copy of valid South African I.D book.
- Certified copy of valid passport if non South African.
- Valid work permit if not a South African.
- Required payment, or proof of payment.
- Letter of employment signed by the Principal of the firm confirming employment of the applicant a full status agent.
- Proof of status change: (A properly dated and signed letter of internship by the principal and NQF Level 4 certificate).

Please take note:

- Estate Agent must have served as an Intern Estate Agent, a continuous compulsory 12 months internship period under active supervision of a principal estate agent, or of a full status estate agent who have at least three years practical experience
- Keep a log-book (Portfolio of Evidence) reflecting the various estate agency functions and activities undertaken during internship period
- Be in possession of a relevant NQF level 4 certificate, or completed Further Education and Training Certificate in Real Estate.

5. How to register as a Principal estate agent?

New entrants wishing to act as principal estate agents must be certificated against the National Certificate: Real Estate. This qualification not only adds value to the understanding of the property and real estate sector by principal estate agency practitioners but also enhances their appreciation of the practical functionalities occurring within the workplace. The qualification is also intended to build on the skills that have been gained in the Level 4 qualification and will, essentially, consolidate the broad knowledge, skills and values required in the property and real estate profession. The new entrant may, similarly, be certificated against the qualification after undergoing training through an accredited education provider or by way of the Recognition of Prior Learning route.

The completion of the Further Education and Training Certificate: Real Estate or the National Certificate: Real Estate, as the case may be, constitutes a precondition for admission by the professional estate agent to the Professional Designation Examination ("PDE") which is a practical and integrated test of knowledge for estate agents that will be conducted by the Estate Agency Affairs Board. The PDE is the final test of the estate agent's ability practically to implement and apply the learning that has been achieved and successful candidates will be awarded a certificate of professional recognition by the Board.

6. Which documents are required to register as a Principal estate?

- A fully completed and signed application forms
- Certified copy of I.D book
- Certified copy of passport if not a South African
- Valid work permit if not a South African
- Internship letter or log book (if new entrants)
- NQF level 5 qualification
- Required payment, or proof of payment
- Letter of employment signed by the Principal of the firm confirming employment of the applicant if joining another firm

7. How to register a firm?

Firstly, In order to register a firm, a person must be a duly registered Principal Estate Agent, as prescribed by the Estate Agency Affairs Act;

In order to avoid conflict of interest in the registration of agency names and taking into account the provision of the new company act, Companies Act 71 of 2008, Estate agents are advised that, before incurring any expenditure with registering their estate agency firms or companies with the Companies and Intellectual Property Commission (CIPC), to first contact the Board and ascertain whether a proposed company name is acceptable on initial or subsequent registrations, however, it should be made clear that the EAAB is under no obligation to reserve any firm names for any specific estate agent.

Please Note: an Estate Agency as a company may not use a name which is identical or sound, read and look confusingly similar to the name of an estate agency which has already been issued with a fidelity fund certificate or whose fidelity fund certificate has been suspended, has lapsed or has been withdrawn, however, a similar name can be used if the name has been in use previously, but that company has been de-registered with the Estate Agency Affairs Board for a period of minimum three years;

8. Which documents are required to register a Firm?

- Firm and Individual application forms
- Certified copy of a valid I.D book
- Copy of passport and work permit if non South African
- Ck document if it's a CC (only if the cc has been previously registered with the then CIPRO)
- Cm document if it's a company
- Letter of agreement (if partnership)
- Bank letter confirming that the trust account has been opened, and held in terms of section 32(1) of Act 112 of 1976
- Auditor's Letter (auditor must be registered with the IRBA) confirming acceptance of appointment to audit firm's accounts
- Letter of franchise if applicable
- Relevant payment

9. In registering a PTY (LTD) firm, should all directors of a firm register with EAAB to be issued with Fidelity Fund Certificate?

It is a regulatory requirement that every director within a PTY (LTD) must be issued with a valid Fidelity Fund Certificate as stipulated in section 26 of the Estate Agency Affairs Act 112 of 1976. However, a letter indicating active and non-active directors and who should be issued with valid Fidelity Fund Certificate within the company must be submitted to the Board when making application.

10. How to register to be issued with valid Fidelity Fund Certificate as an Attorney?

If an attorney firm wishes to perform the services of an estate agent, as defined in the Act, in the course of and in the name of and from the premises of such attorney's firm, such attorney firm is not required to register with the EAAB or to be issued with a valid Fidelity Fund Certificate.

However, if such attorney firm wishes to use a different name other than that of the attorney firm, and also wishes to employ the services of registered estate agents such an attorney firm will be required to register with EAAB under the Estate Agency Affairs act like any other firm. However, any person, employed by an attorney to perform the duties of an estate agents other than articulated clerks or an attorney, will be considered as an estate agent under the attorney firm. such a person will be obliged to comply with all the requirements of the act, but will not be issued with a normal Fidelity Fund Certificate but "Registration Certificate", the purpose of which is to provide in effect that such a person will have been registered by the board but covered by the "Attorney Fidelity Fund" and not the "Estate Agents Fidelity Fund".

11. How much must be paid to register as an Intern, Full Status, Principal agent or a firm?

Fidelity Fund Certificate: New Registration - New Firm (Principal)	R1 270.00
Fidelity Fund Certificate: Renewals - Principals	R 855.00
Fidelity Fund Certificate: New Interns / Full Status	R 529.80
Fidelity Fund Certificate Renewals: New Interns / Full Status	R 364.80
Status Upgrade From Full Status To Principal	R 740.20
New Attorney Employee And Renewals	R 210.90

NB: for status upgrades all required education requirements as stated in the Education Regulation must be met

12. When to renew Fidelity Fund Certificate?

Every estate agent to whom a Fidelity Fund Certificate or a Registration Certificate has already been issued shall by no later than 31 October of that year, apply to the Board for the issue of a Fidelity Fund Certificate or a Registration Certificate for the following calendar year, irrespective of whether or not a Renewal Notice has been received.

13. How much is required to renew a Fidelity Fund Certificate?

- Fidelity Fund Certificate renewal for Principals is **R 855.00**
- Fidelity Fund Certificate renewal for Non-Principals (New Interns and Full Status) is **R 364.80.**

14. Which bank details to use when making renewal payment

ABSA
 A/C No: 405 203 3310
 Branch: Protea Park
 Branch Code: 535105
 A/C Name: Estate Agency Affairs Board

Important: when making payment, please ensure that your correct EAAB reference number is clearly indicated

15. What is the validity period of a Fidelity Fund Certificate?

The Fidelity Fund Certificate is valid from the date of issue to 31 December of that year. This therefore means that every Fidelity Fund Certificate issued for any particular year will automatically expire on the 31 December of the year it was issued.

16. What happens if the renewal fee is paid after the renewal due date?

Failure of the estate agent to renew his/her Fidelity Fund Certificate on time will attract late renewal penalty fees. Failure of the Principal to renew on time will hamper the EAAB to issue such certificates to the employees (estate agents) of the firm. Late renewal penalty fee for the Principal is R250, and for Non-Principals is R150.

17. How are renewal statements sent to agents?

Renewal statements for each agent are sent to the postal address of the firm by registered mail. However, it remains the responsibility of each agent to ensure that their Fidelity Fund Certificates are renewed on time before the due date of 31 October of each year.

18. How to join another agency as a Non-Principal estate agent?

If an agent is employed at the other firm and wishes to join another firm as a non-principal, a letter of employment signed by the principal of the new firm and an amendment fee of R150 are required.

19. Can an agent work for more than one firm?

Only principal estate agents can join more than one firm. However, intern and full status agents can only join one firm.

20. What is required to close down an existing firm/agency?

In closing down an existing agency firm the following are required:

- Submit a winding-up audit report,
- A letter from the bank confirming the closure of the trust account and that all trust moneys have been properly dealt with,
- A signed letter from the principal instructing the EAAB to de-register the firm,
- If it's a partnership, a letter signed by all partners in a partnership
- The return of all current year original Fidelity Fund Certificates,

Please Note: No De-registration will be done without any of the required documents

21. With which Board do the auditors need to be registered with?

The auditor's needs must be registered with IRBA (INDEPENDENT REGULATORY BOARD OF AUDITORS).

22. How long does a new application takes to be processed?

The turnaround time for new application takes 21-30 working days.

23. If a person only does the admin for Estate Agency do they need to hold a valid fidelity fund certificate?

In terms of the act, any person who performs any act as an estate agent, as defined in the act, is required to be issued with a valid Fidelity Fund Certificate.

24. If an agency opens a new branch and everything remains the same do they still need to register that branch?

Each branch must be in possession of a valid Fidelity Fund Certificate and therefore must be registered.

25. How do I secure a name for my company?

- Ascertain from the EAAB whether a proposed trade name is acceptable on initial or subsequent registrations before incurring any expenditure,
- If the name is not acceptable because it's similar or confusingly similar to an already registered name, the name cannot be used;
- Estate agents are advised, before incurring any expenditure, to first ascertain from the EAAB whether a proposed name/trade name is acceptable on initial or subsequent registrations. **However, it is important to note that the EAAB cannot reserve firm names in any way for any specific firm or person.**

26. What do I do, when I have registered a company name with the Companies and Intellectual Property Commission (CIPC), and the EAAB advises that I cannot use that name because of its similarity with other firm names?

Regrettably you will need to register a new name. Alternatively you can contact the other estate agency firms and ask for a written consent register a similar name.

27. The current position regarding Close Corporations when registering an estate agency firm.

With effect from 1 May 2011, it is no longer possible either to register new close corporations or to convert companies to close corporations. An existing close corporation can, however, fairly easily be converted to a company. It should be noted that the new Companies Act has neither repealed the Close Corporations Act, 69 of 1984, nor abolished the institution of Close Corporations so that both the Companies Act and the Close Corporations Act will presently continue to exist concurrently. Close Corporations will, however, be required to comply with the provisions of the Companies Act insofar as the Close Corporations Act has been amended by the provisions of Schedule 3 of the Companies Act.

28. How do I de-register employees of my firm?

Provide the EAAB with a letter of instruction on a company letterhead signed by the Principal of the estate agency firm that the employees are no longer working for that particular firm and to remove them from the company's records.

29. How do I obtain a copy or reprint of my fidelity fund certificate?

You can contact the EAAB on 011 71 5600 or e-mail eab@eaab.org.za, and request the re-issue of the FFC. The EAAB is not able to backdate fidelity fund certificates and print originals. The fee for a copy is R150.00. Upon proof of payment, the copy can be issued.

30. How do I amend my details for change in firm employment?

The following are required for employment change:

- Proof of payment of R150.00 to amend employment details and for the reprint of the new FFC in the correct name;
- Copy of ID;
- Letter on the new firm company letterhead to advise that you are now employed with them;

31. How do I change my surname (marital status)?

The followings are required to amend your surname:

- Certified copy of marital certificate or Divorce decree if new ID copy is not yet issued
- Copy of ID;
- Payment of R150.00 to reissue the fidelity fund certificate;

32. What is my 7 digit ref no. where do I find it?

This can be located by calling the EAAB Call Centre on 011 731 5600 or email to eab@eaab.org.za. Alternatively, it can be located on the bottom right stub of the FFC indicated as Ref No. Reference numbers for the firms start with the letter f.

33. How do I change my address?

A letter needs to be sent to the EAAB by the Principal to contactdetails@eaab.org.za advising of the change in address and other contact details.

34. Where do I get the application forms?

Application forms are available on the EAAB website: www.eaab.org.za under the Registrations menu bar.

35. I have not received my renewal notice, what must I do?

Please contact the EAAB call centre to verify your postal address or e-mail renewals@eaab.org.za. Please note that renewal notices are always sent to the firm postal address – so check with your principal first.

36. Do auctioneers need to register for a fidelity fund certificate with the EAAB?

Yes, they do.

37. I was registered in the previous but did not renew my FFC for the current year. What are the cost implications?

Regardless of when the application for either a new application or a renewal is received and processed, the full fee is applicable. If renewal for the current year FFC is made in that particular current year, such renewal will carry in addition a penalty fee. If the renewal for the next year is done prior to 31 October of the current year only renewal fee applies.

38. Why have I not received my fidelity fund certificate – I renewed in time, I am a Non-principal estate agent?

Please contact the EAAB Call Centre to check when the payment was received? Was the amount paid correct? Was it paid into the correct bank account for renewals? If everything is correct, then the call centre agent will check to ensure that the principal of the firm has renewed for the current year and also whether the EAAB has received the previous year's auditor's report. Depending on their findings this could be the reason as to why you may not have received your fidelity fund certificate.

39. Why am I showing as invalid on your website?

This could be as a result of not having renewed your fidelity fund certificate for the current year. If that is not the case, please call our call centre 011 731 5600 for verification.

40. How do I apply for an affidavit for a missing FFC?

- Contact the EAAB on 011 731 5600 or eab@eaab.org.za to make the request for affidavit and for further details;
- A payment of R100.00 is required for each affidavit requested and for each firm or individual



EDUCATION AND TRAINING

EDUCATION AND TRAINING

Interns/new entrants who wish to register as estate agents for the *first time*.

1. I hold a LLB or LLM or MBA, or similar, degree or an NQF 6 or 7 qualification or a certificate of exemption against the prescribed NQF 4 and 5 real estate qualifications;
or
I am a practicing attorney/conveyancer/auditor;
or
I am a qualified and practicing valuer;
or
I am a qualified and practicing property developer;
or
I have been handling all property transactions as an attorney's employee for the attorney's practice and have sold several properties in this capacity;
or
I have been working with an attorney/at a bank/at a property-related company and have gained relevant experience plus I have the relevant real estate qualification(s);
or
I have already bought an estate agency franchise for a large amount of money;
or
I am a director of a company or a member of a close corporation and want to register as a principal estate agent;
or
I have been working as an estate agent for a long time and am already older than 60;
or
I previously passed the old Board examination.
I want to register (for the first time) for me to be issued with a valid FFC to practice as an estate agent. What requirements must I meet to register as an estate agent?
 - Every person registering with the EAAB for the first time [i.e. a person who has never before been issued with a valid fidelity fund certificate ("FFC")] is regarded as a new entrant to the estate agency profession regardless of academic qualifications, professional background, previous experience, age or having passed the old Board examination. All such persons must, therefore, first register as intern estate agents and complete the prescribed 12 month internship period under the active supervision and control of a full status estate agent.
 - New entrants will, therefore, be issued with a valid **intern** FFC by the EAAB. They cannot be registered either as full status non-principal estate agents or as principal estate agents until the expiry of the internship period.
 - Intern estate agents are advised, **during the 12 months internship period**, and if applicable, immediately to approach any EAAB accredited education training centre to for apply and obtain:
 - an **equivalency exemption** against the prescribed NQF Level 4 and/or 5 qualifications in real estate by virtue of relevant academic qualifications obtained at South African tertiary institutions, or;
 - enroll for and complete the prescribed NQF Level 4 and/or 5 in real estate, as the case may be; and
 - complete the Professional Designation Exam ("PDE") for non-principal estate agents.

- A status upgrade to full status can only be granted to new entrants by the EAAB against full compliance with the abovementioned requirements. The intern estate agent must, accordingly, submit to the EAAB:
 - proof of having **duly completed the 12 month internship period** (this will generally be done by way of the signed-off intern logbook or a letter, on the letterhead of the estate agency firm concerned, from the principal confirming that the intern estate agent has successfully completed the internship);
 - documentary proof of **having been certificated against the prescribed qualification** whether through training or by way of an equivalency exemption; and
 - proof of **having passed the PDE** for non-principal estate agents.
 - Having been upgraded to full status, the estate agent will then be required to comply with Continuing Professional Development ("CPD") requirements for estate agents.
 - Estate agents must complete PDE for principal estate agents within a period of 12 months after having been upgraded and registered as a principal estate agent.
2. **Although I am interested in becoming an estate agent, I have no prior experience in, or any qualifications that relate to the real estate sector or property related qualifications. What must I do?**
 - All new entrants to the real estate sector, regardless of academic or professional qualifications or experience acquired, are required first to complete a compulsory 12 month internship period acting under the supervision and control of a full status estate agent.
 - The new entrant must apply to the EAAB for the issue of an **intern** FFC. The new entrant would be well-advised **to obtain the Further Education and Training Certificate: Real Estate**, the NQF level 4 real estate qualification, during the internship period.
 - A status upgrade to full status estate agent may be granted by the EAAB once the intern estate agent has submitted to the EAAB:
 - proof of the fact that the 12 month internship period has been completed (which will generally be done by way of a formal letter confirming successful completion of a 12 months internship period under a mentorship of a qualified principal or appointed mentor who has held a valid FFC as a full status estate agent for the three years plus current year as well as the signed-off intern logbook);
 - documentary proof that the intern has been certificated against the prescribed real estate qualification at NQF 4, whether through training or by way of the grant of an equivalency exemption; and
 - proof that the intern has passed the PDE for non-principal estate agents (PDE 4).
 - After having been upgraded to full status, the estate agent will then be required to comply with Continuing Professional Development ("CPD") requirements for estate agents.
 3. **I am an intern estate agent and have been issued with an intern FFC. I have completed, or been granted an equivalency exemption from, both the NQF Level 4 and 5 real estate qualifications. I would now like to register for the PDE for principal estate agents. How do I go about this?**
 - Every new entrant to the estate agency profession, i.e. a person who is registering as an estate agent for the first time, must, regardless of previous academic and/or professional qualifications/experience, first complete the compulsory 12 month internship period prior to enrolling/registering for any level of the prescribed professional designation examination (PDE).
 - An Intern estate agent **cannot** immediately proceed to write the PDE 5 **without having**

first written and passed the PDE 4, which examination can only be written after the completion of the 12 month internship period. It is only then that the candidate will be able to enroll/register for the PDE 5.

- On completion of the 12 month internship period, the intern estate agent who holds a valid intern FFC must **submit** a written confirmation of the grant of the equivalency exemption against the prescribed qualification or provide a proof of successful completion of the prescribed qualification (only in the form of a Services SETA Certificate of Competence), together with a letter confirming the completion of internship which must be accompanied by a signed-off mandatory workplace learning programme logbook (logbook available from April 2013) to be able to register for PDE 4 and prior to registering for PDE 5 (this regardless of the fact that one has completed/been granted equivalency exemption from completing the prescribed NQF 5 qualification). Upon passing the PDE 4, the intern estate agent will be upgraded into full status estate agent and will also be automatically and immediately entered into the prescribed 3 year rolling CPD cycle.
- At this stage, the now full status estate agent may proceed and also apply for enrolment or registration for PDE 5 (a prescribed examination for principal estate agents) if so desired regardless of whether s/he is not yet registered as principal estate agent. If the estate agent prefers to remain as a full status non-principal estate agent after having completed/passed the PDE 5, the EAAB records will be updated accordingly.

4. I am an intern and have been issued with an intern FFC. I have not yet completed the 12 month internship period but have acquired, or been granted an equivalency exemption from, both the NQF Level 4 and 5 real estate qualifications. Can I register to write the PDE and, if so, which PDE level do I qualify for? Can I immediately write the PDE 5 as I want to register as a principal once the internship has been completed?

- The intern estate agent must be advised that the PDE cannot be written until the 12 month internship period has been completed.
- The intern estate agent should submit proof of being granted an equivalency exemption from, both the NQF Level 4 and 5 real estate qualifications for EAAB to update records.
- Once the intern estate agent has completed the 12 months internship period, the intern estate agent **must enroll/register to complete PDE 4** which will qualify him/her for status upgrade into full status estate agent. It is at this stage that the now full status agent will be automatically and immediately be entered into the [prescribed three year rolling CPD cycle.
- **After having passed the PDE 4 the intern estate agent may enroll for the PDE 5.**

5. I am an intern estate agent and have been issued with an intern FFC. I have completed the 12 month internship period and have also acquired, or been granted an equivalency exemption from, the NQF Level 4 real estate qualification. I have not yet written the PDE 4. Can I apply for a status upgrade and, if so, how do I go about this?

Only candidates who have:

- completed the 12 month internship period;
- submitted a written confirmation of the grant of the equivalency exemption against the prescribed qualification/s or provided a proof of successful completion of the prescribed qualification/s (only in the form of a Services SETA Certificate of Competence), together with a letter confirming the completion of internship which must be accompanied by a signed-off mandatory workplace learning programme logbook (logbook available from April 2013); and
- have written and passed PDE 4 for EAAB to update records;

will be regarded as having complied with the EAAB status upgrade requirements; and thus will be upgraded accordingly. After the status upgrade has been processed accordingly and

records reflect as such, the now full status estate agent will be automatically and immediately entered into the prescribed 3 year rolling CPD cycle.

6. I am an intern estate agent and have been issued with an intern FFC. I have acquired, or been granted an equivalency exemption from, the NQF Level 4 real estate qualification. I have not yet completed the 12 month internship period or written the PDE 4. Can I apply for a status upgrade and, if so, how do I go about this?

Only candidates who have completed the 12 month internship period may apply for status upgrade and must meet the prescribed status upgrade requirements, and thus must provide proof that they have:

- completed the 12 month internship period;
- submitted a written confirmation of the grant of the equivalency exemption against the prescribed qualification/s or provided a proof of successful completion of the prescribed qualification/s (only in the form of a Services SETA Certificate of Competence), together with a letter confirming the completion of internship which must be accompanied by a signed-off mandatory workplace learning programme logbook (the logbook will probably be available as from April 2013); and
- have written and passed the PDE 4 for non-principal estate agents;

will be regarded as having complied with the EAAB status upgrade requirements; and will, thus, be upgraded accordingly. After the status upgrade has been duly processed, and the EAAB records amended to reflect the position, the now full status estate agent will be automatically and immediately entered into the prescribed 3 year rolling CPD cycle.

7. When is the mandatory workplace learning programme logbook (“the logbook”) going to be available? What happens in the meantime?

- There have, unfortunately, been delays in printing and making the logbook available to stakeholders however it is expected that the logbook will be available during April 2013;
- All affected principals, mentors and interns will be issued with the logbook, and guidelines on how to complete and submit the logbook, as from April 2013;
- The logbook will also be issued to all new intern estate agents registering with the EAAB as from April 2013. Intern estate agents whose internship period terminates/completes on or before 31 March 2013 may continue to complete the internship period without being required to submit a signed-off logbook since the use of the logbook by intern estate agents will not be made retrospective. Such interns will, however, be obliged to submit a signed letter from their principal, on the letterhead of the estate agency firm, confirming the completion of the 12 months internship period together with the NQF 4 qualification for them to be enrolled into PDE 4 which will qualify them to be granted status upgrade thereafter (upon passing PDE4).

8. I sent my application for registration as an intern estate agent to the EAAB Registration Department but was not immediately issued with an intern FFC despite the fact that my application was in order and that payment was made. I was, in fact, only registered by the EAAB five months after I commenced my internship. Can the intern FFC be backdated to make up for the five months that I have lost?

- No backdating of FFCs is permitted.
- The internship cycle commences from the date when the intern is issued with a valid FFC by the EAAB. It would seem that the intern estate agent, in the circumstances of this case, has been operating illegally as an estate agent for a period of five months.
- The period between the date of submission of an application for registration as an intern estate agent and the date when an intern FFC is actually issued by the EAAB is not counted towards the completion of the compulsory 12 month internship period.
- It is the responsibility of both the intern estate agent as well as the principal to ensure

that the intern is duly registered, and has been issued with a valid intern FFC by the EAAB, before such person commences operating/practicing as an intern estate agent.

Non-principals estate agents

9. I wrote and passed the old Board examination. Do I still need to be certificated against the NQF real estate qualifications?

Yes, even if you passed the old Board examination you will still need to be certificated against the NQF real estate qualifications, whether as a principal or non-principal estate agent. A non-principal estate agent wishing to continue to operate at this level/status beyond the end of 2013 must complete and furnish the EAAB with proof of completion of the NQF 4 real estate qualification or proof of having being granted an equivalency exemption therefrom. Those who have passed the old board examination will be recognised and will receive 18 credits against the Further Education and Training Certificate: Real Estate (NQF Level 4). Persons holding other academic qualifications may also apply for equivalency exemption or complete the Recognition of Prior Learning ("RPL") process with an accredited training centre/ RPL assessment centre to be recognised and receive credits against the Further Education and Training Certificate: Real Estate (NQF Level 4).

10. I am a full status, non-principal estate agent and have completed the NQF Level 4 real estate qualification. I am presently enrolled for the NQF Level 5 real estate qualification and hope to complete the same shortly. I would like to register my own estate agency firm and/or register as a principal estate agent. What process must I follow?

Only persons:

- who have already attained the NQF Level 5 real estate qualification; and
- who have, in addition, passed the PDE 4;

may be registered as principal estate agents.

It is important to remember that no person may write the PDE 4 unless they have already been duly certificated against the Further Education and Training Certificate: Real Estate (NQF Level 4).

Once the above requirements have been complied with, such persons may apply to register an own estate agency firm or to be registered as a principal estate agent.

11. I am a full status, non-principal estate agent and have completed the NQF Level 4 real estate qualification. I have also passed the PDE 4. I am presently enrolled for the NQF Level 5 real estate qualification and hope to complete the same shortly. I would like to register my own estate agency firm and/or register as a principal estate agent. What process must be followed?

Only persons who have:

- already attained the NQF Level 5 real estate qualification; and
- who have also passed the PDE 4;

may apply to register their own estate agency firms or to be registered as principal estate agents. Having both attained the NQF Level 4 real estate qualification and passed the PDE 4 does not enable the EAAB to issue a principal's fidelity fund certificate to the person. It is important to remember that no person may write PDE 4 unless they have been duly certificated against the Further Education and Training Certificate: Real Estate (NQF Level 4).

12. I am a full status, non-principal estate agent who has been granted an equivalency exemption in respect of both the NQF Level 4 and 5 real estate qualifications. I have already completed the PDE 4. I would like to register my own estate agency firm and/or register as a principal estate agent. What is the process?

OR

I am a full status, non-principal estate agent who has been granted an equivalency exemption in respect of the NQF Level 5 real estate qualification. I want to apply for registration as a principal estate agent. What is the process?

Having attained both the NQF Level 5 real estate qualification and passed the PDE 4, the estate agent is able immediately to apply for registration as a principal estate agent. The estate agents will, after being registered as a principal, be granted a period of two years within which to pass the PDE 5. This two years is calculated from the time that the now registered principal has completed the NQF 5 qualification. If this estate agent has completed the qualification two years back, then s/he must enroll or register for PDE 5 immediately upon registration as a principal.

13. I have been a registered non-principal estate agent since 2000 and I also passed the old Board examination. What educational requirements are presently applicable to me?

- The candidate may apply for a **statutory PDE 4 exemption** based on the fact the s/he **continuously held a valid fidelity fund certificate for, at least, the period 2003 to 2008.**
- The candidate must, however, still be certificated against the NQF Level 4 real estate qualification (probably by way of Recognition of Prior Learning) by no later than 31 December 2013.
- Proof of having obtained the NQF Level 4 real estate qualification must be submitted to the EAAB to enable its records to be updated. The person will be required, thereafter, to focus on complying with CPD requirements.

14. I am a full status, non-principal estate agent who has completed, or been granted an equivalency exemption in respect of, both the NQF Level 4 and 5 real estate qualifications. I have already completed the PDE 4 and would now like to register for the PDE 5, in case I should one day decide to become a principal estate agent. How do I go about this?

The candidate may register for the PDE 5. The necessary PDE enrolment form can be accessed at www.eaab.org.za. The candidate will already be on the CPD cycle and is required to comply with CPD requirements.

15. I am a non-principal estate agent and am 60 years old (or older). I wrote the old Board examination. What educational requirements are currently applicable for me to continue practicing as an estate agent?

- The candidate should advise if they have held a valid FFC for the **past 5 years and currently holding valid FFC** (for the current year). Once this is confirmed, the candidate must be advised to apply for **the educational exemption applicable to estate agents who are at least 60 years old.** The person should obtain a copy of the relevant EAAB exemptions policy and be advised to submit the documents referred to clauses 2.1.1 and 2.1.2 of that policy to the EAAB.
- After receipt of the exemption application, and provided the person meets the requirements of:
 - ✓ being 60 years of age, or older;
 - ✓ having continuously held a valid FFC for a period of five years;
 - ✓ currently holding a valid FFC; and
 - ✓ have no previous criminal convictions or convictions in respect of any estate agency related offences;

- the applicant will be invited for an interview (of between 20 to 30 minutes in length) to be held at a venue that is based on her/his provincial choice and be required to pay the prescribed fee for consideration of the application.
- Depending on the interview performance, the educational exemption may be granted to the applicant, whether conditionally or otherwise, or refused.
- If the exemption is granted, the EAAB records will be updated accordingly and the person will be required, thereafter, to focus on complying with CPD requirements.

16. I am a non-principal estate agent who is 60 years old (or older). I have held a valid FFC for the past 5 years and currently am holding a valid FFC (current year). I wrote the old Board examination and have also completed the NQF Level 4 real estate qualification but have not yet done the PDE 4. What educational requirements are currently applicable for me to continue practicing as an estate agent?

- The person should be advised to apply for the educational exemption applicable to estate agents who are at least 60 years old. The person should obtain a copy of the relevant exemptions policy and also be advised to submit the documents referred to clauses 2.1.1 and 2.1.2 of the policy to the EAAB. The person could also obtain a copy of the Portfolio of Evidence ("PoE") created for the completion of the NQF Level 4 qualification and submit this to the EAAB.
- After receipt of the exemption application, and provided the person meets the requirements of:
 - ✓ being 60 years of age or older;
 - ✓ having continuously held a valid FFC for a period of five years;
 - ✓ currently holding a valid FFC; and
 - ✓ have no previous criminal convictions or convictions in respect of any estate agency related offences;
- the applicant will be invited for an interview (of between 20 to 30 minutes in length) to be held at a venue that is based on her/his provincial choice and be required to pay the prescribed fee for consideration of the application.
- Depending on the interview performance, the educational exemption may be granted to the applicant, whether conditionally or otherwise, or refused.
- If the exemption is granted the EAAB records will be updated accordingly and the person will be required, thereafter, to focus on complying with CPD requirements.

17. I am a non-principal estate agent who is 60 years old (or older). I have already completed the NQF Level 4 real estate qualification and have also been granted an exemption from the PDE 4. What other educational requirements are currently applicable to enable me to continue practicing as a non-principal estate agent?

This candidate has met all the educational requirements to continue practicing as a non-principal estate agent and should now focus on complying with CPD requirements.

18. I am (below) 60 years of age, I have been a registered non-principal estate agent since 2000 and have completed, or been exempted from, the NQF Level 4 real estate qualification. I have also been granted an exemption from the PDE 4. What other educational requirements are currently applicable to enable me to continue practicing as a non-principal estate agent?

This candidate has met all the educational requirements to continue practicing as a non-principal estate agent and should now focus on complying with CPD requirements.

19. I am (below) 60 years of age, have been a registered non-principal estate agent since 2000 and have been granted an exemption from the PDE 4. What other educational requirements are currently applicable to enable me to continue practicing as a non-principal estate agent?

- This candidate must be certificated against the NQF Level 4 real estate qualification by no later than 31 December 2013.
- Proof of having obtained the qualification must be submitted to the EAAB to enable the records to be updated. The person will be required, thereafter, to focus on complying with CPD requirements.

20. I am (below) 60 years of age, I have been a non-principal estate agent since 2010 and have completed, or been exempted from, the NQF Level 4 real estate qualification. I have also passed the PDE 4. What other educational requirements are currently applicable to enable me to continue practicing as a non-principal estate agent?

This candidate has met all of the educational requirements to continue practicing as a non-principal estate agent and should now focus on complying with CPD requirements.

Principals

Principals below 60 years of age

21. I have been a principal estate agent since 2010 and have completed, or been exempted from, the NQF Level 4 and 5 real estate qualifications. I have also passed the PDE 5. What other educational requirements are currently applicable to enable me to continue practicing as a principal estate agent?

This candidate has met all of the educational requirements to continue practicing as a principal estate agent and should now focus on complying with CPD requirements.

22. I have been a principal estate agent since 2000 and have completed, or been exempted from, the NQF Level 5 real estate qualification. I have also passed the PDE 5. What other educational requirements are currently applicable to enable me to continue practicing as a principal estate agent?

This candidate has met all of the educational requirements to continue practicing as a principal estate agent and should now focus on complying with CPD requirements.

23. I have been a principal estate agent since 2010 and am not sure what educational qualifications are applicable to me. What real estate qualifications must I complete and by when?

- This candidate must be certificated against both the NQF Level 4 and 5 real estate qualifications and has two years in which to do so.
- After that s/he must pass the PDE 5 and, thereafter, focus on complying with CPD requirements.

Principals below 60 years of age

24. I am a principal estate agent who is 60 years old (or older). I have written the old Board examination. What educational requirements are currently applicable for me to continue practicing as a principal estate agent?

- The person should be advised to apply for the educational exemption applicable to estate agents who are at least 60 years old. The person should obtain a copy of the relevant exemptions policy and also be advised to submit the documents referred to clauses 2.1.1 and 2.1.2 of the policy to the EAAB.
- After receipt of the exemption application, and provided the person meets the requirements of:
 - ✓ being 60 years of age or older;

- ✓ having continuously held a valid FFC for a period of five years;
- ✓ currently holding a valid FFC; and
- ✓ have no previous criminal convictions or convictions in respect of any estate agency related offences;

the applicant will be invited for an interview (of between 20 to 30 minutes in length) to be held at a venue that is based on her/his provincial choice and be required to pay the prescribed fee for consideration of the application.

- Depending on the interview performance, the educational exemption may be granted to the applicant, whether conditionally or otherwise, or refused.
- If the exemption is granted the EAAB records will be updated accordingly and the person will be required, thereafter, to focus on complying with CPD requirements.

25. I am a principal estate agent who is 60 years old (or older). I wrote the old Board examination and have also completed the NQF Level 5 real estate qualification but have not yet done the PDE 5. What educational requirements are currently applicable for me to continue practicing as an estate agent?

- The person should apply for the educational exemption applicable to estate agents who are at least 60 years old. The person should obtain a copy of the relevant exemptions policy and also be advised to submit the documents referred to clauses 2.1.1 and 2.1.2 of the policy to the EAAB. The person could also obtain a copy of the Portfolio of Evidence ("PoE") created for the completion of the NQF Level 4 qualification and submit this to the EAAB.
- After receipt of the exemption application, and provided the person meets the requirements of:
 - ✓ being 60 years of age or older;
 - ✓ having continuously held a valid FFC for a period of five years;
 - ✓ currently holding a valid FFC; and
 - ✓ have no previous criminal convictions or convictions in respect of any estate agency related offences;
- the applicant will be invited for an interview (of between 20 to 30 minutes in length) to be held at a venue that is based on her/his provincial choice and be required to pay the prescribed fee for consideration of the application.
- Depending on the interview performance, the educational exemption may be granted to the applicant, whether conditionally or otherwise, or refused.
- If the exemption is granted the EAAB records will be updated accordingly and the person will be required, thereafter, to focus on complying with CPD requirements.

Training Provider and RPL or training or exemption from qualification/s against equivalency matrixes

26. I want to apply for an exemption from the real estate qualifications and have the following questions:

- **What do I do if my qualification is not listed on the EAAB approved equivalency matrixes?**
- **What happens if I hold a foreign qualification, i.e. one obtained from a non-South African tertiary institution?**
- **What happens if the RPL assessment centre does not follow the exemption process?**
- **Why is the exemptions process handled by RPL assessment centres and not by the EAAB?**
- The various RPL assessment centres accredited by both the SSETA and the EAAB (a list of which can be accessed from the SSETA website) are able to advise persons on the

applicable process to apply for an exemptions based on the EAAB approved equivalency matrixes.

- An exemption, basically, will be granted to those persons whose previously obtained academic qualifications are recognised as being relevant and equivalent, or even superior, to the required NQF Level 4 and/or 5 real estate qualifications for non-principal and principal estate agents respectively.
- The approved equivalency matrixes can be readily accessed from the EAAB website. Should a particular tertiary qualification not appear on the approved exemptions matrix it is unlikely that an exemption in respect of that qualification will be granted. It will be necessary, in such circumstances, for the applicant to be certificated against the required real estate qualification(s) either by way of RPL or through the undergoing of training.
- Recognition can only be granted to qualifications obtained from a South African institution of higher learning.
- Accredited RPL assessment centres will be able to advise applicants on the conduct of the exemptions assessment process - which is done in accordance with the requirements of a Practice Note issued by the EAAB.
- It is also entirely possible that the EAAB may resolve to resume the granting, to applicants, of the recognition of suitable and relevant qualifications obtained from South African institutions of higher learning against the EAAB approved equivalency matrixes.

27. Why does the EAAB not regulate the fees charged by training providers?

The EAAB neither prescribes nor regulates the fees charged by training providers as this aspect of the matter does not fall within its jurisdiction.

28. Are qualifying estate agents who are over the age of 60 able to obtain an educational exemption from the EAAB?

- The Exemptions Policy for estate agents who are 60 years and older may be accessed from the EAAB website. Candidates must also ensure that the documentation required, as outlined in clauses 2.1.1 and 2.1.2 of the policy, are submitted to the EAAB either by registered mail or personal delivery.
- Documentation submitted by registered mail should be addressed to the EAAB Education and Training Department, Private Bag X10, Benmore, 2010.

29. What will happen if I have not yet started the RPL assessment process or commenced training for the real estate qualifications or I fail to comply with educational requirements by end of December 2013?

- All estate agents (both principals and non-principals) who held a valid fidelity fund certificate issued by the EAAB on **15 July 2008** must ensure they are duly qualified and certificated by **31 December 2013** and that their records are updated so that they may continue to practice as registered estate agents in 2014.
- Persons who fail to comply with this obligation will not be able to register as estate agents in 2014.

30. I am dissatisfied with my training provider. What steps can I take?

- Candidates who are dissatisfied with the services rendered by their training providers are encouraged to submit a written, fully motivated complaint to the Services SETA, the quality assuring body of the real estate qualifications, to enable the Services SETA to investigate the matter and to take any such further steps or actions against the training provider as may be deemed to be warranted. Current contact details in the Services SETA Property Chamber is nontokozoz@serviceseta.org.za.

31. **I have received a letter from my education provider confirming that I have been found competent against the NQF 4 and/or 5 real estate qualifications. I now want to update my education status with EAAB and, also, write the PDE. What steps must I take?**
- The letter from the education provider will be checked by the EAAB to ensure that it not only emanates from a properly accredited education provider but also that the provider is still accredited with the Services SETA, the letter also confirmed that results have been **finally moderated and/or verified by the Services SETA**. Mere internal moderation by the education provider does not suffice to enable a candidate to be registered for the PDE or to be granted status upgrade by the EAAB.
 - If, therefore, the letter fails to confirm that the results were finally moderated and/or verified by the Services SETA the candidate should request a further letter from the education provider **that indicates that the results have been moderated and/or verified by the Services SETA**.
 - If the letter from the education provider is found to be acceptable by the EAAB, the estate agent may be granted a status upgrade in accordance with the request. An enrolment for the PDE will be processed by the EAAB provided, of course, the relevant PDE enrolment form has been duly completed and submitted together with proof of payment by the candidate of the examination fee.

Exemption-related

32. **I understand that the EAAB can grant exemptions from the real estate qualifications as well as from the PDE. Is this true and, if so, what are the requirements for the grant of such exemptions?**

There are currently three distinct educational exemptions that may be granted, namely:

- **Statutory exemptions** - a statutory exemption against the PDE is granted to estate agents who **continuously** held a valid fidelity fund certificate, whether as principal or non-principal estate agent, for a period of not less than five years **as at 15 July 2008** (that is to say, between July 2003 and July 2008). Further advice in this respect can be obtained from Ms. Audrey Mohajane who should be e-mailed at audrey@eaab.org.za.
- **Exemptions granted against the EAAB approved equivalency matrices** – the EAAB approved equivalency matrices grant recognition, for the purposes of exemption against the NQF Level 4 and 5 real estate qualifications, to appropriate qualifications awarded to a candidate by South African tertiary institutions. The applicant must, however, undergo a proper assessment process by a Services SETA accredited education provider and/or RPL assessment centre to be awarded the exemption.
- **Exemptions in respect of currently practicing estate agents who are aged 60 years and over.**

To qualify to apply for this exemption candidates must:

- have held a valid fidelity fund certificate issued by the EAAB for a continuous period of at least five years;
- hold a valid fidelity fund certificate for the current year;
- have no previous criminal convictions or convictions in respect of any estate agency related offences;
- pay a prescribed assessment fee [the exemption assessment fee for the 2012 financial year was R950,00 while it is presently set at R1 250,00 for the 2013 financial year];
- submit a Portfolio of Evidence ("PoE") as prescribed by the EAAB in accordance with the relevant exemptions policy; and
- complete the interview process (an envisaged 20-30 minute interview is scheduled between the applicant and an EAAB interview panel to determine whether the applicant is a fit and proper person who has sufficient knowledge and experience in the estate agency sector to be granted an exemption).

- Successful applicants are granted an educational exemption, whether conditional or otherwise. Further advice in this respect can be obtained from Ms. Lungile Mntambo who can be e-mailed at Lungile.Mntambo@eaab.org.za.

EAAB PDE exemption application forms can be sourced from the EAAB website at www.eaab.org.za. The application form must be duly completed and submitted to the EAAB's Education Department to enable the records of the applicant to be verified. The applicant will then be advised as to whether or not s/he meets the applicable exemption criteria. Applicants may, in addition, telephonically contact the EAAB's Education and Training Department at 011 731 5600 to ascertain whether they meet the necessary exemption criteria.

33. **Why is the statutory exemption for the PDE only applicable to the period 2003 to 2008? Surely it should be a rolling period.**

The five year PDE exemption period was determined by the Department of Trade and Industry when approving the Education Regulations which were gazetted in June 2008.

34. **I thought that I qualified for the statutory PDE exemption but was advised that a FFC had not been issued to me by the EAAB for the 2007 calendar year. I, however, have proof of the fact that I paid the EAAB for the issue of a FFC in 2007. Why should I now be penalised?**

The candidate should immediately address an e-mail Ms. Audrey Mohajane of the Education and Training Department at audrey@eaab.org.za and also provide suitable proof of payment for the FFC for the calendar year in question. The matter will be carefully investigated after which Ms. Mohajane will revert to the candidate in question.

35. **I thought that I qualified for the statutory PDE exemption but was advised that a FFC had not been issued to me for the 2007 calendar year. While I did pay for a FFC in 2007 I, however, unfortunately did not retain any proof of that payment. Why should I, nevertheless, be penalised?**

The candidate should immediately e-mail Ms. Audrey Mohajane of the Education and Training Department at audrey@eaab.org.za. The matter will be carefully investigated after which Ms. Mohajane will revert to the candidate in question.

36. **I thought that I qualified for the statutory PDE exemption but was advised that a FFC had not been issued to me for the 2007 calendar year due to the fact that the estate agency firm in whose service I was at the time failed to lodge the required statutory auditor's report with the EAAB. I have proof of payment and believe that I should not be held responsible for the fact that the estate agency firm failed to lodge an auditor's report. Why should I now be penalised for something that I had no control over?**

The candidate should immediately e-mail Ms. Audrey Mohajane of the Education and Training Department at audrey@eaab.org.za and provide suitable proof of payment for the FFC during the calendar year in question. The matter will be carefully investigated after which Ms. Mohajane will revert to the candidate in question.

37. **I thought that I qualified for the statutory PDE exemption but was advised that a FFC had not been issued to me for the 2007 calendar year due to the fact that the estate agency firm in whose service I was failed to register with the EAAB. I have proof of payment and believe that I should not be held responsible for the fact that the estate agency firm failed to register with the EAAB. Why should I now be penalised for something that I had no control over?**

The candidate should immediately e-mail Ms. Audrey Mohajane of the Education and Training Department at audrey@eaab.org.za and provide suitable proof of payment for the FFC during the calendar year in question. The matter will be carefully investigated after which Ms. Mohajane will revert to the candidate in question.

Professional Designation Examination (“PDE”)

38. What is the current fee for writing the PDE?

The fee structure for PDE changes each year. It is advisable that the stakeholder concerned contact the Contact Centre of the EAAB to obtain current applicable exam fees. Alternatively the stakeholder can be referred to the EAAB's website at www.eaab.org.za to access fees applicable to the calendar year in question.

39. In what language can I write the PDE?

At present the study material for the PDE is only available in English and the examination is also set in English. Answer sheets can, however, be completed by candidates in any of the official languages of the Republic. A marker and examination moderator who is proficient in the official language that has been used when answering examination questions will be appointed by the EAAB to mark the examination script accordingly.

40. When is the PDE written?

The PDE is written in major centres throughout the Republic four times a year and in the smaller centres twice a year. Prospective PDE candidates are referred to the EAAB's website at www.eaab.org.za to access the dates of the examinations in each particular calendar year.

41. What is the format of the PDE and what material must be studied for the examination?

- The PDE comprises a four-hour open book examination which includes:
 - ✓ a knowledge component;
 - ✓ an application, or practical case study, component; and
 - ✓ trust account questions and an ethics case study.
- Although the overall examination pass mark is presently established at 50%, candidates are required to obtain a subminimum of 40% for each of the three separate components to pass the examination. The knowledge component of the examination comprises short questions, usually, but not invariably, for a total of 40 marks with 30 marks allocated for each of the other two components. In answering examination questions candidates should be able practically to demonstrate what they should already know.
- PDE candidates need to have a thorough knowledge of the prescribed study material, namely, the Study Guide for the Professional Practitioner in Real Estate (for non-principal estate agents) and the Study Guide for the Master Practitioner in Real Estate (for principal estate agents), both of which are obtainable from the EAAB. Candidates are expected comprehensively to study and review the relevant study guide for the respective PDE level in its entirety and should also have a good knowledge and understanding of the Code of Conduct for Estate Agents and how this Code is applied in practice.
- **The Study Guide for the Professional Practitioner in Real Estate** (for non-principal estate agents) may be obtained directly from the EAAB at a cost. The form for requesting the study guide is available on the EAAB's website at www.eaab.org.za and this form outlines applicable fees required for the issuing of the study guide.
- **The Study Guide for the Master Practitioner in Real Estate** (for principal estate agents) is, similarly, available from the EAAB at a cost. The form for requesting the study guide is available on the EAAB's website at www.eaab.org.za and this form outlines applicable fees required for the issuing of the study guide.

42. How do I order the PDE study material?

The study material can be obtained by completing the relevant order form and making payment of the cost of the relevant study guide. This form for requesting the study guide is available on the EAAB's website at www.eaab.org.za and this form outlines applicable fees required for the issuing of the study guide.

43. What is the cut-off date for writing the PDE?

Estate agents who have not been exempted from the PDE must pass the examination within two years after having been certified against either the NQF Level 4 and/or 5 qualification, as the case may be, or after having been granted an equivalency exemption from those qualifications.

44. What happens if I fail the PDE?

Candidates may write the PDE on three consecutive occasions. If still unsuccessful the candidate is required to wait for a period of twelve months before re-enrolling for the PDE.

45. Do PDE candidates need training before the examination?

Although the curriculum of the PDE is designed for self-study and is based on actual estate agency experience obtained, many of the accredited education providers and industry representative bodies do offer training for candidates intending to write the PDE. The EAAB, however, plays no role in the accreditation of any such providers.

46. How do I apply to write the PDE?

- The dates when the examination is written each year can be ascertained from the EAAB's website at www.eaab.org.za. Prospective examination candidates can, alternatively, telephonically contact the EAAB call centre to obtain the required information.
- The PDE application form, which is available on the EAAB's website, should be fully completed and e-mailed, together with all required supporting documentation, to pde@eaab.org.za.
- Only the application forms of **qualifying estate agents** will be accepted by the EAAB. To write the PDE, applicants must have been certificated against, or exempted from, the relevant NQF real estate qualification. Before writing the PDE for principal estate agents the applicant must have passed the PDE for non-principal estate agents.
- Qualifying non-principal estate agents will be enrolled to write the PDE for non-principal estate agents (PDE 4) while principal estate agents will be enrolled to write the PDE for principal estate agents (PDE 5).

47. Are there any tips and/or guidelines that I can use when preparing to write the PDE?

The EAAB has published some tips and guidelines to assist candidates in both preparing for and writing the PDE. These tips and guidelines can be accessed from the EAAB's website at www.eaab.org.za under the Education Menu bar.

48. When can I expect to receive the PDE results?

Examination candidates will be notified in writing of the results of the PDE within four to six weeks of writing the examination. Once examination scripts have been marked they are further moderated and verified before the results are released.

49. When can I expect to receive the Certificate of Professional Recognition if I pass the PDE?

A Certificate of Professional Recognition will be dispatched to all successful candidates approximately four to six weeks after the results of the examination have been released.

50. Can I obtain a copy of previous PDE question papers for PDE preparation purposes?

Although previous examination papers are **not** made available to examination candidates, sample examination questions as well as ethics case studies appearing in previous examination papers are, however, published on the EAAB's website www.eaab.org.za to assist candidates when preparing for the examination.

51. Can I appeal against the PDE results?

- Candidates who are dissatisfied with the PDE results may lodge an appeal against such results within **ten days** after having been notified of the results. A formal appeal accompanied by a proof of payment of the appeals fee will be required prior to an appeal can be processed. The appeal fee changes every calendar year and candidates are thus advised to obtain confirmation, should they not be in possession of that information already, from the Education and Training Department of the EAAB prior to lodging an appeal. Upon making payments, appellants are requested to submit a fully motivated, written appeal - together with proof of payment of the appeal fee to resultsappeal@eaab.org.za. Appellants can expect to receive the written outcome of the appeal within two to four weeks after the notice of appeal was received by the EAAB.

52. I have been certificated against the NQF Level 4 and/or 5 real estate qualifications but have never previously been registered with the EAAB. Can I still enroll for the PDE and, if so, at which level?

- The PDE may only be undertaken **by practicing estate agents who hold a current fidelity fund certificate issued by the EAAB.**
- As the person concerned has never previously been registered as an estate agent, s/he is encouraged to register with the EAAB as an intern estate agent after which s/he may enroll for the PDE at the relevant level, that is, whether as non-principal or principal estate agent.

53. I understand that I have to write the PDE within 2 years after having been certificated against, or exempted from, the NQF Level 4 and/or 5 real estate qualifications. What happens if I do not pass the PDE within this two year period?

Candidates may write the PDE on three consecutive occasions. If still unsuccessful the candidate is required to wait for a period of twelve months before re-enrolling for the PDE.

54. Can I undertake an oral PDE? I do not cope with the stress of written examinations and/or I am disabled and unable to sit for a written examination.

- There is, as yet, no provision for the undertaking of an oral PDE by candidates. This matter is, however, presently being investigated by the EAAB and it is anticipated that a suitable practice note will be issued in due course.
- **People with disabilities** may, however, apply for a special PDE. Such application, which should be accompanied by a valid medical report on the disability, will be considered by the EAAB and an appropriate determination made.

Professional designations

55. I have passed, or been exempted from, the PDE. Is there any designation that I can now use on my letterheads, business cards and advertising to denote this fact?

- The following professional designation may be used by persons **who have passed** the PDE, namely:
 - ✓ **Professional Practitioner in Real Estate** ("PPRE") for candidates who have passed the PDE 4 for non-principal estate agents;
 - ✓ **Master Practitioner in Real Estate** ("MPRE") for those candidates who have passed PDE 5 for principal estate agents; and
 - ✓ **Chartered Practitioner in Real Estate** ("CPRE") for those candidates who are the 'doyens' of the real estate sector and have successfully completed, and been found competent against, submitted PoE's substantiating their meaningful role and significant contribution to the estate agency sector.

- The approved professional designations may only be used by qualifying candidates after they have been issued with a letter by the EAAB confirming their PDE status and for so long as they hold a valid fidelity fund certificate issued by the EAAB.
- Persons granted a statutory or "over 60s" PDE exemption are **not authorised** to use the approved professional designations and may not do so. Such persons are, however, encouraged, despite the exemption granted, to write the PDE so as to be awarded the relevant professional designations.

Previously registered Estate Agents wishing to return to the estate agency sector

56. I again wish to register as an estate agent. I previously held an FFC and also wrote the old Board examination. What must I do to re-register with EAAB

If the stakeholder left the industry as a full status, non-principal estate agent:

- If the candidate was a full status, non-principal estate agent at the time of leaving the industry, the candidate will have to provide the following prior to being re-registered, proof that s/he has:
 - ✓ been certificated against the NQF Level 4 real estate qualification;
or
 - ✓ been granted an equivalency exemption from completing NQF Level 4 real estate qualification;
and
 - ✓ has passed PDE 4 or will be required to write and pass PDE4 prior to re-registration
- The candidate will **ONLY** be re-registered into the level that s/he was registered at prior to leaving the industry upon satisfying the above requirements.

If the stakeholder left the real estate sector as an intern (or candidate) estate agent

- If the candidate was an intern (or candidate) estate agent at the time of leaving the sector, the candidate will have to provide the following information to the EAAB prior to being re-registered
 - ✓ proof of having duly completed the 12 month internship period (this will generally be done by way of the signed-off intern logbook or a letter, on the letterhead of the estate agency firm concerned, from the principal confirming that the intern estate agent has successfully completed the internship);
 - ✓ documentary proof of having been certificated against the prescribed real estate qualification whether through training or by way of an equivalency exemption; and
 - ✓ proof of having passed the PDE 4 for non-principal estate agents. If the candidate has not yet passed the PDE 4 it will be necessary for that candidate to register for the examination.

If the stakeholder left the industry as principal estate agent

- If the candidate was a principal estate agent at the time of leaving the industry, the candidate will have to provide the following prior to being re-registered, proof that s/he has:
 - ✓ been certificated against the NQF Level 5 real estate qualification;
or
 - ✓ been granted an equivalency exemption from completing NQF Level 5 real estate qualification;
and
 - ✓ has passed PDE 5 or will be required to write and pass PDE5 prior to re-registration

- The candidate will ONLY be re-registered into the level that s/he was registered at prior to leaving the industry upon satisfying the above requirements.

Continuing Professional Development (“CPD”)

57. What is CPD and how is the CPD process going to be implemented by the EAAB?

- CPD refers to the structured and unstructured, mandatory and elective, activities designed to develop, and maintain, the capabilities necessary to ensure that estate agency practitioners consistently render estate agency services in a competent and professional manner. The underlying objective of the CPD programme is to develop and maintain professional skills and competencies so as to ensure that estate agency practitioners render services of the highest quality in the public interest. The primary responsibility for continuing professional competence, of course, lies with estate agency practitioners themselves who are, accordingly, required to develop and maintain their set of professional skills and special competencies according to the specific differentiated area of estate agency within which they operate and their professional responsibilities.
- CPD was effectively implemented as from 1 August 2012. This is, therefore, the first CPD cycle that is applicable to estate agents who have completed the NQF real estate qualifications, or been exempted therefrom, regardless of whether or not such estate agents have as yet written the appropriate PDE.
- A practice note regarding the accreditation of CPD providers will shortly be issued and published on the EAAB website.
- A practice note for estate agents on how acquired CPD points are to be uploaded will, similarly, shortly be issued and published on the EAAB website.
- A list of mandatory and elective CPD courses will also be published on the EAAB website www.eaab.org.za

58. Why do I need to do the CPD?

The CPD programme is designed to increase consumer protection and the knowledge, skills and professionalism of estate agency practitioners. It will also promote consumer confidence in the estate agency profession.

59. What are the benefits of doing the CPD?

- By actively committing themselves to participation in the mandatory CPD programme estate agents unequivocally demonstrate to all stakeholders:
 - ✓ a commitment to achieving and maintaining the highest levels of performance excellence;
 - ✓ passion and dedication to advancing themselves in a career of choice;
 - ✓ a culture of learning and improvement as professionals and law abiding citizens;
 - ✓ an enduring interest in the estate agency and general property sectors;
 - ✓ awareness of relevant trends and developments within the estate agency sector in respect of products, services, statutory legislative compliance and the building and retention of efficient and effective strategies and business management systems; and
 - ✓ skills and competence in the establishment, management, control and expansion of sustainable and economically and reputationally successful estate agency enterprises.
- The issue of fidelity fund certificates to estate agents will henceforth evidence a positive commitment by the holder of that fidelity fund certificate to the estate agency profession, the relevant estate agency enterprise and the personal development of that estate agent. CPD compliance is a valid indicator that estate agency professionals are aware, informed,

passionate and committed to the advancement of the estate agency profession. The new CPD requirement is also likely to increase public pressure on non-registered estate agents to regularise their status. Non- or under-qualified persons practicing illegally as estate agents will not easily be tolerated by either prospective estate agents or stakeholders.

60. What time period do I have to complete the CPD?

- CPD will allow earning of points upon successful completion of each prescribed activity over a **three year cycle**.
- **Sixty points** must be earned over the three year period.

61. How do I obtain the points required for CPD compliance?

- The CPD points will cover both mandatory topics (critical issues e.g. Consumer Protection Act) and electives (choices).
- CPD points may also be given for accredited in-house training.

62. Can I be exempted from the CPD requirements?

Only persons who have not yet achieved the prescribed estate agency qualifications are excused from CPD compliance. There are no other exemptions from the CPD requirements. This implies that all estate agents regardless of status, academic achievements and experience are obliged to comply with the CPD requirements.

63. Are there any CPD exclusions?

Any practicing estate agent who has been ordered to complete any training as a direct result of a direction given by a committee of inquiry and/or by any other committee of the EAAB and/or any court of law shall not be eligible to be counted towards completion by that estate agent of that estate agent's CPD obligations until they have met requirements of the said committee of inquiry and/or by any other committee of the EAAB and/or any court of law and thereafter, CPD obligations will apply immediately thereafter, if necessary.

64. Do I need to maintain a Portfolio of Evidence (“PoE”) for CPD?

Estate agents must maintain and keep sufficient original evidence supporting their CPD activities in a PoE and may be required to submit that PoE to the EAAB for checking or to produce the PoE to EAAB inspectors for the same purpose.

Recognition of Prior Learning-related:

65. What is Recognition of Prior Learning (“RPL”) and who qualifies for the RPL assessment process?

- RPL, essentially, means that the previous learning and experience of a learner, howsoever acquired - whether formal, non-formal or informal - is compared against the learning outcomes that are needed for a specific unit standard or qualification being, in this case, the Further Education and Training Certificate: Real Estate and/or the National Certificate: Real Estate.
- Such prior learning, if sufficiently proven, can often be accepted as being equivalent to the achievement of the formal learning required for the specific qualification in question.
- RPL is, therefore, intended to reflect the fact that people can learn in a variety of different contexts, even outside of the formal educational environment, and that this learning, once proven, may be found to be equivalent to the type of learning that is formally gained.
- The NQF real estate qualifications may, therefore, be obtained by candidates either in

the traditional manner, where a person, after attending structured training, is assessed for competence, or through an RPL assessment process where a person, while being assessed for competence, is able unequivocally to demonstrate, through the submission of appropriate proof, that s/he already possesses the required skills and knowledge.

- Candidates seeking to be certificated by way of the RPL assessment process are usually required first to undergo a proper **diagnostic assessment** by the accredited RPL assessment centre of their choice. This assessment is necessary to determine whether or not they have, indeed, acquired sufficient prior knowledge and experience in real estate to qualify for the RPL assessment process. As the diagnostic testing differs from provider to provider, candidates are advised to consult with the accredited provider of their choice to ascertain whether or not they qualify for the RPL assessment process.

66. What does an RPL assessment cost?

Candidates should contact the Services SETA for a list of accredited RPL Centres. Services SETA contact number is (011) 276 9600 and candidates may ask for the SSETA's Quality Assurance Department. Once the list is obtained, the candidate may enquire costs from Providers. Costs differ from Provider to Provider and therefore candidates are advised to shop around prior to making any decision on a Provider.

67. Why do I have to enroll with a RPL assessment centre?

By enrolling with an RPL assessment centre of your choice you will be assisted, through a structured support process, to fully understand the real estate qualification against which you wish to be recognised. You will learn how to prepare and present satisfactory evidence to demonstrate your knowledge and competency in the relevant unit standards and, ultimately, in attaining, and being certificated against, the desired NQF real estate qualification through the RPL process.

68. Does the EAAB provide any bursaries and, if so, how do I access such a bursary?

- The EAAB does **not** provide bursaries.
- There are, however, different funding mechanisms, available for both the RPL assessment process and training programmes, provided by the Services SETA. Such funding may take one of the following forms, namely:
 - ✓ bursaries for member companies which can then be allocated to deserving individuals;
 - ✓ learnership grants to member companies when contracting new entrants into the estate agency profession; and
 - ✓ Workplace Skills Levy grants/Internship grants;
 - ✓ Pivotal skills grants; and
 - ✓ Any other funding criteria that the SSETA may feel necessary to introduce from time-to-time

These are however only made available to levy paying or member organisations paying the skills levies to the SSETA. It is important to note that funding is granted by SSETA to employers on a discretionary basis and therefore candidates are advised to first discuss their requirements with their training manager or HR Manager or principals of their firms for assistance in this regard.

69. I am still waiting for my NQF level 4 and/or 5 certificate of competence although I was found to be competent over two years ago. What should I do?

- Candidates who have not yet been certificated after being found competent against the prescribed qualifications for real estate should e-mail their queries on outstanding certificates of competence to Ms. Nontokozo Zondi of the Services SETA at nontokozoz@serviceseta.org.za.

2013 Deadline-Related:

70. I understand that the deadline date for the completion of the real estate education qualifications by estate agents is 31 December 2013. Do I have until that date to enroll for the relevant qualification or must I have completed the qualification by then?

All estate agents who were practicing and registered with the EAAB on or before 15 July 2008, when the new education dispensation came into effect, are required to have completed the NQF level 4 or 5 qualification (whichever is applicable) by 31 December 2013. These estate agents will have a further two years in which to complete the PDE 4 or 5.

Estate agents who registered with the EAAB for the first time after 15 July 2008, regardless of status, must complete the relevant real estate qualification within two years of the date of their first registration. Such persons are granted a further period of two years, calculated from the date when they were certificated against the relevant real estate qualification, within which to pass the relevant Professional Designation Examination.

Attorneys firms performing the activities of estate agents

71. I am a qualified practicing attorney. Do I need to register as an estate agent and also to obtain the real estate qualifications?

- Attorneys, and candidate attorneys, are not deemed to be estate agents if they perform any estate agency activities:
 - ✓ **in the course of;** and
 - ✓ **in the name of;** and
 - ✓ **from the premises of;** the attorney's practice.
- Such practicing attorneys are neither required to register with the EAAB nor to be issued with valid fidelity fund certificates by the EAAB. It will not be necessary, in addition, for the attorneys concerned either to acquire the real estate qualifications or to pass the relevant Professional Designation Examinations.
- An attorney will, however, be subject to the full rigours of the Estate Agency Affairs Act, and the Education Regulations, **if that attorney carries on any estate agency activities from separate premises or under a name different to that of the attorney's practice.** A practicing attorney will also not be able to rely on the abovementioned exclusion **unless the estate agency acts performed by that attorney form an inherent part of the attorney's practice and are not merely subservient or ancillary to such practice.**
- Under such circumstances the attorney will be required to register as an estate agent with the EAAB and to be issued with a valid fidelity fund certificate by the EAAB. An attorney entering practice as an estate agent for the first time will also be required to serve as an intern estate agent acting under the active supervision and control of a principal, or other full status, estate agent, for an initial period of twelve months. While it is likely that the attorney will obtain an equivalency exemption from the NQF Level 4 and 5 real estate qualifications, as more fully discussed above, the attorney will still be obliged to pass the PDE 4 for non-principal estate agents as well as the PDE 5 for principal estate agents.
- Any person employed by an attorney or an attorney's firm, other than an attorney or a candidate attorney, and who **wholly or primarily carries out estate agency functions or activities**, save for the collection or receipt of moneys in respect of leases, will be regarded as an estate agent and be obliged to comply with the requirements of the Estate Agency Affairs Act. Such a person is required to apply for, and be issued with, a **'Registration Certificate'** by the EAAB and to pay the levy due to the EAAB for this purpose. The person concerned will, however, be covered by the Attorneys Fidelity Fund and not by the Estate Agents Fidelity Fund and will not be subject to the jurisdiction of the EAAB.

Differentiating between the EAAB and the SSETA: What are the respective functions of these two regulatory bodies within the real estate sector?

72. Please explain the difference between the EAAB and the Services SETA?

Estate Agency Affairs Board (“EAAB”)

- The EAAB, established in terms of the provisions of the Estate Agency Affairs Act, is the statutory regulator of the real estate profession in South Africa.
- The EAAB reports to the Minister of Human Settlements and the Department of Human Settlements.
- All practicing estate agents are required to apply for, and annually renew, fidelity fund certificates, which constitute their licence legally to operate as estate agents, from the EAAB.
- All practicing estate agents are required fully to comply with the provisions of the Estate Agency Affairs Act and all regulations promulgated thereunder including the Code of Conduct for Estate Agents and the Education Regulations.

The Services Sector Education and Training Authority (“SSETA”)

- The SSETA was established and registered in March 2000 in terms of the Skills Development Act and is responsible for the disbursement of the training levies payable by all employers. These levies, which are collected by the South African Revenue Service (SARS), are disbursed through a management system motivated by skills requirement assessment and monitoring.
- The SSETA ensures that the skill requirements of the services sector are properly identified and that adequate and appropriate skills are readily available.
- The SSETA contributes to the improvement of sector skills through achieving a more favourable balance between demand and supply and ensuring that education and training is:
 - provided subject to validation and quality assurance; and
 - meets agreed standards within a national framework.
- The SSETA ensures that new entrants to the labour market are adequately trained and acknowledges and enhances the skills of the current work force.
- The SSETA is the quality assurer of the real estate education qualifications currently prescribed for estate agents by the EAAB.

73. Does the EAAB offer training for the education requirements?

- The EAAB does not offer specific training but does present annual roadshows, countrywide, each year to communicate generally with stakeholders and where educational issues affecting estate agents are usually debated and discussed.
- The EAAB also conducts frequent briefing, engagement and capacity building sessions with stakeholders to ensure that educational requirements, policies and procedures are fully understood and appreciated.
- The EAAB compiles, and issues, study material to stakeholders preparing to undertake the Professional Designation Examinations (PDE).
- Specific sector orientated educational and training courses are also offered by such sector representative organisations as the Real Estate Business Owners of South Africa (REBOSA), the Institute of Estate Agents South Africa (IEASA), the South African Property Owners Association (SAPOA), the National Property Forum (NPF), the National

Association of Managing Agents (NAMA), the South African Institute of Auctioneers (SAIA). Stakeholders are advised to contact any one, or more, of these organisations to obtain further information on the education and training which they are able to offer.



DISCIPLINARY AND INSPECTION

DISCIPLINARY AND INSPECTION

1. If an agent is not registered with the Board is he/she entitled to trade as an agent?

No, he/she is not entitled to trade. In terms of section 26(a) of the Act no estate agent shall perform work as an agent unless he/she has been issued with a valid fidelity fund certificate. The valid fidelity fund certificate should be for the current year, as each year an estate agent must apply and be in possession of a valid fidelity fund certificate.

2. If an estate agent is not registered. Is he/she entitled to commission?

No, in terms of section 34(a) (1) of the Act, no estate agent shall be entitled to any remuneration or other payment unless at the time of the performance of the act he/she was in possession of a valid fidelity fund certificates.

3. How much commission can an estate agent charge for renting my property or for selling my property?

The Act does not specify the percentage to be charged by an estate agent, when selling or leasing property, the percentage is therefore agreed upon between the parties, it is contractual arrangement between parties, however the percentage commission should be specified in the agreement to avoid any confusion or disagreement at a later stage. Note that if the agent is a VAT vendor he/she will charge commission, plus vat.

4. The agent has invested my monies/ deposit in a trust account how much interest am I entitled to receive.

The interest to be paid back by the agent will depend on the interest rate applicable or paid by the bank for that particular investment.

5. If an estate agent is found guilty of contravening the Act or the Code of conduct what can happen to the estate agent? In terms of the act if an estate agent is found guilty,

- He can be fined an amount to the maximum of R25 000.00;
- He can have his fidelity fund certificate withdrawn; and
- He can be given a reprimand.

6. The agent has failed to pay my rent received from the tenant?

Firstly, inquiries must be made whether or not the tenant has made payment. If payment has been made the tenant should be requested to provide a copy of proof of payment. If proof of payment has been obtained and the estate agent continues to refuse to pay over the rental, a complaint can be lodged with the Board against the agent, by completing a complaint initiation form and enclosing a copy of the lease agreement, the proof of payment and any other relevant supporting documents that relate to the complaint.

If the tenant has failed to pay, the landlord may give instructions to the agent, to give the tenant a notice to vacate the property or to institute legal proceedings against the tenant to recover the outstanding rental, please note that the legal fees incurred during this process are for the landlord's account and not the agent, unless otherwise agreed.

7. If I submit a complaint how long will it take to investigate?

Investigations can take up to 6 months and beyond depending on the nature of the complaint, and other delays such as agent being untraceable and obtaining a hearing date.

8. The agent is failing to evict the tenant from the property?

Unfortunately the agent cannot evict the tenant without an eviction order, the agent can however give the tenant a notice to vacate, if the tenant fails or refuses to vacate then there is nothing more the agent can do, this is because the laws relating to evictions in South Africa are governed by the **Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE), No 19 of 1998** and only the courts have jurisdiction to issue an eviction order. It will therefore be necessary for the owner to apply through the courts for an eviction order. It should be noted that only the registered owner of the property will be able to apply for an eviction order, is also liable for the costs of the application and not the agent unless otherwise agreed upon.

9. Under what circumstances can an estate agent be obliged to cease practicing as an estate agent?

- When a fidelity fund certificate has lapsed or has been suspended;
- When a fidelity fund certificate has been withdrawn by the EAAB or a court;
- When the estate agency firm no longer holds a valid fidelity fund certificate;
- In the case of principal estate agents one or more of the estate agents in the service of the enterprise has not been issued with a valid fidelity fund certificate.

10. How do I verify if an estate agent is registered with the EAAB?

You can visit our website on [www.eaab.co.za](#) and search for the agent using the agents, name, and firm name or, alternatively call the Board's Call Centre on 011 731 5600 to verify the registration status of the estate agent.

11. What is the difference between the EAAB and IEASA?

- The **EAAB** is the official statutory regulating authority for the estate agency industry, and every estate agent must, by law, be registered with it. The **EAAB** has only one office, situated in Johannesburg.
- **IEASA** is a professional organization which supports its members, and membership is voluntary. **IEASA** has a national office, and ten regional offices in the major centers.

12. Do I have to be a member of IEASA, REBOSA etc?

There is nothing in the Act compelling an agent to be a member of any of these organization, membership to these organizations is voluntary however, the EAAB would recommend that you consider joining one of your choice as they do provide value-add services to estate agents.

13. How do I lodge a complaint and report an unregistered estate agent?

The EAAB has a complaint initiation form available on the website under Industry Members. This form should be submitted to our legal department via the email of fax details provided on the said form. Once received by the department the complaint form will be allocated to a Legal Officer for investigation. You can also contact the EAAB Whistle Blowers Hotline on 0800 223 225 to report any fraud by an agent.

14. Commission disputes?

The Board does not offer legal advice or represent parties regarding to commission disputes. However, an estate agency or any person wishing to challenge payment of commission based on the fact that the estate agent was not registered with the Board can request the EAAB to confirm by way of an affidavit whether or not the agent was in possession of a valid fidelity fund certificate. A fee is charged for any affidavit requested. If the agent is not registered and the Board is in possession of sufficient documentation it can investigate the agent for contravening section 26 of the Act.

15. Under what circumstances are agents not entitled to remuneration?

Section 34 a of our Act states, that no estate agent shall be entitled to remuneration or payment in respect of or arising from the performance of any act performed by estate agent, unless a valid fidelity fund certificate has been issued

- To such estate agent and;
- If the estate agent is a company to every director of the company.

Where a non-principal estate agent has not been issued with fidelity fund certificate neither that estate agent nor the principal of the estate agency enterprise is entitled to receive commission for the services rendered by the non-compliant non-principal estate agent;

16. How does Section 55 of the Consumer Protection Act regarding the 'Voetstoots' clause affect estate agents and property transactions?

- The legal view remains rather diverse – certain opinions aver that estate agents are acting in the ordinary course of their business once they become involved in a property transaction. If so ... the 'voetstoots' clause is prohibited.
- Estate agents should urgently review all sale documents, promotional and advertising literature to ensure compliance with the CPA.

A contravention of the Act can lead to a fine of up to R1 million or 10% of the estate agency's turnover, whichever amount is the greater.

17. How does Section 14 of the Consumer Protection Act affect estate agents?

- While the CPA poses many benefits to the South African public, the Act itself enforces legislation that could potentially have a negative impact on landlords and property managers and which sometimes has **unintended consequences** which require the urgent intervention of the property sector;
- **Section 14 of the Act, in particular, gives tenants the right to terminate fixed term agreements on 20 business days' notice.** The landlord or managing agent can hold the tenant liable for rent due until the cancellation date and a reasonable cancellation fee is levied. The determination of that reasonable cancellation fee is problematic, and may not include any future unpaid rent until a new suitable tenant is found for the property.

18. How does Section 55 regarding the Cooling-off right apply to property transactions?

- Within six months after the delivery of any goods to a consumer, the consumer may return the goods to the supplier, without penalty and at the supplier's risk and expense, if the goods fail to satisfy the abovementioned requirements and standards.
- Delivery of immovable property, of course, takes place when the property is transferred into the name of the purchaser – possibly many months after the sale agreement was concluded and will probably have unintended consequences where all parties – seller, buyer, mortgagee and estate agent - are concerned.

19. "Cooling off period" in terms of the Land Alienation Act.

The cooling off period in terms of the above act relates to properties whose purchase price is R250 000.00 or below, any property purchase above the said amount will be bound by the cooling off period enclosed in the offer to purchase.

20. What is FAIS and how does it affect agents regarding property transactions?

FAIS was passed in 2002 and became effective in October 2004; and

- Requires that persons rendering financial services be properly licensed;
- It professionalise the financial services industry;
- It protects client's against improper conduct by financial service providers;
- It aims to prevent fraudulent and misleading advertising;
- It ensures adequate disclosure of relevant material information to clients.

21. Who is a Financial Services Provider in terms of the FAIS Act and do I need to be registered with the Financial Services Board?

- An FSP is defined in the FAIS Act as:
- "any person, other than a representative, who as a regular feature of the business of such person who:
 - furnishes advice; or
 - furnishes advice and renders an intermediary service; or
 - renders an intermediary service;

22. What is considered to be Intermediary Services?

Intermediary services include the following activities performed on behalf of the client or product supplier:

- Managing, maintaining or servicing a financial product [e.g. deposit product] in which the client has invested; or
- Collection or account for premiums or other moneys payable to product suppliers; or
- Receiving, submitting or processing a client's claim against a product supplier.

23. What are the reporting obligations of a Financial Services Provider?

- Compliance Report to be submitted annually (as per the FSP category and date published by the FSB);
- Submit the FSP business financial statements (within four months of the FSP's financial year end).
- Submit separate audited report (applicable for FSPs handling client's funds).

24. What are the activities of estate agencies that fall within the definition of financial services?

- Giving advice, sourcing and obtain insurance quotes on insurance products on behalf clients.
- Paying over insurance premium to insurance companies on behalf of clients.
- Opening deposit or interest bearing accounts in client's name.
- Managing deposits or interest bearing accounts on behalf of clients.
- Giving advice on Shares (Property Syndication).
- Investing client's monies in a separate savings or other interest-bearing account/s as per Section 32 (2) (a) of the EAAB Act. This activity is viewed as rendering intermediary services on behalf the client.

25. Where can I find more information about FAIS?

For more information we would advise that you contact FIC or log onto their website.



CLAIMS

CLAIMS

1. How do I lodge a claim?

By way of completing a complaint initiation form and clearly setting out the nature of the claim and the amount claimed and how it is calculated.

In addition, the Board must be provided with:

- In addition, the Board must be provided with:
- Proof that the monies claimed were indeed paid to the estate agent concerned;
- Copies of contracts;
- Criminal case number;
- Civil court judgment obtained.

2. Is there a prescribed period within which to submit a claim?

Section 18(3) which reads "No person shall have any claim against the Board in respect of a theft or failure referred to in subsection 1 unless –

- a. the claimant has **within three months** after he became aware of such theft or failure or by exercise of reasonable care should have become aware of such theft or failure, given notice in writing to the Board of such claim;
- b. the claimant has, **within six months** after a written demand was sent to him by the Board, furnish to the Board such proof as the Board may reasonable require.

Therefore the claimant is required to notify the Board, within three (3) months of becoming aware of the theft of trust funds by an estate agent or failure of the estate agent to pay the money into a trust account, that is submit a written notice of the claim to the Board, furthermore the claimant has six (6) months after written demand was sent by the Board, to furnish the Board with additional information for investigation, failure to comply with the above provision may result in your claim being rejected.

3. What claims may be brought against the fidelity fund?

The claims can be in respect of:

- Monies collected/received by an estate agent.
- Monies received in respect of estate agency services or activities as defined by the Act.
- Monies received in respect of lease/sale of immovable property.

The fidelity fund does not cover consequential loss or losses due to damage to property.

4. What civil and criminal action must claimant institute against the estate agent?

Civil: The Act provides that the Board may require that a claimant first exhaust all other relevant right of action and other legal remedies available against the estate agent and all other persons who may be liable for the loss suffered.

Criminal: As the fidelity fund is liable to reimburse persons who suffer loss by reason of theft of trust monies, the Board requires that the claimant bring a charge of theft against the estate agent concerned.

5. What do I do if the landlord/agent refuses to refund my deposit after the lease has expired?

The Act requires that the estate agent must open and keep a trust account and deposit therein all the monies received by him/her in a trust account until he/she is instructed to withdraw it or is lawfully entitled to it (as the case may be).

6. How long does it take to process a claim?

Upon receipt of a claim, it is firstly investigated by our disciplinary department as regards improper conduct/contravention of the code of conduct and the Act. The case will then be

forwarded to the claims department for processing, investigation & presentation to the Board. Provided that there are no undue delays and the matter is fairly straightforward, it takes approximately 4 months to finalise the claim.

7. The estate agency firm that I transacted with has closed office and is now placed under liquidation. How do I protect my deposit?

The claimant is required to submit the claim with the Board as per normal procedure and also, submit a claim with the liquidator appointed to administer the liquidated company. Upon finalisation of the liquidation process and if the claim had not been settled, the claimant must furnish the Board with a copy of final liquidation and distribution account from the liquidator.

8. What recourse do I have against an estate agent who was mandated to rent out my property but failed to collect rent from the tenant, and who has now absconded without paying rental?

The fidelity fund can only be held liable in respect of actual monies received by an estate agent; any other losses suffered by claimant are not covered by the fidelity fund. In this instance, the Board recommends that claimant seek legal route.

SECTION 27 APPLICATION - DISQUALIFIED AGENTS IN TERMS OF SECTION 27A

9. The special application arises as a result of the following circumstances:-

- i. Dismissal from the position of trust;
- ii. Offence involving an element of dishonesty (criminal record against estate agent);
- iii. Where the estate agent has been sequestered and not rehabilitated and/or a liquidated company, (voluntarily or compulsory liquidation);
- iv. Fidelity fund certificate has been withdrawn.

10. Applicant dismissed from a position of trust by reason of improper conduct

Requirements for application:

- Affidavit regarding your dismissal as well as supporting documents;
- Letter from principal of estate agency firm confirming that he is aware of your dismissal and has no objection in you being employed;
- 3 to 4 letters of reference or testimonials.

11. Applicant convicted of an offence involving an element of dishonesty

Requirements for application:

- Affidavit regarding your conviction and to motivate your application as to why it is in the interest of justice that a fidelity fund certificate be issued to you as well as a copy of the charge sheet and the sentence imposed;
- Letter from principal of estate agency firm confirming that he is aware of your conviction and has no objection having you employed;
- 3 to 4 letters of reference or testimonials.

12. Insolvent or sequestered applicant who has not been rehabilitated / a liquidated company

Requirements for application:

- Affidavit regarding your sequestration;
- Court application for sequestration / liquidation of company;
- Trustee's report to creditors, liquidation and distribution account;
- Letter of certification from trustee stating that he has no objection to the granting of an fidelity fund certificate to you and that you are a fit and proper person to assume a position of trust

- (Fit & proper principles must be confirmed);
- Letter from your proposed employer (estate agency firm) confirming that he/she is aware of your sequestration and has no objection of you being employed;
- 3 to 4 letters of reference or testimonials.

13. Withdrawal of FFC in terms of the Act

Requirements for application:

- Affidavit regarding the withdrawal of a fidelity fund certificate;
- Letter from principal of estate agency firm confirming that he is aware of the withdrawal of a fidelity fund certificate and has no objection having you employed;
- 3 to 4 letters of reference or testimonials.



Audit

AUDIT COMPLIANCE

AUDIT COMPLIANCE

1. Who must have their accounting records audited and when must the audit report be submitted?

Every estate agent is to keep accounting records and have these audited within 4 months after the final date of the estate agent's financial year. Estate agent, in terms of the audit requirements, refers to the business and employee estate agents therefore need not open a separate trust account.

2. Which accounting records are to be audited?

Those records as are necessary to reflect:

- all moneys received or expended, including moneys deposited to trust account or invested in a savings or other interest-bearing account (Section 32(2)(a))
- all assets and liabilities
- all financial transactions and the financial position of the business

It is important to note that the audit report submitted by the estate agency's auditor, is submitted in respect of the estate agency's annual financial statements, together with the relevant trust- and, where applicable, other interest-bearing account records and any other documentation, which may be needed to comply with the requirements, as set out in terms of Sections 29(a) & (b) and 32(3) & (4) of the Estate Agency Affairs Act.

3. Is the EAAB imposing new requirements in respect of the auditing of business records?

No, the audit of the business records (annual financial statements) does not relate to new requirements, as Section 29 of the Estate Agency Affairs Act has always stated the accounting records which are to be audited, to not be limited to the trust account records.

4. Should the auditor attach the audited financial statements to the audit report when submitting to the EAAB?

No, the auditor should only submit the completed audit report; bearing in mind the EAAB may request full audited financial statements in terms of Section 32(5) of the Estate Agency Affairs Act.

5. Is an estate agent required to conduct the full audit even if they do not use their trust account?

Yes, the audit requirements remain, irrespective of the amount of activity on the trust account.

6. Why must a sole proprietor / partnership / CC complete a business audit, when the Companies Act only requires this from certain entities?

The Estate Agency Affairs Act, which regulates certain aspects of the estate agency industry, draws no distinction between the types of businesses and, as long as the business is acting as an estate agent, the audit requirements are to be adhered to in full.

7. I am a sole proprietor and only have a trust account to audit.

Trading as a sole proprietor means not trading through a separate entity or vehicle and the sole proprietor (individual) is therefore the estate agent (business) and the accounting records of the estate agent (sole proprietor) are therefore to be audited.

8. If I only submit my trust account audit report, will this be accepted?

No, refer no. 2 above.

9. Which auditing standards are to be used when completing the audit report?

Auditors are to use the International Financial Reporting Standards (IFRS) or IFRS for SME's in respect of the audit reports for a close corporation or company. In respect of the audit reports of sole proprietors and partnerships, the appointed auditor is required to specify the accounting framework utilized on the audit report.

10. What is the International Financial Reporting Standards (IFRS) for SMEs on the auditor's report?

IFRS is a set of international accounting standards stating how particular types of transactions and other events should be reported by publicly accountable enterprises (PAE's) in financial statements. IFRS are issued by the International Accounting Standards Board.

11. Can my bookkeeper or accountant complete the audit report?

No, it is a legislative requirement for the audit report to be signed off by an auditor, registered as an accountant and auditor in terms of Section 23 of the Public Accountants' and Auditors' Act, 1951 and engaged in public practice as such. The EAAB requires the appointed auditor is to be registered with the Independent Regulatory Board for Auditors (IRBA).

12. Can an auditor whom owns and operates an estate agent business, audit his/her own accounting records?

No, an auditor needs to be independent of the entity he/she is auditing and would therefore not be able to audit the entity if he/she is in charge of the entity and is the Risk, Compliance and Internal Audit manager for the entity.

13. Who must submit the audit report to the EAAB?

The Estate Agency Affairs Act requires the appointed auditor of the estate agency, registered as such with the EAAB, to submit the audit report. It does however remain the responsibility of the estate agent to ensure the audit report is submitted and accepted as having complied with all relevant requirements.

14. How do I / my auditor submit the audit report?

Audit reports are to be submitted to the EAAB in the form determined by the board. The current requirement is for the revised audit report form (as with effect from 01 September 2011) to be utilized and for the completed form to be submitted only via e-mail to the following e-mail address: Audit@eaab.org.za

15. My audit report has been submitted, yet I have received no confirmation of receipt?

Due thereto that audit reports sent to the designated e-mail address, Audit@eaab.org.za, are received and stored electronically and then allocated for processing to the relevant personnel, there is no automated receipt created and the audit reports are processed in the manner in which they are received. It is therefore important to retain proof of submission of the audit report, should this be required at a later stage.

16. I have not received the new audit report from the EAAB and cannot complete the audit.

The EAAB is under no obligation to notify an estate agent or auditor of amendments to the audit report form and it is the responsibility of the estate agent and auditor to confirm which form is in use by the EAAB. The current audit report form is available for download on the EAAB website.

17. Does the EAAB still accept the old audit report form?

The revised auditor report replaces all prior forms and, with effect from 01 September 2011, only the revised form will be accepted.

18. Can I request an extension for submitting the audit report?

No, the Estate Agency Affairs Act prescribes the manner and time frame within which the required audit reports are to be submitted to the EAAB and no requests for extension of the submission date of any audit report required in terms of the Estate Agency Affairs Act, will be entertained.

19. What is my firm pin number?

The firm pin number is the number created on the EAAB system, when an estate agency registers with the Board. It is usually also the reference number, starting with the letter "f", the

agency would use for purposes of payments.

Should the estate agent not be in possession of their firm pin number, they can contact our Call Centre, provide the firm details and request the relevant firm pin number.

20. What amount of interest is payable to the Fund?

All interest earned on monies held in trust (Section 32(1)-accounts) or savings or other interest-bearing accounts (Section 32(2)(a)-accounts), which have not been specifically nominated for the benefit of a contracting party (in respect of a lease or sale agreement) or stipulated in a mandate, is payable to the Estate Agents Fidelity Fund.

When receiving trust moneys in respect of a contract of sale or lease, estate agents must disclose to the parties that unless they agree, in writing (in a separate document or provision in the agreement), to whom the interest earned on the trust money is to be paid, the interest so earned will accrue in favour of the Estate Agents Fidelity Fund.

Estate agents may deduct and retain 50% of interest earned on trust monies (where there is no mandate in respect of such interest) when payment is made to the EAAB.

An estate agent cannot charge the EAAB a fee for the administration of its trust account or deduct such fee, when paying over the interest earned on the trust account to the Estate Agents Fidelity Fund.

21. When and how is the interest payable?

Interest payments are to be made when submitting the audit report.
The relevant account details are:

NEDBANK

Account no. 193 303 0216

Branch Code: 193305

Branch: Sandown

Account name: Estate Agency Affairs Board

Reference: *The unique firm pin number is to be used as reference*

22. What is required when I change my registered auditor?

The EAAB is to be notified in writing within 14 days and the newly appointed auditor must submit a letter, confirming their appointment for the relevant estate agent.

23. What is required when I open additional trust or other interest-bearing accounts or my account details change?

The EAAB is to be notified in writing within 14 days and bank letters, detailing the proper account designations of all relevant accounts, are to be submitted to the EAAB.

24. What will happen if my auditor qualifies my audit report or notes any contraventions with the provisions of the Act?

The audit report will be noted as having been received however, subject to consideration, the audit report may not be accepted and/or may be referred for formal disciplinary investigation.

25. What happens if I fail to submit my audit report or it is submitted outside the prescribed time period?

Failure to submit an audit report timeously will result in the relevant estate agent being noted as non-compliant and considered for formal disciplinary investigation, where after charges may be instituted and the agent called to appear before a disciplinary committee. The estate agent will furthermore not be able to renew their Fidelity Fund Certificate or, where such Fidelity Fund Certificate has already been renewed, this may be withdrawn, as the provisions of the Estate Agency Affairs Act prescribe disqualification where an estate agent has failed to comply with any provision of Section 29(b) or Section 32(3)(b).

26. Why does the audit report request confirmation of my FIC number and why must I register with FIC?

All estate agents are required to register as an accountable institution with the FIC, in terms

of section 43B of the Financial Intelligence Centre Act No. 38 of 2001, as amended.

27. How do I register with FIC?

Visit the FIC's website: www.fic.gov.za, for a detailed process description on how to register with the FIC.

28. If my FIC registration is not confirmed, will my audit report be accepted?

No, the EAAB is a Supervisory Body in terms of the FIC Act and is to assist in ensuring that all estate agents comply with the registration requirements.

29. What are the implications of being referred for formal disciplinary investigation, based on the audit report?

Contraventions relating to audit reports (apart from the effect of not being issued with a renewed FFC or, where such FFC has already been renewed prior to the submission date, withdrawal of such) are dealt with in the same manner as other disciplinary charges and, if found guilty, the committee may impose any of the following sanctions for every charge:

1. A fine of up to R25 000-00;
2. A formal reprimand;
3. Suspension or withdrawal of the FFC

30. What is a winding up audit report and when is this required?

A winding up report is the final closing report that is submitted by the estate agency's appointed auditor and is meant to cover the period between the audit report submitted to the EAAB for the financial year-end prior to the closure of the trust account and the date of closure of the trust account. This is always required when closing an estate agency firm (i.e. when deregistration from the EAAB is requested) or where a trust account has been closed and, the winding up audit report is to be accompanied by a bank letter confirming the date of closure of the trust account.

31. How do I open a trust account?

Obtain an example of the letter from the EAAB that outlines what needs to be incorporated on the letter from the estate agency firm's bank, confirming the relevant account details and confirming the designation of such account in terms of relevant provision of the Estate Agency Affairs Act.

32. The bank has closed my trust account?

It is imperative and the responsibility of the Principal of an estate agency firm to ensure that the account does not become dormant. Where a trust account has been closed, a winding up audit report is to be submitted, together with a bank letter confirming the date of closure of the trust account, as well as a bank letter confirming the opening and designation of the new trust account.

33. Can I have more than one trust account?

Yes, an estate agency firm can open more than one trust account, bearing in mind the EAAB is to be advised of the existence of all such accounts in writing, as all relevant accounts are to be registered with the EAAB and to form part of the annual audit.

34. How must a trust account be managed?

- Section 32(1) of the Estate Agency Affairs Act requires all estate agency undertakings to open and keep one or more separate trust accounts, to be properly designated as trust accounts, with a bank;
- All trust monies held or received by an estate agency enterprise must forthwith be deposited into the trust account;
- Trust monies must be retained in the trust account until the estate agency enterprise is lawfully entitled to that money or has been instructed to make payment therefrom to any person;



FINANCE AND ADMINISTRATION

FINANCE AND ADMINISTRATION

1. Where can we find EAAB's banking details for various fees payable including interest on trust funds?

On the website, select industry members, and scroll down to document downloads and download EAAB Schedule of Fees

2. How much is payable for registration, renewal and fees for administrative charges?

Refer to schedule of fees on the EAAB website, on the website, select industry members, and scroll down to document downloads and download EAAB Schedule of Fees

3. What is the due date for the renewal of the Fidelity Fund Certificate (FFC)?

31st October for the next calendar year

4. What method of payment does EAAB accept?

EAAB accepts only the following method of payment:

- Cash payments made directly at the Cashier's desk
- Point of Sale (POS) payments using debit or credit cards made at the Cashier's desk
- EFT payments made directly into the relevant EAAB' bank account
- Direct deposits made into the relevant EAAB's bank account
- EFT Payments made from the EAAB's website into the relevant EAAB's bank account.

5. What reference number do I use when making payments?

EAAB accepts only a seven digits reference number as beneficiary reference when making payments. Please request the reference number from the Call Centre Agent. Failure to use the correct seven digits reference number may delay allocation of the payment to the correct Estate Agent/Agency account

6. How long does it take for payment to reflect in the EAAB's bank account?

For payments made via EFT and deposits made at the bank, please allow a maximum of three working days for the payment to reflect in the EAAB's bank account

7. Where can I send the proof of payment?

Please ensure that you use a seven digit reference number at all times when making payments to EAAB. Proof of payment can be emailed to finance@eaab.org.za or faxed to 011 880 9831

8. Can I make bulk payments for renewals or registrations for different agents?

No, to ensure easy and prompt allocation of payments to the correct estate agents/agency account, it is recommended that payments are only made for each agent/agency using the correct seven digits reference number