

# STATUTORY INSTRUMENT NO. 2012

The Estate Agents Act  
(Act No. 21 of 2000)

## The Estate Agents Regulations, 2012

**IN EXERCISE** of the powers contained in section twelve and forty-three of the Estates Agents Act, 2000 and on the recommendation of the Council, the following Regulations are hereby made:

- Title
1. These Regulations may be cited as the Estate Agents Regulations, 2012.
- Interpretation
2. In these Regulations unless the context otherwise requires-
- “Council” – means the Council of the Zambia Institute Estate Agents established under section eight;
- “estate agent” means a person who is registered as an estate agent under subsection (3) of section twelve or under section thirteen; “Estate Agency” Means the process of selling, letting or managing real property including Negotiating, the sale price or rental value on behalf of a client;
- ‘Client’ means a vendor or landlord, potential buyer or tenant on Whose behalf the estate agent undertakes estate agency;
- Or any person who has given an estate agent a mandate to undertake Estate agency on his/her/its behalf;
- ‘Mandate’ means the contract signed by the client with the estate agent to Undertake estate agency;
- “Fund” means the Estate Agents Compensation Fund established under section twenty-nine;
- “Institute” means the Zambia Institute of Estate Agents established by section three; and
- “Registrar” means the Registrar appointed under section six.

Application for registration

3. A person who wishes to be registered as an estate agent shall apply for registration to the Registrar in Form 1 set out in the First Schedule upon payment of the application fees prescribed in the Second Schedule.

Qualifications for registration

4. A person shall not be registered as an estate agent unless the person-
- (a) has attained the age of eighteen years;
  - (b) has passed qualifying examinations recognized or conducted by the Council; and
  - (c) has at least three years practical full time work experience under the supervision of a registered estate agent. This is in line with Section Sub-Section 2B of Estate Agency Act of 2000.

Certificate of registration

5. (a) The Registrar shall issue a certificate of registration in Form 2 set out in the First Schedule if satisfied that the applicant qualifies for registration under regulation 4 and upon the applicant paying the registration fee prescribed in the Second Schedule.

(b) A certificate of registration issued under sub regulations (1) shall take effect from the day it is issued and shall continue in force until the 31<sup>st</sup> of December next following the date of issue.

(c) A certificate of registration may be renewed upon payment of the fee prescribed in the Second Schedule.

(d) Where an estate agent changes their name, address or any other material particular, that estate agent shall, within fourteen days of making the change,

surrender the original certificate of registration to the Registrar.

e. Where a certificate is surrendered under subregulation (4) the Registrar shall issue a new certificate of registration.

Effect of  
registration

6. (a) Every member shall be subject to the code of conduct set out in the Third Schedule.

(b) Every member shall be entitled to received remuneration for the member's professional services in accordance with the Council's scale of fees for professional advice, services rendered or other work done, as set out in the Fourth Schedule.

(c) Before engaging in any professional advice, services or other work, every member shall draw the attention of the client to the Council's scale of fees referred to in sub-regulation (2).

Compensation fund  
certificate

7. (a) The Registrar shall, upon the registration of an estate under these Regulations and upon the estate agent paying into the fund such contribution as the Council may determine, issue to the estate agent a compensation fund certificate.

(b) The Compensation fund certificate referred to in subregulation (1) shall be in Form 3 set out in the First Schedule.

(c) Where an estate agent changes their name, address or any other material particular, that estate agent shall, within fourteen days of making the change, surrender the original compensation fund certificate to the Registrar.

(d) Where a certificate is surrendered under subregulation (3) the Registrar shall issue a new compensation fund certificate.

(e) An estate agent shall not practice or carry on business as an estate agent unless the estate agent is in possession of a valid compensation fund certificate issued under subregulation (1).

(f) An estate agent who contravenes subregulation (5) commits an offence and is liable, on conviction to the penalty provided for in section thirty-eight of the Act.

Requirements for  
Compensation fund  
certificate

8. (a) A compensation fund certificate shall not be issued to an estate agent under regulation 7 unless the estate agent has -

(i) a valid certificate of registration issued under regulation 6;

(ii) a valid fidelity bond or fidelity insurance policy in such amount as the Council may determine;

(iii) complied with section twenty-eight of the Act; and

(iv) not been guilty of any default in respect of which compensation had to be paid to any person under section thirty-three of the Act:

(b) Notwithstanding paragraph (d) of subregulation (1) where an estate agent -

(i) has paid into the Fund; or

(ii) undertakes to the satisfaction of the Council to repay in full;

the amount paid out as compensation to any person in respect of the default of that estate agent, the Registrar shall issue a compensation fund certificate to the estate agent.

Withdrawal of  
Compensation fund  
certificate

9. (1) The Council may withdraw a compensation fund certificate issued to an estate agent under regulation 7 –

(a) if the estate agent is disqualified from holding a compensation fund certificate in terms of paragraph (d) of regulation 8; or

(b) if the business of the estate agent is wound up.

(2) Where a compensation fund certificate is withdrawn under subregulation (1) the estate agent shall forthwith surrender the compensation fund certificate to the Registrar for cancellation.

Application for  
membership

10. A person who is registered as an estate agent under regulation 3 may apply to the Council for membership of the Institute in Form 4 set out in the First Schedule upon payment of the application fee set out in the Second Schedule.

Membership  
certificate

11. (1) The Council shall issue to each member a certificate stating the member's name, the member's class of membership and the date upon which the member was admitted to that class of membership.

(2) Every certificate issued under subregulation (1) shall bear the logo of the institute and shall be signed by the Chairperson or the Vice-Chairperson and the Registrar.

Annual  
subscription

12. On or before the 1<sup>st</sup> February of each year, each member shall pay to the Institute an annual subscription applicable to the class of membership to which the member belongs, set as from time to time by the Institute.

Default in payment  
of annual  
Subscription fee

13. The Council shall not renew the membership of any membership who fails to pay the annual subscription within such period as the Council shall determine.

Certificates to  
displayed

14. An estate agent who is registered under these Regulations shall display in a conspicuous place at their business premises the estate agent's-

- (a) certificate of registration;
- (b) membership certificate ; and
- (c) compensation fund certificate.

Ownership of  
certificates

15. Any certificate of registration, membership certificate or compensation fund certificate issued to an estate agent under these Regulations shall remain the property of the Council.

FIRST SCHEDULE  
PRESCRIBED FORMS  
Regulations 3, 5 7 and 10)

FORM 1



APPLICATION FOR REGISTRATION AS AN ESTATE AGENT  
(Regulations 3)

To: The Registrar  
Zambia Institute of Estates Agents  
Postnet #113, Private Bag E891  
7A Chipovu Road, Off Addis Ababa Drive  
LUSAKA - ZAMBIA

PARTICULARS

1. Full Name (block capitals).....  
Surname First name (s)  
.....
2. Date of Birth:.....
3. Address:.....
4. Telephone number (s):.....

EDUCATIONAL BACKGROUND

5. School, Technical College or University attended (give dates)  
.....  
.....  
.....
6. Course of study:  
.....  
.....  
.....
7. Professional examinations passed (give dates):  
.....  
.....  
.....
8. Membership of professional organisations (give grade of membership):

.....  
.....

**EMPLOYMENT RECORD**

9. Present employment:

Name of Employer:.....  
.....

10. Position held:..... 11. Date of appointment:.....

12. Nature of work undertaken:.....  
.....

13. Previous employment (whole career to date):.....

Name of Employer	Date/Period Employed	Positions held	Nature of work undertaken

(if more space is needed please continue on a separate sheet)

14. Certified copies of all certificates are enclosed.

15. The application fee is enclosed.

**DECLARATION**

16. I am not practicing or employed in any capacity other than that state above; nor am I associated with any firm, business, trade, office or association other than as stated above. Neither my professional nor general conduct has been such as to debar me from membership of any relevant professional body or institution.

I hereby solemnly and sincerely declare that the foregoing statements are true in every respect.

Declared at .....this.....day of.....200.....

By the said .....

(Name of Applicant)

.....

(Signature Applicant)

.....

Commissioner of Oaths)

**FOR OFFICIAL USE ONLY**

Date application received:.....

Application fee received:.....

Date presented to the Council:.....

Decision:.....

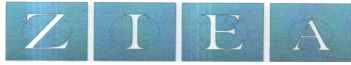
Date applicant informed of decision:.....

Fee for registration received:.....



Registration number:.....

Remarks:



Zambia Institute of Estate Agents

CERTIFICATE OF REGISTRATION OF ESTATE AGENT

FORM 2

(Regulation 5)

Surname..... First Name(s).....

Name of firm/business:.....

.....

Address:.....

Given on the.....day of.....200

Date of expiry.....

This is to certify that the person named on this Certificate has complied with the provisions of section 12 of the Estate Agents Act, 2000 and the Estate Agents Regulations, 2003.

.....

**Chairperson**

Zambia Institute of Estate Agents

.....

**Registrar**

Zambia Institute of Estate Agents

Date:.....

Date:.....

Notes:

1. This Certificate is not valid unless it bears the seals of the Zambia Institute of Estate Agents.

2. This Certificate shall be issued to an estate agent registered under the Act.

**THE ESTATE AGENT REGULATION, 2003**  
**COMPENSATION FUND CERTIFICATE**

FORM 3



Zambia Institute of Estate Agents

(Regulation 7)



Surname..... First name (s).....  
Name of firm/business.....  
.....  
Address.....  
Given on the.....day of.....2003  
Date of expiry.....

This is to certify that the person named on this Certificate has complied with the provisions of Part VII  
Of the Estate Agents Act 2000 and the Estate Agents Regulations, 2003.

.....  
**Chairperson**  
Zambia Institute of Estate Agents

.....  
**Registrar**  
Zambia Institute of Estate Agents

Date:.....

Date:.....

This Certificate is not valid unless it bears the seal of the Zambia Institute of Agents.

**APPLICATION FOR CORPORATE MEMBERSHIP**

(Regulation 10)

To:                   The Registrar  
                           Zambia Institute of Estate Agents  
                           Postnet #113, Private Bag E891  
                           7A Chipovu Road, Off Addis Ababa Drive  
                           LUSAKA -ZAMBIA

**PARTICULARS**

Name of Company.....

Date of Incorporation:.....PACRA NO.....

TPIN No:.....

Registered Business Premises (Physical and Postal Address).....

.....

.....

Telephone Numbers ..... Mobile .....

Fax..... Email.....

Bank's Name.....

Branch.....

Name/s of Directors/Principal and Other Partners	Position
.....	.....
.....	.....

Nature of Business Undertaken .....

.....

General Qualifications and experience of Directors/Principals and Partners (continue on a separate page if necessary)

.....

.....

.....

Proposed by.....(Name of Full member)

Signature..... Date .....

Seconded by.....(Name of Full Member)

Signature ..... Date.....

Declaration: We hereby undertake to be bound by the following:-

- A. (1) Estate Agents Act No. 21 of 2000 of the Laws of Zambia;
- (2) All rule and regulations under the various Statutory Instruments pertaining to Act No. 21 of 2000 of the Laws of Zambia;

- (3) Accounts rules as contained in the Constitution
- (4) Any other regulations and rules as to be formulated from time to time by the Institute.

- B**
- (1) We certify that our Company/Firm is not and has not been involved/implicated in a court proceeding on matters related to the practice of Estate Agency.
  - (2) We have not been declared bankrupt in any Court of Law.

*Warning: Any false declaration of information will result in automatic disqualification of the applicant.*

*The following information should be provided with this information:*

- (a) *Copy Certificate of Incorporation*
- (b) *Copy of Professional Indemnity Insurance*
- (c) *Copy of relevant local Council Business Permit*

Signature ..... Date .....

**FOR OFFICIAL USE ONLY**

Date received..... Date submitted to Council.....  
 Decision..... Date applicant informed.....  
 Council Members in attendance for the Approval.....  
 .....  
 .....  
 Application Fee Paid..... Receipt No.....  
 Membership Fee Received ..... Receipt No.....  
 Corporate Membership Number.....

**ZAMBIA INSTITUTE OF ESTATE AGENTS**

Name of Employer	Date/Period Employed	Positions held	Nature of work undertaken

(If more space is needed please continue on a separate sheet)

**DECLARATION**

16. I am not practicing or employed in any capacity other than that stated above; nor am I associated with any firm business, trade office or association other than as stated above. Neither my professional nor general conduct has been such as to debar me from membership of any relevant professional body or institution.

I hereby solemnly and sincerely declare that the foregoing statements are true in every respect.

Declared at .....this.....day of.....200.....

By the said:.....

(Name of Applicant)

.....

(Signature of Applicant)

.....

Before me: .....

(Commissioner of Oaths)

**FOR OFFICIAL USE ONLY**

Date of application received:.....

Application fee received:.....

Date presented to the Council:.....

Decision:.....

Date applicant informed of decision:.....

Fee for membership received:.....

Membership number:.....

Remarks:

## SECOND SCHEDULE

### PRESCRIBED FEES

(Regulations 3,5, and 10)

	<b>Fee Units</b>
1. Individual application	556
2. Individual membership per year	2778
3. Sole trader/Firm's names per year	5556
4. Business name application	556
5. Partnership companies application	1112
6. Partnership companies full membership	11112
7. Local corporate company processing	1389
8. Local corporate company membership	13889
9. Francise International company processing	8334
10. Francise international company membership	83334
11. Foreign international company processing	166667
12. Foreign international company membership	16667
13. Student application fees	1389

## **THIRD SCHEDULE**

(Regulation 6 (1))

### **CODE OF PROFESSIONAL CONDUCT**

#### **PART 1**

##### **DUTIES OF AN ESTATE AGENT**

1. Every estate agent shall undertake in a professional manner to abide by the fundamental principles and rules enunciated set out in Part III of this Schedule.
2. Where an estate agent has knowledge or reason to believe that any other person or firm has violated any of the fundamental principles or rules, that estate agent shall furnish in writing, to the Council information concerning such violation, and shall co-operate fully with all concerned in furnishing such further information or giving such further assistance as may be required.
3. No estate agent shall lodge with the Council a complaint against another estate agent on behalf of a person who is not an estate agent.
4. No estate agent shall prevent or attempt to prevent the lodging of a complaint with the Council against another estate agent in violation of the fundamental principles and rules.

#### **PART II**

##### **DUTIES OF THE COUNCIL**

1. The Council shall afford persons who are not estate free and unimpeded access to the Council to make complaints against estate agents.
2. Where a member of the public makes a complaint against an estate agent, the Council shall take all reasonable steps to bring that complaint to the notice of the estate agent against whom the complaint is made.
3. The Council shall treat a complaint lodged against an estate agent and an investigation carried out into such complaint as confidential and shall not allow

that complaint and investigation to be open for public inspection except for the estate agent complained against and the complaint who lodged the complaint.

### **PART III**

### **FUNDAMENTAL PRINCIPLES**

7. An estate agent shall uphold and foster the integrity and dignity of the profession by-
  - (a) using his knowledge and skills for the enhancement and protection of both client and public interests;
  - (b) being honest impartial, and serving with fidelity the public, his employers and clients;
  - (c) striving to increase the competence and integrity of the profession; and
  - (d) supporting the professional institutions of the profession.

### **PART IV**

### **GUIDELINES OF FUNDAMENTAL**

### **ETHICS AND RULES**

1. No estate agent shall –
  - (a) offer or undertake to offer the sale or let of immovable property without a mandate;
  - (b) accept or undertake to accept to purchase or rent immovable property without a mandate;
  - (c) unduly influence any person to confer upon that estate agent a mandate;
  - (d) accept a mandate in a transaction where that estate agent is not qualified or competent;
  - (e) inform a seller or purchaser of immovable property of a prospective offer to sell or purchase immovable property ,or a landlord or tenant of immovable property of a prospective offer to let or rent unless that offer is –



- (i) In writing; and
  - (ii) the agent offers the property and informs the vendor of the offer as mandated;
- (f) Knowingly or negligently make a material misrepresentation, in respect of the market or rental value of immovable property, to a vendor or lessor so as to obtain a mandate in respect of that property;
- (g) During the course of business use a firm or trading name belonging to different estate agent or that resembles such name so as to deceive, or cause confusion among, the public,
- (h) Willfully or negligently:-
- (i) prepare or cause any person to prepare an oral or written false statement;
  - (ii) sign any false statement;
  - (iii) maintain any false books of accounts and or other records; or
  - (iv) Fail to present or cause an employee, agent or a partner to fail to present to a client an offer to sell or acceptance to purchase immovable property received prior to the execution of a contract of sale, unless the client has instructed the estate agent not to present that offer to sell or acceptance to purchase;
- (i) advertise immovable property in respect of which that estate agent is given a mandate to sell or let, at price or rental other than that agreed upon by the estate agent and the seller or lessor of that property;
- (j) publish or cause to be published any advertisement which contain misrepresentation or false statements;
- (k) affix a notice to immovable property indicating that the property is for sale or rent, or has been sold or let, unless the seller or lessor has given written consent in the mandate to the estate agent to affix that notice;
- (l) amend a provision of any document or agreement duly executed by a client without the consent of that client.

- (m) present a competing offer to sell or an acceptance to purchase immovable property to a client in manner that induces a client to accept, an offer to sell or an acceptance to purchase, without due regard to the advantages and disadvantage of that offer or acceptance to the client.
2. An estate agent shall not accept to be appointed as estate agent to the exclusion of any other estate agent unless –
    - (a) the terms of acceptance of a mandate or extension of that mandate are in writing, and signed by both the estate agent and the client;
    - (b) the expiry date of a mandate is recorded in writing;
    - (c) there is an option to extend a mandate; or
  3. Where an estate agents, a power of attorney and a mandate to the exclusion of all other estate agents, the estate agent shall not accept to be conferred with that power of attorney and mandate unless the intention and effect of that power of attorney is contained in the document conferring the mandate.
  4. Where a mandate is outside the field or competence of the estate agent, the estate agent shall accept that mandate by disclosing in writing to the client that the estate agent shall be assisted by a competent and qualified agent.
  5. Unless the estate agent has disclosed in writing to the client that the estate agent has a conflict of interest with the client, the estate agent shall not accept a mandate from the client.
  6. An estate agent shall –
    - (a) provide the purchaser or lessee of immovable property with all materials facts which are reasonably within the personal knowledge of the estate agent;  
disclose to a client the name and terms of a franchise if that estate agent operates under a franchise;
    - (b) provide a client, in the estate agent's capacity as estate agent, with information relating to the meaning and legal consequences of the provisions of an agreement prepared by the estate agent;
    - (c) refer to a client to a legal practitioner, where the estate agent is unable to provide the information prescribed in paragraph (c ); and

(d) duly furnish a client without delay a copy of an agreement in respect of which the estate agent has a mandate.

7. An estate agent carrying on a business of providing estate services as a sole proprietor or in partnership with another estate agent shall be liable in any civil action in respect of any act or thing done or omitted to be done by that estate agent, or by an employee, agent or partner of the estate agent.

**The following are other submissions agreed and proposed by the membership**

## **2. EXAMINATIONS FOR REGISTRATION**

- (a) The ZIEA council retains all rights to constitute the syllabus and put in place an examinations board which shall be responsible for all examinations for estate agents. Trainers may only be outsourced to train with the approval of ZIEA while the ZIEA should remain the examining board.
- (b) The Property Management is a component of estate agency and therefore all property managers must be and trained and certified by ZIEA.

## **3. ESTATE AGENTS RELATIONS WITH FELLOW ESTATE AGENTS**

Members may agree to collaborate businesses on terms and conditions agreed upon between them. No member of the institute shall deprive another member, of benefits that the members may have agreed upon.

## **4. PENALTY FOR NON/LATE SUBSCRIPTION**

The council may not renew the membership of any member who fails to pay annual subscription within the period determined by the council.

(Three MONTHS)The defaulting member should be suspended from practice in that year that the member defaults. Furthermore, in the following year, the member should clear up all arrears before the membership can be normalised to practice.

The proposed penalty should be 50% of arrears

## 6. PROCESSION OF DOCUMENTS

The agent shall obtain the necessary details from the Vendor or Landlord; for example title deeds to be kept on file for the purposes presentation to the ministry of land and ZRA or any other authorities as may be required

- ❖ The registered agent will make submissions directly to ministry of Lands, city councils and any other municipal authority for purposes of transfer or change of ownership. However, the agent must be competent enough to do so and if not he or she must inform the client accordingly.
- ❖ Any member of the public wanting to transact or rent out property may only do so at the registered agent's office. Any transactions dealt with in streets without the agent showing the client his or her physical business address will be not be recognised by the Institute in an event of any wrong doing on either side.
- ❖ No agent shall process any document pertaining to change of ownership or transfer unless they are competent enough. Failure to disclose this material will be an offence under these rules and regulations.

## 7. PAYMENTS

A registered agent will be at liberty to take legal action against any client who fails to settle fees as agreed in the mandate, including pressing a caveat on the property.

## 8. VIEWING OF PROPERTY

- ❖ No agent shall charge viewing fees to a client.
- ❖ No agent shall charge finder's fees to a client
- ❖ The agent and his or her client shall make arrangements on how to view the property

## 9. TRAINING ATTACHMENTS

For the promotion of the estate agency sector and good professional practice in estate agency all registered estate agents will be obliged to provide industrial attachment. Failure to provide attachment by a registered agent will call for disciplinary action from the ZIEA

10. All registered members of the institute -shall have a registration number that will as well reflect on the all certificates.

11. All members of the institute shall be identified by their registration number.

12. All agents are supposed to carry out customer due diligence and report any suspicious sources of funding, financing of terrorism and other serious offences to ZIEA Secretariat.

13. All agents are required to report any property suspected to have been bought as a result of serious offences committed.

**FOURTH SCHEDULE**  
**SCALES OF FEES FOR ESTATE AGENCY SERVICES**

(Regulation 6 (2))

1. Subject to paragraph 4, the estate agency fees for mandates to sale or purchase immovable property shall be :
  - (a) Estate agency fees to be between 3.5% to 10%.
  - (b) The Scales of fees for property management to be 10% to 15% on gross income.
2. The estate agency fees for mandates to lease or hire property shall be the equivalent of one month rental of the leased or hired property.
3. The fees set out herein are, except where otherwise stated, exclusive of disbursements, fees for plans and copies of documents, costs of advertising, travelling and other expenses, which shall be paid for by the client to the estate agent addition to the charges for estate agency services and shall be by prior arrangement with the client.
4. The scale fees stated in the Schedule may from time to time be revised by the members of the Institute at an annual general meeting.

