

Statutory Instrument 86 of 1987

Estate Agents (Appeals) Regulations, 1987

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IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs has, in terms of section 53 of the Estate Agents Act [Chapter 220], made the following regulations:—

1. Title

These regulations may be cited as the Estate Agents (Appeals) Regulations, 1987.

2. Interpretation

In these regulations—

“court” means the Administrative Court established by the Administrative Court Act, 1979;

“notice of appeal” means a notice of appeal lodged with the Registrar in terms of subsection (1) of section 30 of the Act.

3. Notice of Appeal and fee

(1) A notice of appeal shall be in Form E.A.A. 1 of the Schedule and shall be accompanied by a fee of fifty dollars.

(2) The Registrar shall deliver to the registrar of the court a copy of the notice of appeal within fourteen days from the date it was lodged.

4. Appeal against refusal to register

Upon receiving a notice of appeal against a decision made by the Council in terms of subsection (2) of section 26 of the Act, the Registrar shall —

(a) before delivering the notice of appeal in terms of subsection (2) of section 3, make five copies of an extract of the relevant Council minute and certify each such copy as a true record of the original Council minute; and
(b) deliver—

- (i) to the registrar of the court, together with the notice of appeal, three certified copies of the extract referred to in paragraph (a); and
- (ii) to the appellant or his representative one certified copy of the extract referred to in paragraph (a).

5. Appeal against decision arising from disciplinary inquiry

(1) Upon receiving a notice of appeal against a decision made by the Council pursuant to an inquiry to an inquiry in terms of section 27 or 28 of the Act, the Registrar shall, within sixty days or such longer period as the registrar of the court may for good cause grant—

(a) make five copies of the record of the inquiry concerned and certify each such copy as a true record of such inquiry; and (b) deliver—

- (i) to the registrar of the court, together with the notice of appeal or separately thereafter, three certified copies of the record referred to in paragraph (a) and any exhibits tendered at the inquiry concerned; and
- (ii) to the appellant or his representative one certified copy of the record referred to in paragraph (a).

(2) Where the Council makes application in terms of section 6 or 7, the period within which the Registrar is required to make, certify and deliver copies of the record of the inquiry concerned in terms of subsection (1) shall be reckoned from the date on which the president of the court determines the application.

6. Security for costs

(1) At the same time that a notice of appeal is delivered in terms of subsection (2) of section 3, the Council may apply, in writing, to the president of the court for an order that the appellant shall, within such time, in such amount, and in such manner as the president of the court may direct, give security for the payment of any costs which the appellant may be ordered to pay, and the Council shall simultaneously serve upon the appellant a copy of the notice of application.

(2) At the hearing of any application made in terms of subsection (1) the president of the court may make such order as to security for costs and as to the costs of the application as he thinks fit.

(3) An appellant ordered to give security for costs in terms of this section may at any time apply to the president of the court on notice for an order extending the time within which any security is to be given and shall serve upon the Council a copy of the notice of the application not less than four days before the hearing thereof.

(4) At the hearing of any application made in terms of subsection (3) the president of the court may make such order as to the extension of time and as to the costs of the application as he thinks fit.

(5) In the event of security not being given or being only partly given within the time directed by the president of the court, all proceedings in the appeal shall be deemed to be stayed, unless the president of the court otherwise orders, and the appeal shall be set down for such order, whether of dismissal or otherwise, as the president of the court may think fit.

7. Frivolous or vexatious appeals

The Council may, at the same time as a notice of appeal is delivered in terms of subsection (2) of section 3, apply to dismiss an appeal on the grounds that it is frivolous or vexatious, and the provisions of Order 11 of the High court Rules, 1971, shall, *mutatis mutandis*, apply to such an application.

8. Abandonment of or failure to prosecute appeal

(1) An appellant may at any time abandon his appeal by giving to the registrar of the court notice of abandonment of appeal in form E.A.A.2 of the Schedule, and upon such notice being given the appeal shall be deemed to have been dismissed by the Administrative Court.

(2) The appellant shall serve a copy of the notice of abandonment of appeal on the Council and the Registrar.

(3) The council may, upon receipt of such notice, apply to the president of the court on notice for an order in respect of any costs incurred by the Council and shall serve upon the appellant a copy of the notice of the application not less than seven days before the hearing thereof.

(4) At the hearing of any application made in terms of subsection (3) the president of the court may make such order as to costs, including the costs of the application as he thinks fit.

9. Evidence

The evidence before the court in an appeal shall be the certified copy of the minute delivered in terms of section 4 or the certified copy of the record delivered, with any exhibits, in terms of section 5, and no further evidence shall be given except with the leave of the president of the court.

10. Repeals

The Estate Agents (Appeal) Rules, published in Rhodesia Government Notice 36 of 1971 and amended by Rhodesia Government Notices No. 369 of 1972, 6 of 1975 and 232 of 1976, are hereby repealed.

SCHEDULE (Sections 3 and 8)

FORMS

Form E.A.A. 1

ESTATE AGENTS ACT [CHAPTER 220]

NOTICE OF APPEAL TO THE ADMINISTRATIVE COURT

IN THE MATTER of an appeal against (1) a decision of/the action taken by/an order made by/the Estate Agents Council in connexion with (2).....

I, (3) of hereby give notice of appeal from (4)

.....

by/of the Estate Agents Council dated theday of19 ...
whereby the Council

(5)

My grounds of appeal are attached hereto.

Dated thisday of 19.....

(6)

The Registrar of Estate Agents,
P O Box 3854,
Harare.

- (1) Delete whichever does not apply.
- (2) State nature of the proceedings and the name of the appellant (3) State full name and address of appellant.
- (4) Here insert "the decision" or "action taken" or "order", as the case may be. (5) Here insert "refused application for registration", or otherwise, as the case may be.
- (6) To be signed by the appellant or his legal practitioner.

Form E.A.A. No. 2

ESTATE AGENTS ACT [CHAPTER 220]
NOTICE OF ABANDONMENT OF APPEAL

IN THE MATTER of an appeal against (1) a decision of/the action taken by/an order made by/the Estate Agents Council in connexion with (2).....
.....

You are hereby notified that the above-named appellant hereby abandons all further proceedings in the above matter.

Dated this day of19

(3)

- (1) Delete whichever does not apply.
- (2) State nature of the proceedings and the name of the appellant.
- (3) To be signed by the appellant or his legal practitioner.