

**THE ESTATE AGENTS (AMENDMENT) BILL 2017**

An Act of Parliament to amend The Estate Agents Act Cap 533 Laws of Kenya to provide for the registration and regulation of persons who, by way of business, negotiate for or otherwise facilitate the selling, purchasing, managing and letting of land and buildings erected thereon and associated assets; for the control of the professional conduct of such persons, to promote and protect the interest of consumers in respect of transactions that relate to real estate and to enhance public confidence in the performance of real estate agency work and for connected purposes

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**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as THE REAL ESTATE AGENTS (AMENDMENT) ACT 2017.

**PART I-PRELIMINARY**

Section one of THE ESTATE AGENTS ACT ( herein after referred to as The Principal Act) is amended to insert the words “THE REAL” before the title “Estate Agents Act.”

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Interpretation

Board

Section 2(1) of The Principal Act is amended to insert the words “THE REAL” before the words “Estate Agents” and to include the word “REGISTRATION” immediately after the word “Agents.”

Cabinet Secretary



Section 2(1) of The Principal Act is amended to delete the word “Minister” and replace it with the words “Cabinet Secretary.”

#### Client

Section 2(1) of The Principal Act is amended to delete the word “person” and replace it with the word “principal” before the word “on”.

#### Citizen

Section 2(1) of the Principal Act is amended by inserting the words “Citizen is defined in accordance with the provisions of Chapter three of the constitution.

#### Company

Section 2(1) of The Principal Act is amended to delete the word “CAP 486” after the word “companies Act” and replacing it with the words “OF 2015”.

#### Commission

Section 2(1) of The Principal Act is amended to include the word “an” between the words “by” and “Agent”.

Section 2(1) of The Principal Act is amended to insert the word “real” before the words “estate agents” and further include the word “who” immediately after the word “person”.

#### Estate Agent

Section 2(1) of The Principal Act is further amended to delete the words “as an Estate Agent” appearing after the word “Registered” as well as the word “who” appearing after the word “and”. The words “Under Section 13 of” are inserted immediately before the words “this Act.”

#### General Agency



Section 2(1) of The Principal Act is amended to include the definition of the words “General Agency” as “this refers to the instruction of a principal to an Estate Agent to act on his/her behalf. The principal may issue introductions but will leave the closing of the transaction to the Estate Agent. The Principal shall pay the appointed Estate Agent their professional fees even if the Estate Agent was not the effective cause of the transaction.”

Practise as a Real Estate Agent or Agency

Section 2(1) of The Principal Act is amended to include the word “real” before the words “Estate Agents or Agency.” The Section is further amended to delete the words “or” and replace it with the word “and” immediately after the word “letting”, by amending the word “management to managing” appearing immediately before the word “of immovable” and inserting the word “land” immediately before the word “house.”

Section 2(1) of The Principal Act is amended to insert subsection c to read as follows “providing property and facilities management services to clients”

Real Estate

Section 2(1) of The Principal Act is amended to include the definition of the words real estate to include “private land, buildings erected thereon, shares in real property.

Building

Section 2(1) of The Principal Act is amended to include the definition of the words “building in accordance with Section 2 of Land Act 2012 and land registration Act 2012”

Leasor



Section 2(1) of The Principal Act is amended to include the definition of the words leasor ” defined in accordance with Section 2 of Land Act 2012 and Land Registration Act 2012.”

Leasee

Section 2(1) of The Principal Act is amended to include the definition of the words leasee meaning: “**leasee**” defined in accordance with section 2 of Land Act 2012 and Land Registration Act 2012

Section 2(1) of the Principal Act is amended to include the letter s” after the word Trust to read as “Trusts” Section 2(1) of the Principal Act is amended to insert the words “ Protocol means the Protocol for Establishment of East African Community Common Market “

Sole Agency

Section 2(1) of The Principal is amended to include the definition of the words “sole agency” as follows “just as in General Agency, a single Estate Agent is engaged. The Principal may however wish to reserve the right to close deals himself and is not obligated to pay the agent his fee in addition to making introductions or an arrangement may be made for a discount in fees where the principal plays an active role.

Section 2(1) of The Principal is amended to delete the words “being a practicing” and replacing them with the words “practicing real” immediately before the word “Estate” and inserting the word “Agency” after the word “Estate.”

Section 2(2) of The Principal Act is amended to include as the definition of the words “practicing real estate agency” by inserting the following words immediately after the word “member”



(a) “Sells or purchases or publicly exhibits for sale immovable property or negotiates in connection therewith or canvasses or undertakes or offers to canvass a seller or a purchaser thereof;

(b) Lets or hires or publicly exhibits for hire immovable property or negotiates in connection therewith or canvasses or undertakes or offers to canvass a lessee or a lessor thereof;

Collects or receives any monies payable on account of a lease of immovable property “

Section 2(2) of The Principal Act is amended to include the words “real” before the words “estate agent” under sub sections (a) and (b) thereof.

Section 2(3) (B) of The Principal Act is amended to include the words “county government” and deleting the words “local authority.”

Section 2(3) (D) of is amended to include the words “provided that the information being advertised is originated from A REAL ESTATE AGENT.” immediately after the word “others thereof.”

Section 2(3) (G) of The Principal Act is amended to include the words “provided that the information being advertised is originated from a real estate agent.” Immediately after the word “business thereof.”

Section 2(4) of The Principal Act is deleted entirely.

Section 2(4) is inserted to provide that The provisions of this Act shall prevail in case of any inconsistency between this Act and any other legislation, Government notices or circulars, in matters relating to the regulation of real estate agency.

Section 2(5) is inserted to provide that “ A provision of an Act that provides for a person or body to approve any work or expenditure shall not be construed as giving that person or body any power with respect to real estate agency. “



Section 2(6) of the Principal Act is amended to insert the following provision “ subject to the constitution, where any provision of this Act conflicts with any obligations of the Republic of Kenya arising from a treaty, agreement or other convention ratified by Kenya and to which Kenya is a party, the terms of the treaty or agreement shall prevail.”

#### Establishment of the Board

Section 3(1) of The Principal Act is amended to insert the word “real” before the word “estate” and deleting the word “registration” immediately preceding the word “board”.

Section 3(1) (C) of The Principal Act is amended to include the words “investing” in immediately after the word “holding.”

Section 3(1) of the act is amended to include as the words “borrowing money” and “open and operate bank accounts for board funds “The following words “immovable property.”

Functions of the Board Section 4(1) of the Principal Act is amended to insert the word “Real” before the word “Estate” and deleting the word “registration” immediately preceding the word “board”.

Section 4(1) (J) of The Principal Act is amended to include the words “ Real Estate Agents or persons purporting to act as Real Estate Agents ,” immediately after the words “conduct of”.

Section 4(1) (L) of The Principal Act is amended to include the words “ approve and accredit real estate agency programs in public and private universities and other tertiary level educational institutions offering education in real estate agency studies;” and

Section 4(1) (M) of The Principal Act is amended to insert the words ”to accredit institutions and individuals that offer training for the continuous professional development of real estate agents;” and



Section 4(1) (N) of The Principal Act is amended to insert the words “to establish a secretariat in Nairobi and regional offices as deemed necessary”

Section 4(2) of The Principal Act is amended to delete the word “representatives” and replace it with the word “stakeholders” immediately before the word “of.”

Section 4(3) of The Principal Act is amended to delete the word “must” and replace it with the word “shall” immediately before the word “have”.

Section 4 B of The Principal Act is amended to insert the words “continuous professional development” and deleting the words “agency education” immediately after

Section 4 B (a) and (b) of The Principal Act is amended to insert the words “Continuous Professional Development” and deleting the words “agency education” immediately after

#### Charges and Levies

Section 4 C of The Principal Act is amended to insert the word “charges” and deleting the word “fees”.

Section 4 C (2) (iii) of the Principal Act is amended to insert the words “preliminary inquiry” and deleting the words “complaints assessment” immediately before the word “committee.”

Section 4 C (2) (B) of The Principal Act is amended to by deleting the entire subsection.

Section 4 C (3) of The Principal Act is amended to by inserting the word “debt” immediately before the word “due”.

Section 4 C (4) of The Principal Act is amended by inserting the word “shall” and deleting the word “may” immediately before the word “decline”.

#### Funds of the Board



Section 4 D of The Principal Act is amended to include the following words to define the funds of the board “

- a) The prescribed levies paid to the board by estate agents;
- b) All moneys derived from any investments;
- c) All other moneys which may accrue to the board from any other source.

The Board shall utilize its funds to defray the expenses incurred by the board in the Performance of its functions and the exercise of its powers under this act:

Provided that -

- a) Any moneys or other property donated or bequeathed to the board shall be utilized in accordance with the conditions of such donation or bequest;
- b) If the board -
  - i) After an investigation has found that an estate agent failed to comply  
With any duty imposed upon him in terms of this act;
  - ii) Has incurred any liability to pay attorney and client costs in respect of  
Any proceedings instituted by it in terms of this act for the recovery  
From an estate agent of any amount which is payable by him to the  
Board or the fund; or
  - iii) Has incurred any liability to pay audit fees in respect of an audit done  
On the instructions of the board in a case where an audit contemplated





The board may recover the costs of such investigation in so far as it relates to such duty, or the taxed amount of such attorney and client costs or the amount of such audit fees, as the case may be, from the estate agent concerned.

Registrar and Register

Appointment of Registrar

Part III Section 6 of The Principal Act is amended by inserting immediately below the title appointment of registrar as follows

- 1) There shall be a registrar who shall be appointed by the board
- 2) The registrar shall hold office for such period and on such terms and conditions of Employment as the board may determine;
- 3) The registrar shall be an *ex officio* member of the board but shall have no right to vote at any meetings of the board.
- 4) The registrar shall be the chief executive officer of the board and shall, subject to the direction of the board, be responsible for the day to day management of the secretariat;
- 5) A person shall not be appointed as a registrar unless such person is a registered real estate agent under this act and:—
  - a) Has at least a relevant degree in real estate from a recognized institution;
  - b) Has at least ten years proven experience in the real estate agency;
  - c) A full member of the institution of surveyors of Kenya in good standing.
  - d) Is knowledgeable in, or has actively contributed to the promotion of real estate agency and
  - e) Meets the requirements of chapter six of the constitution.

and deleting sub sections 1, 2, and 3 thereof.



#### Functions of Registrar

Section 6 of The Principal Act is amended to insert the following words as functions of The Registrar

The Registrar Shall:—

- 1) Maintain a register of all persons registered in accordance with this act.
- 2) Issue certificates of registration and licenses as directed by the board;
- 3) Keep all documents and records including records of all assets of the board;
- 4) Prepare all documents due for gazettelement as directed by the board;
- 5) Take and keep minutes of the board meetings;
- 6) Implement decisions of the board;
- 7) Keep the seal of the board in such custody as the board may direct;
- 8) Ensure the maintenance of efficiency and discipline by all staff of the board
- 9) Manage the budget of the board to ensure that its funds are properly expended and accounted for; and
- 10) Exercise and perform any other functions which the board may determine from time to time.
- 11) Issue registration cards
- 12) Inspection of any office carrying estate agency

Section 7 (b) of The Principal Act is amended to include the following words “physical postal and email “immediately before the word “address”.

Section 7(4) shall provide as follows “the registrar will issue a real estate card to the applicant bearing his name, address, and registration number in the register. The name and registration number entered in the register must appear in all correspondence and reports issued by the real estate agent.”



Section 8 of The Principal Act is amended to insert the word “annual” before the word “practicing”

Publication of Register and List of Practitioners

Section 9 of The Principal Act is amended to insert the words “of practicing real estate agents” immediately after the word “list”.

Section 9 (1) of The Principal Act is amended to insert the words “registered real” and deleting the word “licensed” immediately before the word “estate agent.”

Section 9 (2) of The Principal Act is amended to insert the word “real” before the word “estate” and the words “licensed to practice in that year” immediately after the word “agent”. The words “then remaining on the register” appearing thereafter are deleted entirely.

Publication of prima facie evidence of registration.

Section 10 of The Principal Act is amended to insert the words “licensed to practice” before the words “and” the deletion “and” inserting the word “licensed” at the end of the section and deleting the word “registered.”

## **REGISTRATION**

### **Conditions and Qualifications**

The Principal Act is amended by inserting the following words immediately before subsection 13(1) “the board shall issue registration for the following categories;

- I) Real estate agent; or
- II) Real estate broker

Section 13(1) of The Principal Act is amended to insert the words



“A full member of the institution of surveyors of Kenya in the chapters of valuation and estate management surveyors, building surveyors and land management surveyors in good standing” and deleting the provisions of subsection (b) and (c) respectively.

Section 13(1) (D) (I) of The Principal Act is amended to insert the word “or” before the word “diploma” and “studies” before the word of “a. the words “or license” are deleted immediately after the word “diploma”. Further the following words are inserted “professional” before the word “institution” and “in good standing” immediately after the word “membership”.

Section 13(1) (D) of The Principal Act is amended by deleting sub section ii thereof and sub section (e) respectively.

Section 13(1) of The Principal Act is further amended by inserting the following words as sub section C

“Subject to the provisions of this Act, any citizen shall be entitled, on making an application to the board as a Real Estate broker, in the prescribed form and on payment to the board of the prescribed fee, to be registered under this act and to have his name entered in the register of real estate brokers if he—

- I. Is the holder of a K.C.S.E certificate or its equivalent and holder of a post-secondary certificate in Real Estate Agency or a certificate in related field approved by the board;
- II. Has a minimum of one year experience in real estate agency working under a registered real estate agent
- III. A member of a professional body recognized by the board
- IV Meet the requirements of chapter six of the constitution.”



Section 13(2) of The Principal Act is amended by deleting the words “has been such that he meets the requirements of chapter 6 of the constitution” immediately after the word “conduct.” further the section has been amended to insert the words”

#### **Duties of a Real estate Broker**

Works under the guidance of a registered estate agent who will act as principal and will be allowed to do the following;

- a) Land sales provided the consideration does not exceed the limit set by the board and will operate in a geographical area authorized by the board.
- b) Leasing of residential houses in geographical areas authorized by the board.”

Section 14 of The Principal Act is amended to insert the words “Application” and” before the word “acceptance” in the heading. Further amendments include inserting the words “cause to be published in a local daily newspaper and post on the website, the name of the applicant for comments from members of the public and consider the application and comments from the public if any and,” immediately preceding the words “if it is satisfied”

Section 17 of The Principal Act is amended to delete the provisions of sub Section 2 entirely.

#### **RESTRICTION ON PRACTICE**

Unregistered persons not to practice as estate agents

Section 18 (1) subsection (a) of the Principal Act is amended to insert the word “real” before the word “estate,” the word “and licensed” after the word “registered”. The words “ a registered estate agent “ appearing immediately after the word “Act” are deleted entirely

Section 18 (1) subsection (b) of the Principal Act is amended to insert the word “real” before the word “estate,” the word “and licensed” after the word “registered” and delete



the words “whose activities include the doing of acts by way of such practice” immediately preceding the words “are registered.”

Section 18(1) (C) of the Principal Act is amended by deleting the words “whose duties include the doing of acts by way of such practice” before the word are registered and insert the words” and licensed “immediately after.

Section 18 (1) (C) is further amended by inserting the following words

2. “no person shall be entitled to receive commission, fee, payment, reward for a service provided if the person is not licensed under this act when the service was provided”
3. “Subject to the provisions of this act, no person shall practice under any name, title, or style containing any of the word of phrases, ‘estate agent’, ‘land broker’, ‘realtor’, ‘real estate agent’, ‘letting agent’ ‘property manager’, ‘leasing agent’, ‘land agent’, ‘housing agent’ or any related such phrases unless registered under this Act.”

Section 18 (2) of The Principal Act is amended to insert the words “a sum of One Million ” after the word exceeding and delete the words “Two hundred thousand”

#### Indemnity Requirements

Section 19 (2) (A) of The Principal Act is amended to insert the words “a sum of one million Kenya” and delete the words “Two hundred thousand”

Section 19 (2) (C) of The Principal Act is amended to delete the words “whose activities include the doing of acts by way of such practice as estate agents” immediately following the word “directors”



Section 20 of the Principal Act is amended to delete the words “provided that the practice business is carried on with the knowledge of the board” immediately following the word “disability.”

Carrying on practice in the absence of a Real Estate Agent.

Section 21 of the Principal Act is amended by inserting the words

“A Real Estate Agent may grant limited power of attorney to another real estate agent to carry his estate agency functions in his absence for a period exceeding fourteen days provided that the board shall be notified by way of a prescribed form, of such absence and grant.”

Section 21 of The Principal Act is amended by replacing the word “statement” with the words “code of conduct” immediately before the word “specifying”.

Section 21 (2) of the Principal Act is amended to insert the following words under the heading of registered office immediately after subsection (d)

**“Registered Office**

A real estate agent shall have one principal office of operation and notify the registrar in writing within 14 days of the establishment of a branch office or change of the principal office.

21. A power to enter and search premises, etc.

(1) if a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence against any of the provisions of this act has been or is being or is about to be committed and that evidence of the commission of the offence is to be found on or in any premises, vehicle or vessel specified in the information, he may grant a search warrant authorizing any police officer to enter and search any such premises or



to detain, enter and search any such vehicle or vessel, and to seize any articles or documents which the officer has reasonable cause for believing to be evidence of the commission of the offence.

(2) an authorized officer, if he has reasonable cause to believe that an offence against any of the provisions of this act is being or has been committed on or in any premises, vehicle or vessel, or that any article or document in respect of which there is reasonable ground for suspecting that such offence has been or is being committed is on or in any premises, vehicle or vessel, and if the delay which would occur in obtaining a search warrant as hereinbefore provided would, or would tend to, defeat the purposes of this act , may without such warrant enter and search any such premises or may detain, enter and search any such vehicle or vessel, and may seize any articles and documents which he has reasonable cause to believe to be evidence of the commission of any such offence.

(3) Where any article or document has been seized under the provisions of this section the person who has seized it shall forthwith report to a magistrate the fact of such seizure.”

#### Rules of Practice

Section 22 of The Principal Act is amended to insert *mutatis mutandis* the word “Real” before the word “Estate”. The word “Minister” has been replaced by the words “Cabinet Secretary.”

Section 23 of The Act is amended to insert *mutatis mutandis* the word “Real” before the word “Estate”.

Section 24 (C) of The Principal Act is amended to insert the words “one million” and deleting the words “hundred thousand” immediately after.





Section 24 of The Principal Act is hereby amended to insert sub section E to read as follows;” order a combination of any of the above.”

Section 25 of The Principal Act is amended to insert the following words under sub section c thereof “fails to disclose material facts regarding any transaction which is subject of the agency”. Further the words “twenty thousand two” are deleted and the word “one” is inserted before the word “hundred.”

Section 25 A the words “Real Estate” are inserted before the word “agents” as applicable.

Section 25 B is inserted immediately after section 25 A to read as follows:

25 B complaints about real estate agency

1. “Any person may in accordance with regulations made under this act complain in writing to the board about the conduct of an agent or a person purporting to carry out estate agency work
2. When the board receives a complaint under this section, it must refer the complaint to preliminary inquiry committee and notify the real agent or any person complained about of the reference;”

Finance

Section 27 of The Principal Act is amended to replace the word “minister” with that of “Cabinet Secretary.” Further sub section b is amended by deleting the words “other than members who are public officers in receipt of a salary” immediately after the word “board.”

### **Schedule Section 3(2) of The Principal Act**

The Real Estate Agents Board



## Membership

The title is amended to insert the word “real” before “estate” and to delete the word “registration” immediately before the word “board.”

Section One of the Schedule is amended to replace the word “minister” with the word “cabinet secretary.” Further under subsection A the word “surveyor” is inserted immediately after the word “management.”

Sub section d is amended by inserting the word “two” and deleting the word “three” and further inserting the words “stakeholders in the real estate industry” and deleting the words “the general public” immediately after the word represent.

Sub section e is amended by deleting the words “appointed to represent the legal profession” immediately before the word “nominated.”

The following words are inserted below sub- section e to provide that” one person representing training institutions offering real estate agency studies recognized by the board.” The words “provided that such membership will take into consideration gender representation.” are deleted.

## Tenure of office

Section 2 (1) of the Schedule Sub Section C thereof is amended by inserting the following words” if he is convicted of a criminal offence or an offence under chapter six of the constitution.”

Section 2(2) of the Schedule of the Act is amended by inserting the words to read as follows “a retiring member shall be eligible for reappointment for a further term provided that the board shall remain in office until the appointment and gazettelement of a new board.”



Section 4(3) of the Schedule of the Principal Act is amended by inserting the following words to read “where the chairman so directs a decision may be made by the board without a meeting of the board by circulation of relevant papers among all the members and expression in writing of their views and any member may require that a decision shall be deferred for consideration at a meeting of the board and in such a case no decision shall be made until there has been a meeting of the board”

## **REAL ESTATES AGENTS ACT**

### **SUBSIDIARY LEGISLATION**

#### **CHAPTER 533**

#### **REAL ESTATE AGENTS ACT**

#### **SUBSIDIARY LEGISLATION**

##### *List of Subsidiary Legislation*

The word “REAL” has been inserted before the words “ Estate Agents” in the following rules.

1. Real Estate Agents (Forms and Fees) Rules, 1986
2. Real Estate Agents (Remuneration) Rules, 1987
3. Real Estate Agents (Deposit Interest) Rules, 1987
4. Real Estate Agents (Disciplinary Proceedings) (Procedure) Rules, 1987
5. Real Estate Agents (Accountant's Certificate) Rules, 1989
6. Real Estate Agents (Accounts) Rules, 1989
7. Real Estate Agents (Continuous Professional Development) Rules 2013



## 8. Real Estate Agents (Professional Indemnity) Rules 2013

### **THE REAL ESTATES AGENTS (FORMS AND FEES) RULES 1986 FORM 1**

The subsidiary legislation is amended to insert the word “real” before the word “estates”

The word “registration” is hereby deleted appropriately so as to read the “real estate agents board”

Under number 4 (b) (ii) the following words are inserted “or valid passport “after the word “certificate.”

Number 4(b) (iii) the following words are inserted “copy of the pin certificate”

### **UNDER NUMBER G OTHER GROUNDS TO SUPPORT YOUR APPLICATION**

The following words are inserted immediately after the word area as follows” employer, professional colleague,” and the words “pastor or kadhi” are deleted.

### **UNDER FORM II ( R.3)**

The word “real” is inserted before “estate”

The word “registration” is inserted before “no”

The word “postal and email” is inserted before “address”

### **UNDER FORM III (R.4)**



The words "This is to certify that" are inserted before the title Mr. and the words Prof/Dr/Hon/Rev are added after the word "Miss."

The words "Vice Chairman Estate Agents Registration Board" are deleted after the word "Chairman".

#### **FORM IV (R.7)**

The word "real" is inserted before "estate agents act"

The word "real" is inserted before "estate agents"

The word "registration" is deleted before "board"

The P. O Box 30089-00100 is added

2. The words and email address is added after the word postal

1. Under attached herewith, the words payable to the real estate agents board is added after the word "kshs"

2. The spelling of indemnity has corrected from the initial indemnity

The following no. 3 and 4 were added as follows:

3. Accountants certificate

4. A certificate issued by the registrar confirming compliance with continuous professional development rules or exemption thereof

#### **FORM V**



The word real has been inserted before Estate Agents Act [Cap. 533] ad Estate Agents all throughout the document

The words summons application for an inquiry??? Have been deleted

The word registration has been deleted before board

Under notice is given to you that on (pg.45) the word "Nairobi" has been deleted before

The word bring has been replaced with the word s "you may appear with your advocate"

#### **FORM VI**

**Sections (a) and (b) have been added with Section 3 (b) as follows:**

3 (b) I have not practiced estate agency since removal from the register

6. The Following Have Been Added

Name of practitioner

#### **VERIFYING DECLARATION**

The word signed has been removed

The words "name of practitioner in full and registration have been replaced with "confirm that the content of the above declaration signed before me are true to the best of my knowledge. The words "date of qualification" have been removed.

#### **FORM VII**

The spelling for practice has been corrected



**UNDER THE ESTATE AGENTS (REMUNERATION) RULES 1987 –SCALE OF FEES**

Section 2 of The Principal Act has been amended to insert the words and figures “Scale 1 sales and purchases”

On the first Kshs 1,000,000.....10%  
On the residue .....5%”

The following words and figures have been deleted from the principal act under this scale of fees

“SCALE 1

Sales:

On the first Kshs 100,000/=.....10%  
On the next Kshs 900,000/=.....6.8%  
On the residue.....3.4%

SCALE 1A

Purchases:

On the first Kshs 100,000/=.....5.6%  
On the next Kshs 900,000/=.....3.4%  
On the residue.....1.5 2.5%”

**On scale 1B**

The word “realized” is corrected to “realized” immediately after the word “value”.

**Scale 2 –lettings**



The Principal Act is amended to insert the words “

**a) “Residential**

Lease of over one year .....12.5% of gross annual rent for the first year

**b) Commercial**

Sole agency: add” for the first one year” after the word “rent”

The following words are deleted immediately after

“Lease up to one year.....7.5% - 10% of annual gross rent.

“Lease of over one year.....**one and half month’s rent**

**Commercial**

The following figures have been deleted under sole agency and general agency respectively

Sole agency ..... 10% of annual gross rent.

General agency ..... 12.5% of annual gross rent.

**UNDER SCALE 3**

The fee payable shall be three quarters of the appropriate letting scale and half the estimated one month’s rent subject to a minimum of KSh.10,000/- the following figure of 500 has been deleted and replaced with 10,000 immediately after the word minimum.

**Under Scale 4**

The words common area management fees by

“Common area management





Fees by negotiation but not less than 10% of the collectable service charge

Facilities management

10% of the expected of the gross market annual rent”

Have been inserted and the words” fees by negotiation depending on scope of services” have been deleted

#### **Under Scale 5**

Under paragraph b the words “real estate” are inserted and further a figure of 0.25 has been deleted immediately after the word than and a figure of 1 inserted thereafter.

#### **ALTERNATIVE METHOD OF ASSESSMENT**

##### **INSTRUCTIONS**

Such fees for instructions as, having regard to the care and labour required, the number and length of papers perused, the nature and importance of the matter, the amount or value of the subject matter involved, the interest of the parties, complexity of the matter, and all other circumstances of the transaction as may be fair and reasonable

##### **DRAWING AND PERUSING**

Drawing.....	250
Engrossing.....	50
Fair copying.....	30
Perusing.....	70



Telephone calls within Kenya for 15 minutes 1000/=

#### TIME ENGAGED

Charges per item of work done per 15 minutes or part thereof is Kshs 15,000/=

#### CORRESPONDENCE

Letters.....300

Or per folio.....200

Receiving and perusing letters or .....150

Per folio.....70

#### OPINIONS

For formal written opinion such fees as may be reasonable in the circumstances, having regard to the same considerations as set out in assessment of instructions but not less than Kshs.....

#### TRAVELLING AND MISCELLANEOUS EXPENSES

For seven hours employed in travelling.....Kshs 10,000/=

Less than seven hours employed, per hour.....Kshs 2,000/=

This alternative method of assessment has been incorporated in view of Section 2, 22, and 29 of the Competition Act 2010 that seeks to restrict trade practice applicable to trade Associations.



#### **Under The Estate Agents (Deposit interest) Rules 1987**

The words “real” is inserted before the word “estate” as appropriate.

#### **Under Part III-Proceedings Related To Applications for Restoration**

Number 13 the word “public” are inserted and the word “camera” deleted after the word in.

#### **Real Estate Agents (Disciplinary Proceedings) (Procedure) Rules, 1987**

Number 6 on procedures relating to conviction

Under paragraph 1 the word “conviction” is inserted and the word condition is deleted. Immediately after the words relating to.

The word “real” is inserted before the word “estate” as appropriate.

#### **UNDER PART III-PROCEEDINGS RELATING TO APPLICATIONS FOR RESTORATION**

Number 18. Evidence

Under Sub Section 2 , the words “ county governments and “ are inserted immediately after the words “records of” and the words “ ministries responsible for lands, housing, are inserted before the words” and other” and the words “ and any other government ministries, records, of estate agents” are deleted after the word real estate agents

#### **Under The Form I(R 14)**

##### **Witness Summons**

The words “summoned” are inserted and the word “commanded” deleted after the word hereby.



The words Mr. /Mrs. /miss are deleted immediately after the word board.

The figure of 20,000 is inserted and that of 2,000 and 5000 are deleted before the words or to imprisonment.

The word "one" is inserted immediately after the words imprisonment for

#### **REAL ESTATE AGENTS (ACCOUNTANT'S CERTIFICATE) RULES, 1989**

[L.N. 36/1989.]

Under the notice to the estate agent number 15 the words by "and/or electronic mail" are inserted after the word registered post.

The same words are inserted in Number 16.

#### **REAL ESTATE AGENTS (ACCOUNTS) RULES, 1989**

[L.N. 20/1989.]

Under Section 2 of The Rules the following words are inserted to define a real estate agent to mean "a person who deals with the selling, mortgaging, charging, letting and management of immovable property or *shares in immovable property* of any land, house, shop or other building forming part thereof or does any of the following acts—

- (a) bringing together, or taking steps to bring together, a prospective vendor, lessor or lender and a prospective purchaser, lessee or borrower; or
- (b) Negotiating the terms of sale, mortgage, charge or letting as an  
Intermediary between or on behalf of either of the principals;
- c) providing property and facilities management services to clients



The following words are deleted immediately after sub paragraph C thereof.

“ Real Estate Agent to mean “a person who deals with the selling, mortgaging, charging, letting and management of immovable property or of any land, house, shop or other building forming part thereof or does any of the following acts—

(a) bringing together, or taking steps to bring together, a prospective vendor, lessor or lender and a prospective purchaser, lessee or borrower; or

(b) Negotiating the terms of sale, mortgage, charge or letting as an Intermediary between or on behalf of either of the principals;”

#### **MEMORANDUM OF OBJECTS AND REASONS**

The Principal purpose of the Estates Agents Amendment Bill 2017 is to provide for the registration and regulation of persons who, by way of business, negotiate for or otherwise facilitate the selling, purchasing, managing and letting of land and buildings erected thereon and associated assets; for the control of the professional conduct of such persons, to promote and protect the interest of consumers in respect of transactions that relate to real estate and to enhance public confidence in the performance of real estate agency work and for connected purposes

The enactment of this bill will put in place a regulatory board that will be inclusive, empowered, to be in a position to steer the industry to greater transparency and accountability and therefore making it to contribute to increased investment in the real estate sector which will lead to increased revenue both for the national and county governments.



**STATEMENT ON HOW THE BILL RELATES WITH THE CONSTITUTION**

The Estates Agents Amendment Bill 2017 does not contain provisions offending The Constitution.

This Bill is not a money bill within the meaning of Article 114 of The Constitution.

Dated this.....day of.....2017