

Newsflash

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Estate Agents – NEAB audit requirements

We have received a circular (2021 / 05, issued 17 August 2021) from the *Institute of Chartered Accounts of Namibia (ICAN)* informing us of the compliance requirements for Estate Agents as regulated by the *Namibian Estate Agents Board (NEAB)*. We share with you critical compliance requirements as stipulated in the ICAN circular.

- CIRCULAR BACKGROUND
- ACCOUNTING RECORDS – SECTION 29(B), ESTATE AGENTS ACT NO. 112 OF 1976
- AUDIT OF ANNUAL FINANCIAL STATEMENTS
- AUDIT REPORT
- ESTATE AGENT'S ANNUAL STATEMENT ON TRUST ACCOUNTS
- ENGAGEMENT LETTERS

ACCOUNTING RECORDS – SECTION 29(b), ESTATE AGENTS ACT NO. 112 OF 1976

Section 29 - Duty of estate agent to keep accounting records

Every estate agent shall in respect of his activities as such-

(a) Keep in one of the official languages at an address in the territory such accounting records as are necessary fairly to reflect and explain the state of affairs –

(i) of all moneys received or expended by him, including money's deposited to a trust account referred to in section 32(1) or invested in a savings or other interest-bearing account referred to in section 32(2) (a);

(ii) of all his assets and liabilities; and

(iii) of all his financial transactions and the financial position of his business;

(b) cause the accounting records referred to in paragraph (a) to be audited by an auditor within four months after the final date of the financial year of the estate agent, which final date shall be after the commencement of section 15 of the Estate Agents Amendment Act, 1987, not be altered by him without the prior written approval of the board.

Circular Background

1. ACCOUNTING RECORDS

To clarify the definition of “accounting records” as per section 29(b) of the Estate Agents Act No. 112 of 1976 (“the Act”).

2. AUDIT OF ANNUAL FINANCIAL STATEMENTS

Our responsibilities as auditors of the trust account are to provide assurance procedures on the trust account and report thereon. This includes confirming information acquired for the purposes of performing the trust audit to the information, as disclosed by the client in the *Estate Agent’s Annual Statement On Trust Accounts*, in order to identify possible inconsistencies.

3. AUDIT REPORT

To provide the template for the new audit report which must be used for ALL estate agents when auditing the annual financial statements.

4. ESTATE AGENTS ANNUAL STATEMENT ON TRUST ACCOUNTS:

To provide the template for the new addendum - [Estate Agent’s Annual Statement on Trust Accounts](#) – which must be included with the above audit report.

5. ENGAGEMENT LETTERS

A new Engagement letter will be issued as reference is made to the Estate Agent’s Annual Statement of Trust Accounts in various sections.



Accounting Records

The NEAB is of the opinion that the term "accounting records" in section 29(b) of the Act includes financial statements and these statements are required to be audited. This applies to [ALL](#) estate agents, regardless of the legal form of the business. Thus, it will include all the below entities:

- **Close Corporations**
- **Companies**
- **Trusts**
- **Partnerships**
- **Sole proprietors**



Audit of Annual Financial Statements & Audit report

We refer you to the extracts from the suggested audit report template issued in the circular:

Auditors' responsibility

“The auditors’ responsibility is to express a reasonable assurance opinion on the compliance of the estate agent’s trust accounts with the Act and the regulations based on our assurance procedures performed and to report as required on the accompanying *Estate Agent’s Annual Statements on Trust Accounts*.

We have not performed any assurance procedures on records or documents relating to accounting for the business of the estate agent taken as a whole. Accordingly, we do not express any opinion in this regard.”

Report on other legal and regulatory requirements

“As part of our engagement, we will agree to the information extracted from the accounting records and included in the accompanying *Estate Agent’s Annual Statement on Trust Accounts*, to the underlying records that were the subject of our engagement on the compliance of estate agent’s trust accounts with the Act and the regulations. We will also read the estate agent’s representations and the disclosures in the *Estate Agent’s Annual Statement on Trust Accounts* for the purpose of identifying material inconsistencies with our knowledge obtained in our engagement on the compliance of estate agent’s trust accounts with the Act and the regulations.”



Estate Agent's Annual Statement

Please note: This statement or “financial statements” DO NOT refer to the annual financial statements of the business-side of the real estate, but rather to the “*Estate Agent's Annual Statement on Trust Account*” which must be signed by the Estate Agent and should be included as an addendum to the audit report to be submitted to the NEAB. This annual statement acts as financials for the trust account.

What does the ESTATE AGENT'S ANNUAL STATEMENT OF TRUST ACCOUNTS entail?

It is a confirmation signed by the real estate agent that they complied to all the relevant sections of the Act and provided their supporting documents thereon.

- They summarize all interest earned for the year,
- less all interest paid over to the NEAB and,
- total interest retained by them, as well as,
- confirm they were issued with a valid fidelity fund certificate and,
- disclose those details.

In short: the agent is basically doing the "audit work" for their compliance, and we are auditing the statements to gain our assurance.

How does this affect our trust engagements going forward?

We will need to issue this draft *Estate Agent's Annual Statement of Trust Accounts* to each estate agent to complete, sign and return to us before an audit commences, together with the standard information that we request annually.

Without this statement, we cannot submit the NEAB report to full compliance as per section 29(b) of the Act. Other than this, there are no changes to the scope of work we are already performing.

Engagement letters

New engagement letters will be issued as reference is made to the *Estate Agent's Annual Statement of Trust Accounts* in the following:

- Scope of and approach to services
- Your (Estate Agent's) responsibilities
- Our (auditor's) responsibilities
- Reporting
- Responsibilities after issue of report

For audit reports, the wording will have to be updated to include that “we have agreed to information extracted from the records used to prepare the Estate Agent's Annual Statement on Trust Accounts” in the required sections.

Please contact your PKF-FCS partner for assistance if you have any queries, or should you have concerns about the costs and impact of compliance with the new NEAB requirements.

Identification of employer as relevant employer

We would like to bring to your attention the latest Government Gazette notices of 30 September 2022 (7917 – no. 311) and 15 September 2022 (7904 – no. 275). Please note that the number specified for a relevant employer in terms of the Affirmative Action (Employment) Act, has been reduced from 25 to 10. It seems that a grace period of 12 months will be allowed for employers to comply with this amendment.

GOVERNMENT GAZETTE 7904 – NO. 275	GOVERNMENT GAZETTE 7917 – NO. 311
Identification for employers as relevant employers: Affirmative Action (Employment) Act, 1998	Designation of Employers as designation employers: Employment Services Act, 2011
<p>In terms of Section 20(1) of the Affirmative Action (Employment) Act, 1998 (Act No. 29 of 1998), I -</p> <p>(a) Identify an employer who employs the number of employees specified in the Schedule as a relevant employer who must comply with that Act; and</p> <p>(b) repeal Government Notice No. of 95 of 8 June 2006.</p> <p>SCHEDULE</p> <ol style="list-style-type: none"> 1. In this notice, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Affirmative Action (Employment) Act, 1998 (Act no. 29 of 1998), bears the same meaning. 2. An employer <u>who employs 10 or more employees is a relevant employer</u> and the number of employees employed by the employer must be calculated as set out in paragraph 3. 3. The <u>number of employees must be calculated by summing the number of employees employed by the employer at the end of each of the preceding twelve months divided by the number 12.</u> 4. An employer ceases to be a relevant employer, if the employer employs less than 10 employees calculated in accordance with paragraph 3. 	<p>Under section 15(2) of the Employment Services Act, 2011 (Act No. 8 of 2011), with the approval of the Employment Service Board, I designate each employer employing 10 or more employees as a designated employer -</p> <p>(a) To whom the provisions of Part 3 of the Act apply; and</p> <p>(b) who must comply with Part 3 of the Act <u>not later than 12 months from the date of publication of this Notice in the Gazette.</u></p>

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