



**PROPERTY PRACTITIONERS
REGULATORY AUTHORITY**

**PRACTICE NOTE: IN TERMS OF THE
PROPERTY PRACTITIONERS ACT, 2019,
ON MANDATORY DISCLOSURE FORM**

GLOSSARY OF TERMS AND ACCRONYMS

“**PPA**”, means the Property Practitioners Act, 2019.

“**PPRA**”, means the Property Practitioners Regulatory Authority, a national public entity established in terms of section 5 of the Property Practitioners Act, 2019.

“**Property practitioner**”, means a property practitioner defined by section 1 of the Property Practitioners Act, 2019.

“**Regulations**”, means the Regulations published in terms of the Property Practitioners Act, 2019.

1. PURPOSE

The purpose of this Practice Note is to --

- 1.1 Provide guidance on the implementation of the provisions of –
 - 1.1.1 Section 67 of the Property Practitioners Act, 2019 (Act No. 22 of 2019).
 - 1.1.2 Read with the provisions of Regulation 36 of the Property Practitioners Act, Regulations of 2022.
- 1.2 Provide practical guidance and direction for property practitioners affected by the deficiencies identified in implementing section 67 read with regulation 36.
- 1.3 Provide for the protection and promotion of the interest of consumers insofar as application of section 67 is concerned.

2. APPLICATION

This Practice Note applies to property practitioners who renders services other than sales of residential property.

3. RATIONALE: MANDATORY DISCLOSURE FORM

- 3.1 The PPRA had brought about several changes aimed at protecting and promoting the interest of consumers and the general public such as mandatory disclosure form. This form requires the seller / lessor to disclose the defects in the property such as those that are reasonably and easily identifiable upon inspection of the property, those that may be discovered at a later stage as well as those which were deliberately concealed.
- 3.2 Section 67 is intended to reduce legal disputes insofar as non-disclosure on the part of the lessor and the seller as regards the conditions of the property; and
- 3.3 To ensure that the property practitioner assist the contracting parties and ensure that all the defects are declared.

4. SECTION 67 OF THE PROPERTY PRACTITIONERS ACT, 2019

- 4.1 *Section 67(1) A property practitioner must-*
 - a. *Not accept a mandate unless the seller or lessor of the property has provided him or her with a fully completed and signed mandatory disclosure in the prescribed form; and*
 - b. *Provided a copy of the completed mandatory disclosure form to a prospective purchaser or lease of the property.*
- 4.2 *Section 67(2) the completed mandatory disclosure form signed by all relevant parties must be attached to any agreement for the sale or lease of a property, and forms an*

integral part of that agreement, but if such a disclosure form was not completed, signed, or attached, the agreement must be interpreted as if no defects or deficiencies of the property were disclosed to the purchaser.

- 4.3 *Section 67(3) A property practitioner who fails to comply with subsection (1) may be held liable by an affected consumer.*
- 4.4 *Section 67(4) Nothing in this section prevents the Authority from taking action against a property practitioner or imposing an appropriate sanction.*
- 4.5 *Section 67(5) Nothing in this section prevents a consumer, for his or her own account, from undertaking a property inspection to confirm the state of the property before finalising the transaction.*

5. REGULATION 36: MANDATORY DISCLOSURE FORM

Pursuant to the provisions of section 67) of the PPA, Regulation 36 prescribe the format of the mandatory disclosure form, in addition, the mandatory disclosure form itself refers to ***“Immovable property condition report in relation to the sale of any immovable property”***.

6. GUIDANCE FOR PROPERTY PRACTITIONERS AFFECTED BY THE INADEQUACY OF THE MANDATORY DISCLOSURE FORM AS CONTAIN IN REGULATION 36

- 6.1 It is important to point out that mandatory disclosure form, in many instances, will not make provision for all the defects identified by the seller or lessor which may impact on the sale or lease of the property, and some of those defects are ordinarily contained in the agreement under terms and condition clause.
- 6.2 In light of the above, and to provide guidance to property practitioners in implementing and ensuring compliance with Property Practitioners Act, 22 of 2019, and other applicable laws. Property Practitioners are advised develop their own mandatory disclosure form in respect of the type of services rendered in their subsectors.
- 6.3 Property Practitioners are advised to ensure that their own mandatory disclosure form is aligned to any other applicable laws. This will, however, require you to obtain an exemption from using the prescribed form as required by s67(1).

7. EXEMPTION

Please note that should the prescribed Mandatory Disclosure Form not be specific to your business; you may draft your own MDF and present this to the PRPA.

The process will be, should you wish to use your own MDF, that you will complete the **E1 form** as per section 4 of the PPA to exempt you from using the MDF attached to the regulations. Your MDF will be attached to the **E1 form**, whereby the Exemption Committee will apply their minds in exempting you as a property practitioner from using the prescribed MDF as per the PPA regulations. Applications must be emailed to section4exemptions@theppra.org.za

ISSUED BY THE PROPERTY PRACTITIONERS REGULATORY AUTHORITY



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CHIEF EXECUTIVE OFFICER 'ACTING'
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