

Property Practitioners

Presenter: **Lettie Janse van Vuuren CA(SA)**



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Crucial information for auditors and accountants of PPs

With reference to the new PPRA Guide

(final version issued in May 2022)

Presenter

Lettie Janse van Vuuren CA(SA)

- She is a Chartered Accountant, Qualified Auditor, Assessor and Moderator, and joined SA Accounting Academy in November 2017 as Head of Technical.
- She is a professional trainer and webinar host, and with her relaxed and humorous presentation style, she is able to hold the attention of an audience. She has a unique ability to communicate with delegates at their respective levels of knowledge and experience. Over the last 20 years, she has trained thousands of partners, managers, trainee accountants and other professionals.
- She is also responsible for our MCLU (Monthly Compliance and Legislation Updates). Lettie's constant research on the latest developments allows us to post technical daily alerts on LinkedIn, compile newsletters for subscribers and provide further detail to assist our clients in assisting their clients. She also records Technical Summary Videos (TSVs) on a wide range of topics on a regular basis.
- She was the Professional Development Manager at SAICA for 4 years and in charge of accrediting new training offices and monitoring existing ones (including the moderation of training offices and trainee assessments).
- Lettie is passionate about improving the efficiency and standardisation at practices. She has extensive experience on a variety of technical and practical topics which she consults on, including: SAICA re-accreditation assistance and preparation, IRBA inspection assistance and preparation, audit file reviews, other manuals, etc.



WHAT'S ON THE AGENDA?



Contents

- **Background & Introduction:** Basic requirements of the **Property Practitioners Act**, specifically focusing on *definitions*;
- Contents of the **Property Practitioners Regulations**;
- Contents of the **Draft Guidelines on Audit, Accounting records and Trust Account requirements for Business Property Practitioners**, including specific requirements relating to:
 - Annual financial statements (audit vs independent review) and
 - Trust accounts;
- Other legislation that must be complied with, including FICA, Debt Collectors Act, Auditing Profession Act and Tax legislation; and
- 11 Annexures that will make your life easier (also 20 FAQs)
- In closing...



BACKGROUND

PROPERTY
PRACTITIONERS

Abbreviations used

- **PP** = Property Practitioner
- **BPP** = Business Property Practitioner
- **PPA** = Property Practitioner's Act, No 22 of 2019
- **PPR** = Property Practitioner's Regulations, 2022
- **PPRA** = Property Practitioner's Regulatory Authority
- **PPFF** = Property Practitioner's Fidelity Fund
- **EAAB** = Estate Agency Affairs Board
- **FAQs** = Frequently Asked Questions

Why worry about the PPA?

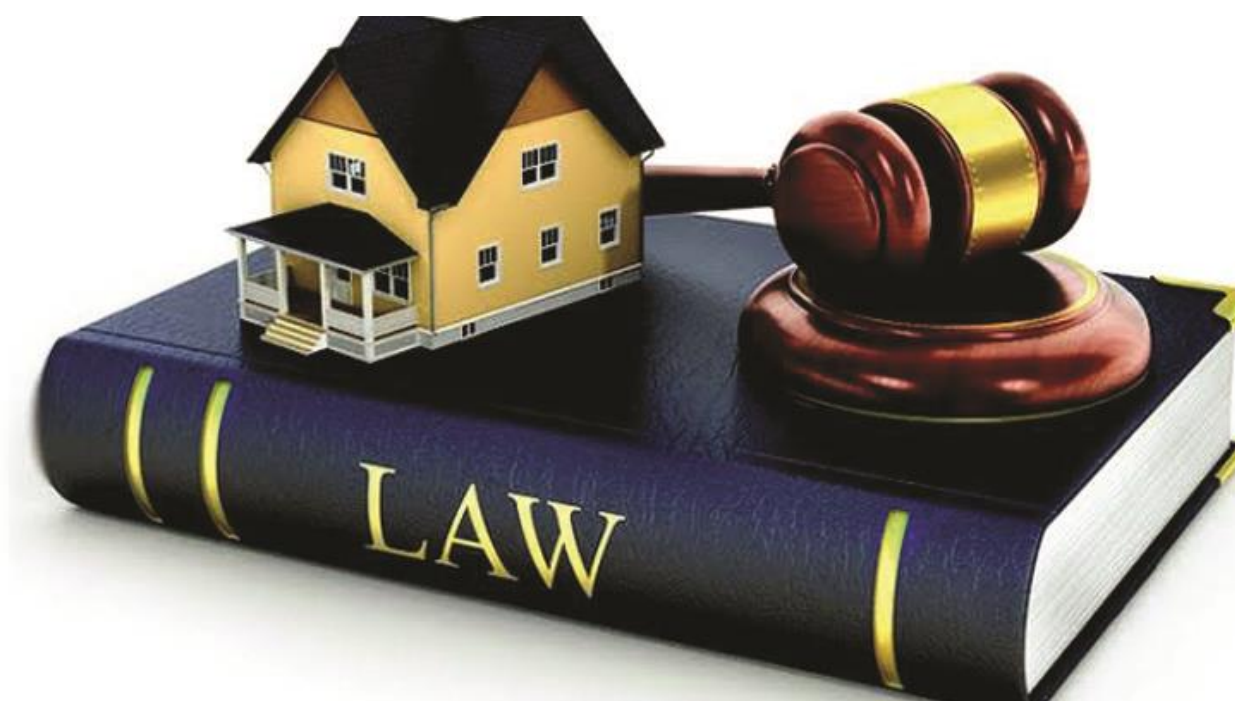
- The Property Practitioners Act is yet another piece of legislation that your clients must comply with, and which you must assess compliance with. If they don't comply with the relevant laws and regulations, you have certain reporting obligations in terms of NOCLAR (NON-Compliance with Laws And Regulations) – this could include reporting to management, qualifying your audit opinion, reporting a Reportable Irregularity, etc.
- As an auditor and independent reviewer, you need to consider and assess compliance with the PPA and Guidelines issued by the PPRA.
- As an accountant, you may need to advise your clients who are property practitioners on compliance with the PPA and adherence to the latest guidelines issued by the PPRA

Background

- This new PPA is intended to govern “property practitioners”
 - The Property Practitioners Bill was intended to replace and repeal the outdated Estate Agency Affairs Act of 112 of 1976
 - The Bill was first published and introduced to the National Assembly on 14 June 2018 and was passed by the National Assembly on 4 December 2018. It was then amended in 2019, passed by the National Council of Provinces on 28 March 2019 and assented to by the President at the end of 2019.
- EEAB is now called PPRA

The PPA became effective on 1 February 2022

INTRODUCTION: PPA & PPR



Property Practitioners Act

- Contents (84 pages in 2 languages):
 - Chapter 1: Definitions, Application of the Act, Exemption
 - Chapters 1, 2 and 3: PPRA: Functions, Board, etc.
 - Chapter 4: Transformation of property sector
 - Chapter 5: Compliance and Enforcement: Inspectors
 - Chapter 6: Finances
 - Chapter 7: PPF and Indemnity Insurance
 - Chapter 8: PPs: Fidelity Fund Certificates, Trust Accounts
 - Chapter 9: Conduct of Property Practitioners
 - Chapter 10: Consumer Protection
 - Chapter 11: General

➤ *Refer to Source Document available to you*

Property Practitioners Regulations

- Contents (88 pages in English):
 - Chapter 1: Definitions, Application of the Act, Exemption
 - Chapter 2: Transformation and Regularisation
 - Chapter 3: Compliance, Enforcement and Dispute Resolution
 - Chapter 4: Fees and the Fidelity Fund
 - Chapter 5: Fidelity Fund Certificates
 - Chapter 6: Trust accounts and details of the Auditor
 - Chapter 7: Training, Conduct and Consumer Protection measures
 - Chapter 8: Administrative and other matters

➤ *Refer to Source Document available to you*

NB Definitions

- Accounting records
 - Act = PPA
 - Authority = PPRA
 - **Business property practitioner** = a partnership, company, trust, close corporation or similar organisational entity that carries on the activities of a property practitioner
- *Refer to Chapter 1 in PPA and Section 1 of the PPRA Guide*

“Property Practitioner”

- Includes everyone involved in the selling; purchasing; letting; renting; financing; managing and marketing of property
- The definition of “property practitioner” is extensive and does not regulate only all estate agents (like the existing EEAA), but also extend regulations to all property practitioners, including:
 - managing agents, business (property) brokers and providers of bridging finance, as well as bond brokers and marketers.
 - In fact, it is hard to find anyone in SA that is not included in this definition! (except for a couple of *exclusions*):
 - *A person whose ordinary course of business it is not, natural person selling personally owned property, Attorneys, Sheriff*

➤ *Refer to Chapter 1 in PPA and Section 1 of the PPRA Guide*

**PPRA GUIDELINE
ON AUDIT, ACCOUNTING RECORDS AND
TRUST ACCOUNT REQUIREMENTS FOR
BUSINESS PROPERTY PRACTITIONERS**



Purpose

- = to assist all stakeholders in **understanding the requirements** to be complied with by all business property practitioners with regards to audit, accounting records and trust accounts
- = also a **reference point for auditors, independent reviewers, banks and accountants** of business property practitioners
- = also intended to **provide information and guidance on the criteria and procedures applied by the PPRA** when enforcing compliance with the legislated audit, accounting records and trust account requirements

➤ *Refer to Source Document for more detail*

Contents

- 1. Definitions**
2. Abbreviations
3. Purpose
4. Applicability
5. Enabling provision
- 6. Annual Financial Statements**
- 7. Trust Accounts**
8. Compliance with FICA
9. Compliance with Debt Collectors Act
10. Compliance with the Auditing Profession Act
11. Compliance with Tax Legislation
- 12. Transitional Provisions**
- 13. Annexure 1 to 11**

➤ *Refer to Source Document available to you*

AFS

- AFS must be **prepared** in accordance with a **recognised financial reporting framework**
 - Recognised financial reporting standards for business property practitioners operating as companies must be determined in accordance with Regulation 27(4) of the Companies Regulations, 2011. Business property practitioners not operating as companies must use either IFRS for SMEs or IFRS as their financial reporting framework
- AFS must be **audited** by an auditor **within 6 months** after financial Y/E
- **Annual Revenue < R2,5million** MAY have AFS Independently Reviewed

➤ *Refer to Source Document for more detail*

AFS (continued)

- IR must be performed by either:
 - an auditor – BPP not granted an exemption from keeping a trust account
 - OR chartered accountant – exemption granted and PIS \geq 100
 - OR person allowed to act as an Accounting Officer – exemption granted and PIS $<$ 100
- PLUS, a BPP operating as a company or CC MUST have AFS audited if:
 - Trust monies $>$ R5million (at any point during the financial year)
 - OR PIS \geq 350
 - OR PIS $>$ 100 and AFS are internally compiled
- ❖ NB! The audited or independently-reviewed AFS do NOT need to be submitted to the PPRA on an annual basis – only when the PPRA ask for it in writing

➤ *Refer to Source Document for more detail*

Trust Accounts

- Opening of Trust Accounts
 - Must contain reference to Section 54(1) of the PPA
 - BPP may invest trust money not immediately required in a separate savings or other interest-bearing trust account: Must contain reference to Section 54(2) of the PPA
- Administering of Trust Accounts
 - keep separately, balance monthly + trust reconciliation, bank charges belong to the BPP (charged to business account)
 - If BPP not exempted from keeping a trust account, must use a digital or manual bookkeeping system in a format readily retrievable

➤ *Refer to Source Document for more detail*

Trust Accounts (continued)

- Audit of Trust Accounts
 - BPP not exempted, MUST appoint an auditor
 - Auditor must register on the Auditor's Portal on <http://www.theppra.org.za/>
 - Format of audit report must be as per Annexure 2 of the PPRA Guideline (and in accordance with SAAPS 3 issued by IRBA)
 - Audit report must be electronically submitted within 6 months of the financial Y/E of the BPP

➤ *Refer to Source Document for more detail*

Unclaimed or Unidentified Trust monies

- If BPP winds up account as per Section 54(9) of the PPA, and the owner/beneficiary could not be identified for > 3 years, then trust money must be paid to the PPF to be held in trust
 - Auditors must disclose this in the table in the audit report
 - PPF will then issue an invoice to the BPP within 30 day of receiving an audit report & BPP must pay the invoice within 30 days of the invoice date
- Owners can claim back from PPF within 30 years

➤ *Refer to Source Document for more detail*

Interest earned on trust money

- On Sections 54(1) and 54(2) trust accounts
- Bank must submit a report of gross interest earned to the PPRA on 31 August 2022, and then 31 May of every year from 2023
 - Auditors must disclose this in the table in the audit report
 - PPF will then issue an invoice to the BPP within 30 day of receiving an audit report & BPP must pay the invoice within 30 days of the invoice date

➤ *Refer to Source Document for more detail*

Exemption from keeping a trust account

- BPPs who qualify for this exemption:
 - BPP who has never received any trust monies
 - BPP who no longer receives any trust monies
 - BPP who has mandated other PPs that specialize in collecting and distributing trust money (Payment processing agents)
 - If BPP is a managing agent and all funds of the Body Corporate under its management are held in bank accounts opened in the names of the bodies corporate as per STSMA
- Then, only submit a sworn affidavit per Annexure 1 to the PPRA

➤ *Refer to Source Document for more detail*

Compliance with other Acts

○ **FICA**

- PPRA is a supervisory body
- All BPPs must register with FIC as accountable institutions & report accordingly

○ **Debt Collectors Act**

- A BPP will be allowed to use their trust bank accounts opened in terms of the PPA to register with the Council for Debt Collectors

○ **Auditing Profession Act**

- Responsibilities of auditors

○ **Tax Legislation = Income Tax + VAT**

- BPPs must register employees for PAYE/UIF/SDL

➤ *Refer to Source Document for more detail*

Transitional Provisions

- IR of BPPs' AFS will be applicable to financial years ending on or after 1 February 2022
- The submission deadline of audit reports on trust accounts and completing of an audit of financial statements of estate agencies for financial years that ended on or before 30 September 2021 remains 4 months after the relevant financial year-end of the estate agency, in terms of the EAAA
- The new 6 months submission deadline of audit reports on trust accounts and completing of an IR/audit of financial statements applies for BBPs with financial year ending on or after 31 October 2021.
- Up to 31 Jan 2022 = EAAA applies, from 1 Feb 2022 = PPA applies
 - Interest earned will apply as per above
 - Compliance with relevant Act to be considered by auditor as per above period
(refer to table 12.5)

➤ *Refer to Source Document for more detail*

11 ANNEXURES IN PPRA GUIDELINE



Annexures in PPRA Guideline

- Annexure 1 – Form of Affidavit by Business Property Practitioner in Respect of Trust Monies
- Annexure 2 – Audit Report Template on Trust Accounts
- Annexure 3 – Summarised Audit Requirements Applicable to Business Property Practitioners
- Annexure 4 – Requirements for Exemption from keeping a Trust Account
- Annexure 5 – Maximum Fines for Contraventions of the PPA Reported in submitted Audit Reports
- Annexure 6 – Template of Letter By Payment Processing Agent
- Annexure 7 – Template of Letter From A Body Corporate
- Annexure 8 – Trust Environment Audit Report Template by a Payment Processing Agent
- Annexure 9 – List of Mandating Client Business Property Practitioners by a Payment Processing Agent
- Annexure 10 – Trust Account Exemption Letter
- Annexure 11 – Frequently Asked Questions (FAQs)

20 FAQs

***REFER TO PPRA GUIDELINE
ANNEXURE 11***



20 FAQs

1. Which business property practitioner must have their accounting records audited?
2. Which accounting records must be audited?
3. What report should be submitted to the PPRA within 6 months after the financial year by a BPP that has been granted an exemption in terms of section 23(2)(a) of the Act regarding keeping a trust account?
4. Can the auditor perform an independent review instead of an audit when a BPP is a private company and its financial statements are not required to be audited in terms of the new Companies Act, 2008?
5. Can the PPRA grant an exemption from having the business accounting records audited/independently-reviewed if the property practitioner did not have or closed a trust account during the financial year?

➤ *Refer to Source Document available to you*

20 FAQs (continued)

6. Can the PPRA grant an exemption from having the business accounting records audited/independently reviewed if the business property practitioner cannot afford the audit fees or the trust account was dormant throughout the financial year?
7. Do the requirements to have business accounting records audited/independently reviewed apply to a property practitioner operating as a sole proprietor?
8. Do the requirements to have business accounting records audited/independently reviewed apply to a property practitioner operating as a sole proprietor?
9. When must the audit be performed and audit report submitted to the PPRA?
10. Who must submit the auditor's report to the PPRA?
11. How must the auditor's report be submitted to the PPRA?
12. Should the audited/independently reviewed financial statements of the business accounting records also be submitted when submitting the auditor's report on the trust accounting records to the PPRA?

➤ *Refer to Source Document available to you*

20 FAQs (continued)

13. Should an auditor report a reportable irregularity to the IRBA when performing an audit of the business accounting records and / or the trust accounting records of a PP?
14. Can the PPRA grant extensions on the prescribed timeframe for submitting auditor's report on the trust accounting records?
15. What are the consequences of submitting the auditor's report outside the prescribed timeframe?
16. What are the consequences of submitting the auditor's report on the trust accounting records via email, post or hand-delivery instead of online via the Auditors Portal?
17. What are the consequences for the business property practitioner if the form and content of the auditor's report on the trust accounting records includes contraventions of the Property Practitioners Act?

➤ *Refer to Source Document available to you*

20 FAQs (continued)

18. What are the consequences for a property practitioner when a qualified or adverse opinion/conclusion or disclaimer of opinion is expressed in the auditor's/independent reviewer's report on the annual financial statements?
19. Is an IT3b certificate mandatory when submitting the auditor's report on the trust accounting records?
20. Is an IT3b certificate mandatory when submitting the auditor's report on the trust accounting records?

➤ *Refer to Source Document available to you*

Source & Bonus Documents

The following SOURCE Documents are available to you:



FLAMINGTEXT.COM

1. Property Practitioners Act No 22 of 2019.pdf
2. Property Practitioners Regulations 2022.pdf
3. PPRA_Guidelines on audit accounting records and trust account requirements_May2022.pdf

The following BONUS Documents are available to you:



1. Property Practitioners Bill_webinar MATERIAL_20 June 2019.pdf
2. PPRA_Draft Guideline on audit_accounting records_trust account requirements

Remember that these are uploaded to your profiles & should be available immediately after the webinar has ended

In closing...



- The concept of Property Practitioners has extended beyond estate agents.....
- Some other clients of yours may now fall under the ambit of the new PPA! E.g. property developers, managing agents, marketers, etc.
- The **PPRA Guide** is CRUCIAL INFORMATION

Refer to the Transitional provisions for the February 2022 year!



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QUESTIONS





for your participation!