

Monday Contemplation No 16

Do I need to register with the PPRA? Part 3

In this week's Monday Contemplation, we will complete our discussion of the definition of who is a property practitioner (PP) in terms of the Property Practitioners Act 22 of 2019 (PPA).

Continuing our discussion, **if you do the following** you are considered to be a PP and must hold a FFC:

- 1. If you are a director of a company or member of a close corporation that is a property practitioner.**
- 2. Any person employed by a property practitioner where the person employed performs the services of a property practitioner**, for example, canvasses, sells, lets, collects money, offers a property management service and so on.
- 3. Any trustee of a trust which is a property practitioner.**
- 4. Any person who is employed by a property practitioner and that person is employed to manage, supervise or control the day-to-day operations of a that property practitioner.**
- 5. Any person who is employed by or renders services to an attorney or a professional company as defined in section 1 of the Attorneys Act, 1979**, other than an attorney or candidate attorney, and whose duties consist wholly or primarily of the performance of any act of a property practitioner, on behalf of such attorney or professional company whose actions will be specifically covered by the Attorneys' Fidelity Fund and not the Property Practitioners Fidelity Fund. So, for example, an attorney may have a practice where they deal with real estate due to liquidations, insolvencies and deceased estates.

The **attorney may employ the services of a property practitioner to sell such property. This person would need to hold a FFC.**

6. The **definition of a property practitioner** does not include an attorney who, on his own account or as a partner in a firm of attorneys or as a member of a professional company, as defined in section 1 of the Attorneys Act, 1979, or a candidate attorney as defined in that section, who performs the services of a property practitioner, in the course of and in the name of and from the premises of such attorney's or professional company's practice, provided that such an act may not be performed—

(i) in partnership with any person other than a partner in the practice of that attorney as defined in section 1 of the Attorneys Act, 1979; or

(ii) through the medium of or as a director of a company other than such professional company.

7. Insofar as attorneys are concerned, this means that **an attorney is not considered to be a property practitioner and can operate as a property practitioner through the medium of their legal practice.** The **attorney cannot be in partnership with anyone other than their legal partners** and **they cannot be a director of an “estate agency”** for the purposes of providing any service that would be provided by a property practitioner.