
BOARD NOTICES RAADSKENNISGEWINGS

BOARD NOTICE 137 OF 2009

The Council for the Built Environment
(CBE)

**Recommended identification of work Policy document for the Built Environment Professions
in terms of section 20 of the Council for the Built Environment Act
(Act No 43 of 2000)**

Written comments and inputs are invited by the CBE from the Built Environment Professional Councils, all Voluntary Associations, any person, a body and/or an industry that will be affected by the recommended identification of work policy document within the Built Environment.

Submissions should be made to:

Mr Bheki Zulu

Via Post:

The Chief Executive Officer
The CBE
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0027

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CLOSING DATE:

No.		Page No.	Gazette No.	No.		Bladsy No.	Koerant No.
153	Architectural Profession Act (44/2000): South African Council for the Architectural Profession: Requirements by which a voluntary association shall comply to maintain recognition of the Act	88	32731	153	Architectural Profession Act (44/2000): South African Council for the Architectural Profession: Requirements by which a voluntary association shall comply to maintain recognition of the Act	88	32731
154	do.: do.: Code of Professional Conduct..	89	32731	154	do.: do.: Code of Professional Conduct..	89	32731
155	Securities Services Act (36/2004): Proposed amendments to the Rules of the JSE Limited.....	97	32731	155	Securities Services Act (36/2004): Proposed amendments to the Rules of the JSE Limited.....	97	32731
156	Accounting Standards Board: Exposure draft on the Appendix to Directive 5: GRAP Reporting Framework for 2010/- 2011.....	102	32731	156	Accounting Standards Board: Exposure draft on the Appendix to Directive 5: GRAP Reporting Framework for 2010/- 2011.....	102	32731

CORRECTION NOTICE

Board Notice 137 published in *Government Gazette* No. 32694 of 13 November 2009, is hereby corrected as follows:

On page 109 substitute the expression "CLOSING DATE": with the expression "CLOSING DATE:
14 DECEMBER 2009" where it appears in the text.

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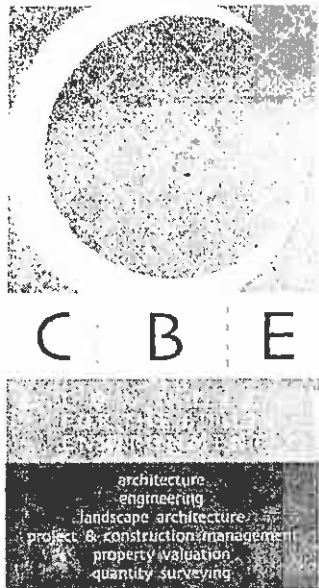
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Proposed CBE Policy with regard to the Identification of Work for the Built Environment Professions

Draft 10 October 2009

1 Background

Built environment professionals shape and maintain the physical world that has been intentionally created through science and technology for the benefit of mankind. They are also key to the growth of the South African economy. Parliament, in recognition of the crucial role that built environment professionals play in South African society passed 6 Acts in 2000 to regulate seven basic professions, namely architecture, engineering, landscape architects, project and construction management, property valuation and quantity surveying. These Acts made registration with relevant Councils for a Professions mandatory in order to practice as a professional in a particular profession. The Act also awarded titles to registered persons.

The Acts did not define the professions but rather provided a process by which the various Councils for the Professions could identify work relating to the various professions. The Council for the Built Environment Act of 2000 made the Council for the Built Environment Professions (CBE) responsible for identifying the scope of work for every category of registered persons.

The body of knowledge within a profession is not static over time. Areas of specialisation occur in response to market needs or new practise areas open up in the wake of new technologies or in response to emerging societal needs such as those relating to climate change. Accordingly, new disciplines, and occasionally new professions, emerge as main stream activities, particularly where tertiary educational institutions develop new qualifications to prepare people to practise in these areas.

The process for the identification of the scope of work for every category of registered person contained in the legislation is to be conducted in a number of stages. The CBE has decided on the following process, based on the prescripts of the legislation

- Stage 1: The Councils for the Professions consult with all those who might be affected by legislation regarding the identification of work for a profession and to identify the overlaps between professions.
- Stage 2: The Councils for the Professions submit recommendations to the CBE regarding work identification for its consideration.
- Stage 3: The CBE, after receipt of the recommendations of the Councils for the Professions finalises its proposed policy on the identification of work for the built environment professions.

- Stage 4 The CBE consults with the Councils for the Professions and other effected persons or industries on the implications of the proposed policy and publishes the policy for public comment in the government gazette.
- Stage 5 The CBE consults with the Competition Commission on the policy for the identification of work.
- Stage 6 The CBE finalises its policy following the consultation process.
- Stage 7 The CBE and the Councils for the Professions together finalize the scope of work of every registered person in accordance with the CBE's policy.

All the Councils for the Professions, following consultation within their profession, have submitted recommendations to the CBE in one form or another. (stage 1 and stage 2)

This document sets out the CBE's proposed policy (stage 3) following the receipt and analysis of the recommendations made by the Councils for the Professions. It takes cognisance of the idiosyncrasies of each profession and the proposals regarding the manner in which overlaps between the professions and within the professions are to be handled.

2 Policy objectives

The policy objectives for work identification are to:

- comply with legislative imperatives;
- protect the public by-
 - identifying work for each profession, discipline and registration category, as relevant, in a manner that is simple to implement when procuring services from or employing registered persons in a clear, transparent and accountable manner;
 - ensuring that persons who undertake the work so identified are accountable for their actions;
- protect the environment and the public by ensuring that only qualified persons who have the necessary expertise perform activities that have the potential to cause significant harm to the environment;
- provide the necessary framework to identify the differences between professions, disciplines and categories of registration, as relevant, in such a manner that overlaps in scope of work, if any, can be readily identified and addressed;
- ensure that where work is carried out by different categories of registered persons there are clear and transparent ways of determining which category is able to carry out the work;
- support the effective implementation of legislation which is dependent on registered persons certifying or approving designs, systems or their implementation, certifying the adequacy of existing buildings and infrastructure, maintaining or operating aspects of the built environment or to performing specified duties; and
- facilitate the most economically, socially and technically efficient use of registered persons within a profession and discipline, as relevant, and their categories of registration with a view to maximising the benefit to the public.

3 Definitions

For the purpose of this policy and the identification of work for the built environment professions, the following definitions apply:

Proposed CBE Policy with regard to the Identification of Work for the Built Environment Professions

"built environment" means the physical world that has been intentionally created through science and technology for the benefit of mankind;

"category" means the categories in which a person may register as prescribed by the Acts governing the Councils for the Professions, namely professional, candidate and specified category;

Councils for the Professions" means

- a) South African Council for the Architectural Profession, established by the Architectural Profession Act, 2000;
- b) South African Council for the Project and Construction Management Professions, established by the Project and Construction Management Professions Act, 2000;
- c) Engineering Council of South Africa, established by the Engineering Profession Act, 2000;
- d) South African Council for the Landscape Architectural Profession, established by the Landscape Architectural Profession Act, 2000; 2000
- e) South African Council for the Property Valuers Profession, established by the Property Valuers Profession Act, 2000; and
- f) South African Council for the Quantity Surveying Profession, established by the Quantity Surveying Profession Act, 2000;

"discipline" means the subdivision of the body of knowledge within a profession which is applied in a specific context

"identification of work" means the identification of work that requires the skill and expertise usually associated with the built environment professions and which if not performed by such a professional, has the potential to cause harm to the public or the environment;

"profession" means an occupation in which an individual uses an intellectual skill based on an established body of knowledge and practice to provide a specialised service in a defined area, exercising independent judgement in accordance with a code of ethics and in the public interest

"registered person" means a person registered with one or more of the Councils for the Professions

"substantially practice" means regularly and consistently carrying out work identified for a profession or discipline, as relevant

"scope of work" means the range of work performed by a registered person within a profession or discipline, as applicable, in relation to their demonstrated competencies or the statutory duties which may be performed by a registered person

"statutory duty" means tasks or activities identified for a registered person in terms of a specific piece of legislation other than legislation that created the Councils for the Professions or the Council for the Built Environment

4 Considerations in the formulation of policy for the identification of work

4.1 Basis for Professional Registration

The Constitution of the Republic of South Africa, 1996, determines as a basic human right that every person is free to choose a trade, occupation or profession, but that the trade, occupation or profession may be regulated by law. In addition, the Constitution determines as a basic right for every person to an environment that is not harmful to his or her health or well-being and an environment protected, for the benefit of present and future generations. Against this background, government has promulgated the built environment legislation, regulating the professions, determining the need for every built environment professional to be registered with a Council for the Professions. The Acts governing the Councils for the Professions already reserve work for professionally registered persons. Currently, it is possible to prosecute those that practice a profession without being registered only through the

leading of expert evidence in court, confirming that the work undertaken by the unregistered person, is work that can only be done by a person qualified in that area.

Work identification is needed to improve the enforcement of work reserved for professionals and to enable the Councils for the Professions to advise the public as to who should be registered and what work each registered person may perform.. Accordingly work identification cannot be vague. It must be explicit and clear as to what work each category of registered person may perform. This will in some instances require a profession to be broken down into disciplines. It will also require where work may be carried out by different categories of registered persons, that overlaps and duplication between identified work is clearly and transparently demarcated.

The pillars of government's policy requiring professional registration from every person working in the built environment is to ensure that work that impacts on persons' human rights and has the potential to harm other persons or the environment, must be undertaken by a person who is competent to do the work concerned. The Acts have been drafted in such a fashion that even academics and government officials must be registered. It was envisaged that different examinations or quality assurances would have been implemented with regard to the latter two categories, than those requirements and examinations that existed before the Acts were implemented. It is important in the development of the policy to bear in mind that every individual who actively practices in the built environment (which includes academics and government officials) must be registered so that the individual who is responsible for a failure, may be held accountable. When circumstances warrant it, principals can also be held accountable.

The main purpose of work identification in South Africa should accordingly be to ensure that work peculiar to the built environment is performed only by competent persons who are appropriately registered with a Council for the Professions and who are accountable for their actions. This needs to be done in a manner that is:

- consistent with government's competition policy,
- protects the health and safety of the public and workers,
- protects the environment,
- promotes sustainable development,
- offers consumers a measure of protection, and
- provides recourse in relation to aspects of professional conduct.

4.2 Industry and consumer efficiency

Built environment services are purchased by all spheres of government, state owned enterprises, large and small businesses and individual consumers. The absence of work identification requires that procurement decisions be based on the procurer's own understanding of a profession and investigations into the suitability of a registered professional's ability to do the work. Determining who is qualified to undertake the service can be a costly exercise.

Those spheres of government and state owned enterprises and large and small businesses that employ professionals to perform in-house work also need to perform investigations into the suitability of a professional to fulfil their needs. .

Identifying the scope of work as it relates to the competencies of a professional can aid the market by providing information to employers and consumers of professional services on the educational levels and experience of professionals. This enables more informed decisions to be made when employing professionals or engaging the services of professionals and will reduce the incidence of the appointment of inappropriately qualified persons performing work which impacts negatively on health, safety and the environment.

4.3 Reducing risks to public safety, health and welfare and environmental degradation

Section 24 of the bill of rights contained in the Constitution of the Republic of South Africa of 1996 give everyone the *right to an environment that is not harmful to their health or well-being and to have the environment protected, for the benefit of present and future generations.*

The built environment in attempting to serve society and economic activity has both positive and negative impacts on people's health and safety and the environment. The balancing of these positive and negative impacts on the health and safety of both the public and the workforce, on the physical environment and on sustainability for future generations is a very important function of the built environment professional. Safeguarding against the hazards associated with the work of the built environment professional is not enough; such work must also be carried out effectively and efficiently.

Government has already identified the high risk areas to society by requiring in various pieces of legislation that only a person professionally registered with a particular Council for the Professions is competent to perform specific activities such as the approval or certification of designs, systems or their implementation or the certification of the adequacy of existing buildings, services and facilities.

4.4 International practitioners

The Acts governing the Councils for the Professions, permit persons who are not registered with one of the Councils for the Professions to perform identified work under the direction, control, supervision of or in association with a registered person entitled to perform the identified work, who must assume responsibility for any work so performed. This permits built environment professionals who reside outside South Africa to perform work inside South Africa without being registered with one of the Councils for the Professions.

4.5 Competence of registered persons

Section 20 of the CBE Act mandates the CBE to *"after consultation with the Competition Commission, and in consultation with the councils for the professions, identify the scope of work for every category of registered persons."*

One of the purposes of regulating a profession is to assure the quality of professional services in the public interest. A registered person is competent to provide a service or perform a task by virtue of his or her education, training, experience and contextual knowledge relative to their disciplines

Each of the Council for the Professions Acts makes provision for three basic categories of registration, namely:

- professional,
- candidate and
- specified categories prescribed by the relevant Council

There are, however, some professions where the work associated with the profession is very broad and practitioners tend to practice their profession within discipline or in a practice area within the profession. The aforementioned categories of registration accordingly need to be related to disciplines or a general area of practice to provide information on the experience and contextual knowledge of registered persons i.e. to a full description of the competence of a registered person.

Work which may be carried out by different categories of registered persons needs to be identified in a manner that enable a registered person to readily understand the competencies which he or she needs to master to move up to the next level. This will provide a clear career path.

4.6 *Overlaps between professions and disciplines*

It is acknowledged that there are many overlaps between the different professions and disciplines within a profession or for that matter between built environment professionals and other professions. What is critical, however, is to ensure that where a registered person performs work which overlaps with another profession or discipline, as relevant, that such work is competently and consistently performed.

5 Policy

The end outcome of work identification is that employers of built environment professionals and consumers of built environment professional services must:

- a) be able to readily identify from the registers of the Councils for the Professions a person who is likely to be competent to perform work or a service that they may require; and
- b) have a reasonable idea of the scope of work which any registered person is likely to be able to perform.

Work identification, as illustrated in Figure 1, accordingly needs to enable the following to be identified:

- 1) the profession;
- 2) the discipline;
- 3) any statutory duty required in terms of a specific piece of legislation to certify or approve designs, systems or their implementation, to certify the adequacy of existing buildings and infrastructure, to maintain or operate aspects of works or to perform specified duties relating to the practise of their profession,
- 4) the professional category of registration provided for in the various Acts for the professions, related to any discipline within a profession; and
- 5) the specified categories prescribed by the Councils for the Professions, which, where relevant, need to be aligned to the statutory duties described in 3) above.

This will necessitate the formulation of descriptors associated with the work identified for each profession and discipline or statutory duty if any, and category of registration in such a manner that the scope of work of each registered person can be readily and transparently identified.

The breaking down of disciplines must be aligned as far as possible with the broad fields of study and qualifications offered by the various tertiary educational institutions or broad practise areas within a profession which require different skills sets to the general practice areas in response to industry of public demand to do so.

The discipline(s), where relevant, which a registered person is competent to perform must be shown in brackets after the legal acronym associated with his or her category of registration.

Registered persons must only undertake work that they are competent to undertake within the identified scope of work associated with their registration. Registered persons may perform work associated with another profession or discipline provided that such work is within their competency to do so and they perform such work competently. They may however, not substantially practise such work without being registered in the category

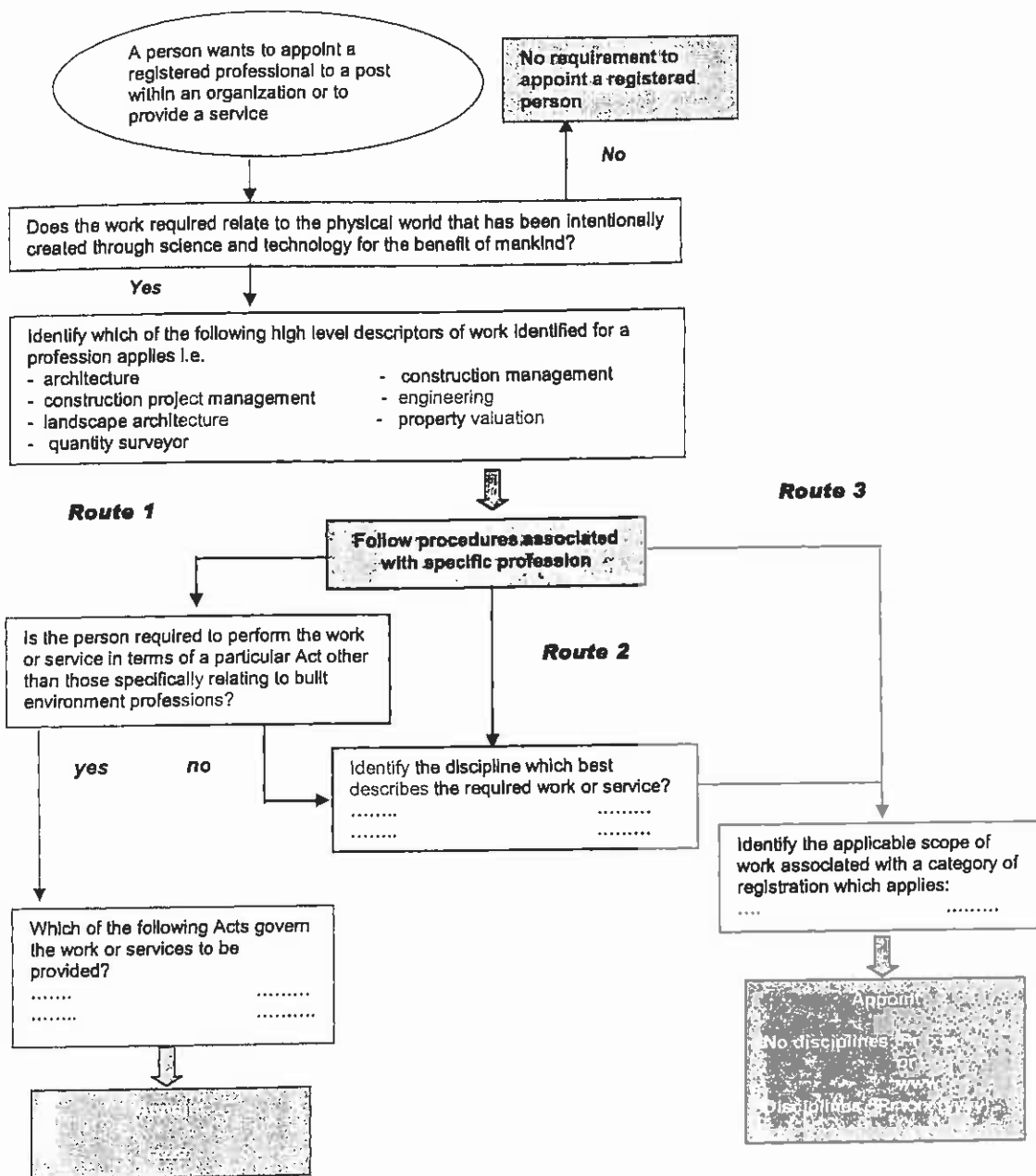
Registered persons may not perform statutory duties without being registered in the category of registration associated with the performance of such duties

Persons may be required to be registered in more than one place on the register in order to provide the services that they desire to offer.

The work identified for a profession or discipline shall be such that it includes the work performed by:

- a) academics, mentors and researchers; and .
- b) officials employed by all organs of state in all spheres of government responsible for the delivery and maintenance of buildings and infrastructure.

The CBE will conduct every 5 years a review to ensure that the professions, disciplines and categories of registration and the associated scope of work associated therewith remain relevant and continue to serve the needs of both the public and the profession. Councils for the Professions may, on a case by case basis request the CBE to review the scope of work associated with a registered person or propose an amendment to the work identified for the built environment profession should the need arise between the five year reviews.



Note: One of the three routes will, depending upon the nature of the profession, be used to identify work for a profession.

Figure 1: The application of the CBE policy in identifying the scope of work for every category or registered person in terms of Section 20(2) of the Council for the Built Environment Act