REPUBLIC OF SOUTH AFRICA

BUILT ENVIRONMENT PROFESSIONS BILL

...

(MINISTER OF PUBLIC WORKS)

BILL

To establish the South African Council for the Built Environment; to provide for the regulations of the built environment, to provide for the registration and blacklisting of built environment professional service providers to regulate education, training and registration of professionals within the built environment; to provide for the establishment of professional boards; to provide for disciplinary hearings in respect of unprofessional conduct by registered persons; to provide for a Guarantee Fund and a Board for the Guarantee Fund; to empower the Minister to make regulation and mandatory standards prescribing the requirements for the registration of professional service providers, credentialing scheme, and categories of registration, and annual application fees; to provide for offense and penalties; to provide for the repeal of various Acts; to provide for affiliation of professional bodies, voluntary associations or organizations whose members are engaged in activities in the built environment; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. (1) In this Act, unless the context indicates otherwise—

''accredit'' means recognition or certification of educational programmes by the council or the relevant professional board in terms of this Act or any other law as meeting the prescribed education and training requirements for registration under this Act;

"actively practices" means to practice on an ongoing basis in one of the categories contemplated in section 32 of the bill and includes a person qualified in the build professional disciplines who is employed by any sphere of government, allied professional bodies or any educational institution;

"affiliated body" means body or body associated with the council and have been granted membership in the council in terms of Section 6 (1) (a) of the

Act;

"allied professional board or body" means professional board or body associated with the council and have been granted membership in the council in terms of Section 6 (1) (a) of the Act;

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

"built environment practitioner" means any person, including a student, registered with the council in a profession registrable in terms of this Act;

''built environment profession'' means any profession in the built environment for which a professional board has been established in terms of section 15, and includes any professional category within that profession;

''**candidate**'' means a person registered as such in a built environment profession in terms of section 15, and includes any professional category within that profession;

"chief executive officer" means a person appointed in terms of section 12;

''committee'' means any committee of the council or of a professional board established under this Act;

''community representative'' means a person appointed by the Minister in terms of section 6 as a representative of the community and who is not registered in terms of this Act;

''council'' means the South African Council for the Built Environment established by section 2;

"**credentialing scheme"** means a formal process of verifying the qualifications and legitimacy of professionals, particularly in the built environment to ensure they meet the necessary standards for practice.

"financial loss" means a reduction in monetary value, resources, or economic benefit resulting from non-compliance, project failures, delays, defects, contractual breaches, regulatory penalties, or poor planning and management within construction, infrastructure, or property-related activities. Such losses may affect government institutions, contractors, professionals, developers, or the public through increased costs, reduced revenue, legal claims, or damage to assets and investments.

"a fine" means a financial penalty imposed by a regulatory authority, municipality, or statutory body for non-compliance with laws, regulations, standards, permit conditions, or safety requirements related to planning, construction, infrastructure development, or property use to enforce compliance, deter unlawful conduct, and promote safe, lawful, and sustainable built environment practices.

''fruitless and wasteful expenditure'' has the meaning as assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"guarantee fund" means the fund established in terms of section 57 of this Act to protect stakeholders form financial loss as a result of actions and omissions attributed to built environment professionals;

"imprisonment" means a legal penalty involving detention in a correctional facility, imposed by a court for serious non-compliance with built environment legislation, regulations, or professional codes of conduct, particularly where such violations result in unlawful, negligent, unsafe, fraudulent, or harmful practices affecting public safety, infrastructure, or professional integrity.

''irregular expenditure'' has the meaning as assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

''Minister'' means the Minister responsible for public works and infrastructure;

" other professional bodies or boards" means any professional body operating outside the built environment whose professionals actively practices the built environment;

''prescribe'' means prescribe by regulation;

''professional'' means a person who is registered as such in any of the built environment professions;

''professional board'' means a professional board established in terms of section 15;

''professional category'' means a division or subdivision of a field in which any registered built environment profession may be practiced;

''register''—

(a) when used as a noun, means a register kept in accordance with this Act and, when used in relation to any built environment professional service provider professional category or a registered person in any such professional category in respect of which a register is kept, means the register kept for that category; and *(b)* when used as a verb, means to enter information into a register contemplated in paragraph *(a)*;

"registered person" means a person who is registered in terms of this Act in terms of section 15, and includes any professional category within that profession;

‘‘regulation’’ means any regulation made in terms of this Act;

‘‘rule’’ means any rule made in terms of this Act;

‘‘speciality’’, in relation to a professional registered in respect of any built environment profession, means any particular discipline, division or subdivision of a profession that is recognised under this Act as a speciality in which such professional specialises or intends to specialise;

‘‘this Act’’ includes any regulation and rule, and any notice or order issued or made under this Act;

‘‘unauthorised expenditure’’ has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

‘‘unprofessional conduct’’ means conduct which, when regard is had to the profession of a person registered under this Act, is improper, disgraceful, dishonourable or unworthy;

‘‘voluntary association’’ means any voluntary association r ecognised by the council in terms of section 5.(2)

Any administrative process conducted or decision taken in terms of this Act must be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless otherwise provided for in this Act.

CHAPTER I

ESTABLISHMENT, OBJECTS AND FUNCTIONS OF COUNCIL AND PROFESSIONAL BOARDS

Establishment of council

2. (1) There is hereby established a juristic person to be known as the South African Council for the Built Environment.

(2) The Public Finance Management Act, 1999 (Act No. 1 of 1999), applies to the council.

Objects of council

3. The objects of the council are to—

(a) promote sound governance and diversity within the built environment professions;

(b) create a single unified regulatory body to regulate the affairs of all built environment sectors and professional disciplines;

(c) develop any regulations that are required in terms of this Act;

(d) monitor and ensure compliance with this Act; and

(e) give effect to the objects of this Act.

Functions of council

4. (1) The council must—

General powers of council

2. The council may –

a) acquire, hire or dispose of property, borrow money on the security of the assets of the council and accept and administer any trust or donation;

b) render financial assistance to professional boards in order to enable such boards to perform their functions;

c) after consultation with the relevant professional board, consider any matter affecting the built environment professions registrable under this Act and,

d) consistent with national built environment, construction and infrastructure policies determined by the Minister, make representations or take such action in connection therewith as the council deems necessary;

e) consistent with national built environment, construction and infrastructure policies determined by the Minister, make rules on all matters which the council considers necessary or expedient in order that the objects of this Act may be achieved;

f) delegate to any professional board or committee or any person such of its powers as it may determine, but shall not be divested of any power so delegated;

g) perform such other functions as may be prescribed and do all such things as the council deems necessary or expedient to achieve the objects of this Act within the framework of national built environment, construction and infrastructure policies.

Functions of Council

5. (1) The council must—

(a) Define the strategy and regulation for the built environment profession and set initial, renewal and annual fees, oversee finances and administration of the regulatory boards

(b) Regulate, control and exercise authority over professional boards and the entire built environment sector;

(c) Identify the high-risk areas of the built environment practice which should be performed by registered professionals and approve the credential required in such specific areas of specialization which the persons are credentialed to perform work.

(d) Determine the professions for which a professional board should establish

(e) Identify the principal activities that are performed by supervisors, inspectors and social facilitators and determine minimum qualifications for registration.

(f) Must appoint the independent certification board that establishes, maintains the examination and continuous professional development requirements associated with a credentialing scheme to ensure that registered professional are credentialed to provide services in high-risk areas.

(g) The certification board must establish committees to develop the scope of the certification, describe the task required, and establish certification requirements, assessment, examination, criteria for continued competence and code of conduct relating to the expected behavior.

(h) Council must convene a professional boards forum at least once a year to advise the Council. Each Professional Board association shall be permitted to have one seat on the Forum. An additional seat for professional board members should be provided for a regulated number of registered professionals represented by a professional board.

(i) Council must convene an annual stakeholder Forum comprising voluntary association at least once a year to advise the Council and discuss matters raised by such association in writing before the meeting. Each Voluntary Association shall be permitted to have one seat on the Forum.

(j) co-ordinate the activities of any professional board established in terms of this Act and must act as communicatory body for such professional board;

(k) promote and regulate inter-professional liaison between built environment professions, and built environment sector in the public interest;

(l) determine strategic policy in accordance with policy determined by the Minister of Public Works and Infrastructure, and must make decisions in terms thereof with regard to the professional boards and the built environment professions in respect of matters such as finance, education, training, registration, code of conduct, disciplinary procedure, scope of the professions, inter-professional matters and continued maintenance of professional competence;

(m) subject to the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), the Higher Education Act, 1997 (Act No. 101 of 1997), the Skills Development Act, 1998 (Act No. 97 of 1998), and the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), control and exercise authority in respect of all matters affecting the education and training of persons in the built environment;

(n) ensure the uniform application of norms and guidelines set by professional boards throughout built environment professions;

(o) advise government on any matter falling within the scope of the built environment, including resource utilisation, socio-economic development, public health, safety and protection of the environment, and for this purpose must carry out such investigations as it or the relevant Minister deems necessary;

(p) communicate information to the Minister on matters of public importance acquired by the council in the course of the performance of its functions under this Act;

(q) advise the Minister with regard to the amendment of this Act, if necessary, in order to support the norms and values of the built environment professions;

(j) facilitate inter-ministerial co-operation concerning issues relating to the built environment;

(r) provide advice, if requested by the Minister, in respect of national policy that could impact on the built environment sector, human resource development in relation to the built environment professions and to the recognition of new professions;

(s) comment, if requested by the Minister, on all proposed legislation impacting on the built environment sector;

(t) coordinate the establishment of mechanisms for professionals to gain international recognition;

(u) ensure the consistent application of policy by the professional boards with regard to—

(i) accreditation of education and training institutions;

(ii) the registration of different categories of professionals;

(iii) key elements of competence testing of professionals;

(iv) a code of conduct for professionals;

(v) the principles upon which professional boards must base the determination of fee tariffs which professionals may charge for their services, taking into account any legislation relating to the promotion of competition; and

(vi) standards of health, safety and environmental protection within the built environment;

(v) in consultation with professional boards, obtain recognition for professional boards as bodies responsible for the establishment of education and training standards in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);

(w) promote co-ordination between the Council on Higher Education established in terms of the Higher Education Act, 1997 (Act No. 101 of 1997), and the professional boards in relation to the accreditation of educational institutions;

(x) liaise with the Competition Commission, established in terms of Competition Act, 1998 (Act No 89 of 1998) , on behalf of the professional boards regarding the identification of work for the built environment professions by determining policy for different categories of registered person; consult any person or voluntary association that might be impacted by the policy on the identification of work and determine the scope of work for implementation by professional boards;

(y) Review and published fees for the professional boards to ensure consistent application of the principle regarding such fees;

(z) Act as an appeal body with regard to matters referred to it in term of the law regulating the built environment professions board;

(aa) Act as investigative authority on matters pertaining to the built environment and structural and infrastructure collapses report to it or initiate investigation to advance public protects and safety;

(bb) submit to the Minister—

(i) a five-year strategic plan within six months of the council coming into office, which must include details as to how the council plans to fulfill its objectives under this Act;

(ii) every six months, a report on the status of built environment professions and on matters of public importance that have come to the attention of the council in the course of the performance of its functions under this Act; and

(iii) an annual report within six months of the end of the financial year; and

(v) ensure that an annual budget for the council and professional boards is drawn up and that the council and professional boards operate within the parameters of such budget.

(2) The council may—

(a) acquire, hire or dispose of property, borrow money on the security of the assets of the council and accept and administer any trust or donation; render financial assistance to professional boards in order to enable such professional boards to perform their functions;

(b) consider any matter affecting the professions registrable under this Act and make representations or take such action in connection therewith as the council deems necessary; and

(c) delegate to any professional board or committee or any person such of its functions as it may determine but is not divested of any function so delegated.

(3) The Council -

(a) must act as a centre of excellence and innovation on matters pertaining to the built environment.

(b) must, in consultation with the Minister, determine best practice priorities for the built environment sector.

(c) must, by notice in the Gazette, publish built environment best practice standards and guidelines;

(d) must develop performance indicators related to those best practice standards and guidelines and establish mechanisms to monitor their implementation and evaluate their impact;

(e) establish and maintain a national register of built environment professional services providers and professional practices and credentialing scheme and which promotes accountability

(4) The council may perform such other functions as may be prescribed and, generally, do all such other things as may be necessary or expedient in order to achieve the objects of this Act.

Remuneration of Council and Council Committees

(2) A member of the Council or a committee of the Council receives such remuneration and allowances as determined by the Minister, in consultation with the Minister of Finance and in line with the Public Finance Management Act (PMFA).

Recognition of Voluntary Associations

6. (1) The council must determine, after consultation with a professional board, the requirements with which a voluntary association must comply to qualify for recognition by the relevant professional board.

(2) Any voluntary association may apply in the prescribed manner to the relevant professional board to be recognised as such.

(3) The professional board must, if the voluntary association complies with the requirements determined in terms of subsection (1), recognise that association and issue it with a certificate of recognition.

(4) Any voluntary association aggrieved by the decision of the professional board may appeal to the council in the prescribed manner within 30 days of receipt of such a decision.

(5) A certificate of recognition is valid for a period of five years from the date of issue.

(6) A voluntary association must display its certificate of recognition in a prominent place at its head office.

(7) The recognition of a voluntary association lapses—

(a) if that association no longer complies with the requirements contemplated in subsection (1); or

(b) at the expiry of the period referred to in subsection (5).

(8) A voluntary association must, at least three months prior to the expiry of its recognition, apply in the prescribed manner to the relevant professional board for the renewal thereof.

(9) A voluntary association whose recognition has lapsed must return its

certificate of recognition to the relevant professional board within 30 days from the date on which it is so directed in writing by that professional board.

(10) The council must consult with—

(a) all voluntary associations;

(b) any person;

(c) any body; or

(d) any industry,

that may be affected by the identification of the type of work that may be performed by persons registered in any of the categories in respect of the profession in question, including work that falls within the scope of any other profession regulated under this Act.

Constitution and Nomination Procedure of council

7. (1) The nomination process' rules and procedures to be developed and published for comments with prior approval by the Minister

(2)The Minister must appoint the members of the council in consultation with the Cabinet, through a public consultation process.

(3)The council consists of not more than 13 following members appointed by the Minister, taking into account, among other things: the need to achieve a reasonable balance of expertise and knowledge in the built environment, whilst broadly reflecting the diversity of the Republic.

a. Six professionally registered persons with appropriate experience for every built environment discipline or body that perform work in the built environment.
b. one registered person with qualifications and experience in the built environment in the employment of the Department of Public Works;
c. one person in the employment of the Department of Higher Education, recommended by the Minister of Higher Education.
d. two registered persons with a qualification and experience in the built environment in the employment of other state departments, within whose functional areas built environment professions are also practiced, on the recommendations of the relevant Ministers;
e. three representatives, of whom must have the expertise necessary in
f. legal, human resource, finance and auditing for the proper carrying out of the functions of the council.
g. Before appointing members of the Council, the Minister must publish

a notice in the Gazette and two national publications, calling upon members of the public to submit to the Minister, within a period of at least 30 days from the publication of the notice, nominations of persons as candidates for positions on the Council.

h. The notice must set out the—
i. time commitments reasonably expected from members of the Council;
j. term of office for which appointments are considered;
k. criteria for disqualification as members of the Council;
l. requirements with which nominations must comply, including those listed in subsection (7);
m. closing date for nominations;
n. procedure to be adopted regarding nominations; and
o. the address to which nominations must be delivered.
p. The Minister must—
q. appoint a selection panel to shortlist and recommend to the Minister a list of candidates for appointment as members of the Council; and determine the terms of reference for the selection panel.
r. The selection panel must,—
    i. compile and submit to the Minister a list of recommended candidates which list must have more than one candidate per position to be filled; and
    ii. must submit a curriculum vitae of each recommended candidate Before the selection panel compiles a list, it must ensure that candidates have been subjected to security screening and probity check process.
s. The Minister must—
    i. upon receipt of a list of recommended candidates contemplated in section (7), consider the list;
    ii. subject to section 7 appoint the members contemplated in subsection (1) from the list of recommended candidates, after the Cabinet has endorsed the appointment of members of the Council from the list; and
    iii. issue each successful candidate with a letter of appointment stating the term and conditions of his or her appointment.

(4) Should the panel referred to under subsection (10) is unable to recommend

suitably qualified persons or the required number of suitably qualified persons, the Minister must, on the recommendation of the panel readvertise and follow the procedure set out in this section.

(5)The Minister must, within 30 days after the appointment or reappointment of a member or members of the Council, publish in the Gazette—

(a) the name of every person appointed as a member of the Council;

(b) the date from which the appointment takes effect; and

(c) the duration of the period for which the appointment is made.

(6)The Minister must, from the members contemplated in subsection (12) appoint persons as—

(a) the chairperson of the Council ; and the deputy chairperson of the Council.

(7) If a person, who is a political office bearer, accepts an appointment in terms of this section, he or she must vacate the political office before the appointment in terms of this section takes effect.

(8)The chief executive officer of the Board is an ex officio member of the Council.".

(9) Subject to section 7, a member of the council holds office for a period of four years but is eligible for reappointment for one more term.

(10) If any professional board contemplated in subsection (1)(a) or the statutory body referred to in subsection (1)(f) fails to designate a professional or person, as the case may 10 be, or fails to inform the chief executive officer as is required in terms of subsection (3), the Minister must make the necessary designation, and any designation so made by the Minister must be regarded as having been properly made in terms of the appropriate provision of this section.

(a) has been declared by a court to be mentally ill;

(b) is an unrehabilitated insolvent;

(c) serves on more than three boards of public entities or private companies;

Constitution of council

8. (1) The council consists of the following members appointed by the Minister, taking into account, among other things: the need to achieve a reasonable balance of expertise and knowledge the built environment, whilst broadly reflecting the

race, gender and geographic composition of the Republic.

a. One professional for every built environment professional board and board of allied professions board or body that perform work in the built environment, each professional designated by the professional board or body in question;
b. one person in the employment of the Department of Public Works;
c. one person in the employment of the Department of Education, recommended by the Minister of Education;
d. not more than two persons in the employment of state departments, within whose functional areas built environment professions are also practised, on the recommendations of the relevant Ministers;
e. six community representatives, of whom at least three must have the expertise necessary for the proper carrying out of the functions of the council; and
f. two persons designated by Higher Education South Africa.

(2) *(a)* Subject to section 7, a member of the council holds office for a period of four years, but is eligible for reappointment for one more term.

(b) At the end of the first term of the council 50 per cent of the members of the council may not be reappointed by the Minister.

(3) Not less than six months prior to the date of expiry of the term of office of the 5 members of the council, the persons and bodies referred to in subsection (1) must inform the registrar in writing of the names of the persons recommended or designated by them, as the case may be, in terms of that subsection.

(4) If any professional board contemplated in subsection (1)*(a)* or the statutory body referred to in subsection (1)*(f)* fails to designate a professional or person, as the case may 10 be, or fails to inform the registrar as is required in terms of subsection (3), the Minister must make the necessary designation, and any designation so made by the Minister must be regarded as having been properly made in terms of the appropriate provision of this section.

(5) The names of the members of the council and the date of commencement of their term of office must be published by the registrar in the *Gazette* as soon as possible after the members are appointed.

Disqualification, vacation of office, filling of vacancies and dissolution of council

9. (1) A person may not be appointed as a member of the council if that person—

(c) is not a South African citizen or ordinarily resident in the Republic;

(d) is an unrehabilitated insolvent or has entered into a composition with the creditors of his or her estate;

(e) is, at the time of his or her appointment, or was, during the preceding 12 months

(i) a member of a municipal council, a provincial legislature or Parliament; or

(ii) a provincial or national office bearer or employee of any party, organisation or body of a political nature;

(f) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was sentenced to imprisonment without the option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(g) subject to subsection (3), has been convicted of an offence in a foreign country, and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(h) has, as a result of disgraceful or improper conduct, been removed from an office of trust; or

(i) has, in terms of this Act or any of the Acts repealed by section 52, been found guilty of unprofessional conduct by the relevant professional board or the relevant professional council, as the case may be.

(2)A member of the council must vacate his or her office if he or she

(a) becomes disqualified in terms of subsection (1);

(b) resigns by written notice addressed to the registrar;

(c) becomes disqualified under this Act from practicing his or her profession;

(d) becomes a patient as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);

(e) has been absent without leave of the chairperson of the council from more than two consecutive meetings of the council;

(f) is removed by the Minister in the public interest and for a just cause, after consultation with the person or body by whom the member was designated or appointed;

(g) is removed by the Minister in terms of subsection (8);

(h) is a member of the council and the Minister dissolves the council in terms of subsection (5);

(i) was appointed in terms of section 6(1)*(b)*, *(c)* or *(d)* and ceases to be employed by the State; or

(j) was appointed in terms of section 6(1)*(f)* and ceases to be associated with Higher Education South Africa.

(3) For the purposes of subsection (1)*(e)*, the Minister must, in relation to the conviction, take cognisance of the prevailing circumstances in a foreign country.

(4) Every vacancy on the council arising from a circumstance referred to in subsection (2) and every vacancy caused by the death of a member, must be filled in the manner in which the member who vacates the office was required to be appointed, and any member so appointed holds office for the unexpired portion of the period for which the member who vacates the office was appointed.

(5)The Minister may dissolve the council if the council fails to comply with any of the provisions of this Act, and all the functions of the Council vest in the Minister until a new council is constituted.

(6)If the Minister reasonably believes that the council is failing to comply with the provisions of this Act, he or she may in writing request copies of the records, including minutes of meetings and financial statements, of the council in order to ascertain the extent of the council's compliance or non-compliance with the provisions of this Act, and the registrar must furnish copies of all such records within 15 days of the date of the Minister's request.

(7)The Minister may appoint any person to investigate the affairs of the council and may request that person to prepare a report in respect of such investigation for submission to the Minister.

(8) The Minister may terminate membership of a member of the council if the member

(a) fails to perform his or her functions as a member of the council;

(b) obstructs or impedes any member of the council in the performance of his or her functions in term of this Act;

(c) fails to declare a conflict of interest between his or her affairs and those of the council;

(d) acts in a manner that is likely to bring the council or the built environment professions into disrepute;

(e) misuses or misappropriates council funds or resources; or

(f) approves or engages in unauthorised or irregular expenditure or fruitless and wasteful expenditure.

Chairperson and vice-chairperson

10. (1) The Minister must appoint the chairperson and vice-chairperson of the council.

(2) The chairperson and vice-chairperson hold office during the term of office of the members of the council unless the chairperson or vice-chairperson resigns or ceases to be a member of the council.

(3) The vice-chairperson may, if the chairperson is absent or for any reason unable to act as chairperson, perform all the functions of the chairperson.

(4) If both the chairperson and the vice-chairperson are temporarily absent for any reason, the chairperson or the vice-chairperson may appoint another member of the council to act in their place.

(5) If both the chairperson and the vice-chairperson are absent from any meeting and have not appointed a member in terms of subsection (4), the members present must elect one of their number to preside at that meeting and the person so elected may, during that meeting and until the chairperson or the vice-chairperson resumes duty, perform all the functions of the chairperson.

(6) If both the chairperson and the vice-chairperson are absent or unable to perform their functions in terms of this Act, the members of the council must elect one of their number to act as chairperson until the chairperson or the vice-chairperson resumes duty or vacates office.

(7) A chairperson or a vice-chairperson may vacate office as chairperson or vice-chairperson, as the case may be, without terminating his or her membership of the council.

Meetings of council

11. (1) The first meeting of the council must be held at a time and place determined by the Minister, and thereafter meetings must be held at such times and at such places as the council may determine.

(2) The council must hold at least four meetings in a year, and may in addition hold such further meetings as the council may from time to time determine.

(3) *(a)* The chairperson may at any time convene a special meeting of the council, to be held on such a date and at such place as he or she may determine.

(b) The Chairperson must, upon a written request by the Minister or a written request signed by at least one third of the total number of members, convene a special meeting to be held, within thirty days after the date of receipt of the request, on such a date and at such a place as the chairperson may determine.

(c) The request referred to in paragraph (b) must clearly state the purpose of the special meeting.

Quorum and procedure at meetings

12. (1) The majority of the members of the council constitute a quorum at any meeting of the council.

(2) (a) Subject to subsection (1), a decision of the majority of members of the council present at any meeting constitutes a decision of the council.

(b) In the event of an equality of votes, the member presiding has a casting vote in addition to a deliberative vote.

(3) No decision taken by the council or act performed under authority of the council is invalid by reason only of an interim vacancy on the council or of the fact that a person who is not entitled to sit as a member of the council sat as a member at the time when the decision was taken or the act authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

Committees

13. (1) The council may establish such number of committees as may be necessary or expedient, each consisting of so many persons appointed by the council as the council may determine but including at least one member of the council, who must be the chairperson of such a committee.

(2) The council must determine the terms of reference of the committees established under this section.

Powers and Functions of the Chief Executive Officer

14. The chief executive officer is the head of the Council administration and a chief spokesperson.

15. Subject to the directive of Council, the chief executive officer is responsible for and accountable to council for :
    (a) the effective performance of the function and the objects of the Council;
    (b) the day-to-day running of the affairs of Council and its sub-committees
    (c) the development and implementation of a strategic plan and polices of Council

(d) the development and creating of efficient administration, including ensure effective secretariat services to Council, professional boards and sub-committees

(e) for the establishment of the fit for purpose organization structure, including appointment, control and training of employees

(f) reporting to Council on a quarterly basis or at the request of the Council on the performance of the Council

(g) performance of any such powers or functions as may be, from time to time be delegated by Council.

Appointment of Chief Executive Officer

16. Remuneration and conditions of service of chief executive officer, is subject to such terms and conditions and entitled to a remuneration package, as determined by the Council with the concurrence of the Minister of Public Works and Infrastructure.

Appointment of chief executive officer and staff

17. (1) Subject to subsection (4), the council must appoint a chief executive officer and may delegate to the chief executive officer the power to appoint such other persons as the chief executive officer may deem necessary for carrying out the functions specified under this Act, and the council may also delegate to the chief executive officer the power to dismiss such other persons.

(3) The chief executive officer is the secretary of the council and of each professional board and must perform the functions

(a) entrusted to him or her in terms of this Act; and

(b) delegated to him or her by the council, a professional board or a committee established in terms of section 11.

(4) The chief executive officer may in writing authorise any member of his or her staff to perform any function entrusted to the registrar in terms of this Act, but is not divested of the performance of such function.

(5) The appointment and dismissal of the chief executive officer ~~is~~ shall be subject to the approval of the Minister.

Corporate finance and governance of council

18. (1) The funds of the council consist of any money received in terms of this Act, and all other monies accrued to the council from any other legal source, including—

(a) registration, examination, annual and other fees payable under this Act;

(b) donations, contributions or grants received from any person, institute or government; and

(c) interest on investments.

(2) Subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), the council must use its funds to defray expenses incurred in connection with the performance of its functions and the functions of professional boards under this Act.

(3) The council may invest any unexpended portion of its funds and may establish such reserve funds and pay therein such amounts as it may deem necessary or expedient.

(4) The council must, during each financial year, submit an estimated income and expenditure statement of the council for the following financial year to the professional boards for comment.

(5) The Minister may, with the concurrence of the Minister responsible for finance

(a) advance or grant money to the council, from money appropriated by Parliament, to enable the council to perform its functions; and

(b) determine the conditions applicable to and repayment of the advance.

(6) Subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), the chief executive officer must

(a) keep full and proper records of all money received and expenses incurred by, and of all assets, liabilities and other financial affairs of, the council;

(b) as soon as is practicable after the end of each financial year prepare annual financial statements in respect of the financial year in question in accordance with recognised accounting practices;

(c) ensure that the council has and maintains—

(i) effective, efficient and transparent systems of financial and risk management and internal control;

(ii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and

(iii) a system for properly evaluating all major capital projects prior to a final decision on the project;

(d) ensure the effective, efficient, economical and transparent use of the resources of the council;

(e) take effective and appropriate steps to—

(i) collect all money due to the council;

(ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and

(iii) manage available working capital efficiently and economically;

(f) take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the chief executive officer's responsibilities are considered and, when necessary, bring those considerations to the attention of the council;

(g) be responsible for the management, including the safeguarding and maintenance, of the assets and for the management of the liabilities of the council;

(h) settle all contractual obligations and pay all money owing by the council within 30 days of the date of receipt of an invoice or within a period agreed upon by the relevant creditor and the council;

(i) ensure that the expenditure of the council is in accordance with the decisions of the council;

(j) submit the financial statements within two months after the end of each financial year to an independent auditor for auditing; and

(k) submit within six months after the end of each financial year to the council for approval, and thereafter to the Minister within one month of such approval—

(i) an annual report on the activities of the council during each financial year;

(ii) the financial statements for that financial year after those statements have been audited; and

(iii) an independent auditor's report on those statements.

(7) The council must ensure that the requirements of subsection (6) are met and fulfilled.

(8) If the chief executive officer is unable to comply with any of the responsibilities determined in subsection (6), he or she must promptly report the inability, together with reasons, to the council.

(9) Any person who obstructs the chief executive officer or the council in fulfilling any requirement of subsection (6) or (7) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

Minister may rectify defects

19. If anything required to be done under this Act in connection with the appointment of any member is omitted or not done within the time or in the manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error or may validate anything done in an irregular manner or form, in order to give effect to the objects of this Act.

Establishment of professional boards

20. (1) The Minister may, after consultation with the council and by notice in the *Gazette*, establish a professional board with regard to any built environment profession in respect of which a register is kept in terms of this Act, or with regard to two or more such built environment professions.

(2) The Minister may, after consultation with the council and by notice in the *Gazette*, change or reconstitute the professional boards with regard to the built environment professions for which professional boards have been established, and establish other professional boards.

(3) The Minister must consult with any body which is or persons who are in the opinion of the council representative of the majority of persons to be affected by the change, reconstitution or establishment contemplated in subsection (2).

(4) The Minister may, after consultation with the council, make regulations relating to the constitution, functions and functioning of a professional board.

(5) The regulations contemplated in subsection (4) must at least provide

(a) for the appointment of not more than 20 members to a professional board by the Minister on the basis of nominations made by the professionals in the built environment profession in question;

(b) for the appointment by the Minister of persons representing the community to a professional board, and must provide that those representatives may not be professionals registered with that professional board;

(c) that not less than 20 per cent of the members of a professional board must be community representatives contemplated in paragraph *(b)*, but with a minimum of one such representative for every professional board if 20 per cent is not mathematically possible;

(d) for representation by relevant educational institutions;

(e) for representation by state departments within whose functional areas the profession is practised;

(f) for the appointment of one person versed in law, where appropriate;

(g) the procedure to be followed for the nomination and appointment, as the case may be, of the members of a professional board;

(h) the establishment by a professional board of such number of committees as it may deem necessary, each consisting of so many persons appointed by the professional board as it may determine, but including at least one member of the professional board, who must be the chairperson of such committee;

(i) the delegation by a professional board of such of its functions to any person or any committee established as the board may determine, provided the board is not divested of any function so delegated;

(j) the election of a chairperson and vice-chairperson of a professional board by the members of a professional board and the powers and functions of such a chairperson or vice-chairperson;

(k) the term of office of the members of a professional board; and

(l) the vacation of office by a member of and the filling of vacancies in a professional board.

Functions of professional boards

21.(1) A professional board must—

a. consult and liaise with other professional boards and authorities on matters affecting the professional board;
b. advise and make recommendations to the council on all matters affecting the education and training of persons in, and the manner of the exercise of the practices pursued in connection with, any profession falling within the ambit of the professional board;
c. assist the council with liaison in the field of education and training contemplated in paragraph *(b)*, both in the Republic and elsewhere, and to promote the standards of such education and training in the Republic;

d. make recommendations to the council on any matter falling within the scope of this Act as it relates to any profession falling within the ambit of the professional board in order to support the universal norms and values of such profession, with greater emphasis on professional practice, democracy, transparency, equity, accessibility, social responsibility and community involvement;

e. make recommendations to the council on matters of public importance acquired by the professional board in the course of the performance of its functions under this Act;

f. maintain and enhance the dignity of the profession and the integrity of the persons practicing such profession; and

g. guide the profession and must protect the public interest.

(2)A professional board may—

(a) conduct accreditation visits to any educational or training institution that has a department, school or faculty of a profession falling under the ambit of a professional board;

(b) subject to the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), the Higher Education Act, 1997 (Act No. 101 of 1997), the Skills Development Act, 1998 (Act No. 97 of 1998), and the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), either conditionally or unconditionally grant, refuse or withdraw accreditation with regard to all educational and training institutions and their educational curricula or training programmes with regard to the built environment profession falling within the ambit of the professional board;

(c) consult with the Council on Higher Education established in terms of the Higher Education Act, 1997 (Act No. 101 of 1997), regarding matters relevant to education and training within the profession;

(d) consult with the South African Qualifications Authority established under the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), to determine competency standards for the purposes of registration in the profession;

(e) establish mechanisms for professionals to gain recognition of their qualifications and professional status in other countries;

(f) remove any name from a register or, upon payment of a prescribed fee, restore a name thereto, or may suspend a professional from practicing his or her profession pending the institution of a formal disciplinary inquiry in terms of Chapter III;

(g) appoint examiners and moderators, conduct examinations or evaluations, grant certificates and charge fees in respect of such examinations, evaluations or certificates as may be prescribed;

(h) consider any matter affecting any profession falling within the ambit of the professional board and may make representations or may take such action in connection therewith as the professional board deems advisable;

(i) upon application by any person recognise any qualification held by him or her, whether such qualification was obtained in the Republic or elsewhere, as being equal, either wholly or in part, to any prescribed qualification;

(j) register a person recognised in terms of paragraph *(i)* upon compliance with such additional requirements as may be determined by the professional board, whereupon such person must, to the extent to which the qualification has been so recognised, be regarded to hold such prescribed qualification;

(k) conduct investigations in relation to an emergency that threatens health and safety of the public; and

(l) perform such other functions as may be prescribed and, generally, do all such other things as the professional board deems necessary or expedient in order to achieve the objects of this Act in relation to the built environment profession falling within the ambit of the professional board.

(3)*(a)* A decision by a professional board relating to a matter falling entirely within its ambit is not subject to ratification by the council.

(b) The council must, for the purposes of paragraph *(a)*, determine whether a matter falls entirely within the ambit of a professional board or not.

CHAPTER II

EDUCATION, TRAINING AND REGISTRATION OF PROFESSIONALS

Education and training

22. (1) Subject to the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), the Higher Education Act, 1997 (Act No. 101 of 1997), the Skills Development Act, 1998 (Act No. 97 of 1998), and the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), no educational institution or training facility may offer or provide any education or training having as its object to qualify any person for the practising of any built environment profession to which the provisions of this Act apply, unless such education and training has been accredited by the professional board in question.

(2) Any person, educational institution or training facility wishing to offer education or training contemplated in subsection (1) must, before offering or providing such education or training, apply in writing to the professional board in question for the accreditation of such education or training, and must

(a) furnish such particulars regarding the education or training as the professional board in question may require; and

(b) pay the prescribed accreditation fees and annual fees to remain accredited.

(3) The professional board concerned may grant or refuse any application lodged in terms of subsection (2) and, having granted such application, may impose such conditions and requirements as it may deem necessary subject to which the education or training in question may be provided at such educational institution or training facility.

(4) Any person who contravenes or fails to comply with any provision of this section is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months or both a fine and such imprisonment.

(5) A professional board is the education and training quality assurer for its built environment profession in terms of the South African Qualification Authority Act, 1995 (Act No. 58 of 1995).

Compulsory registration prerequisite to practise as professional

23. (1) No person may practise within the Republic any built environment profession, unless he or she is registered in terms of this Act.

(2)Every person desiring to be registered in terms of this Act must apply to the chief executive officer in the prescribed manner.

(3)If the chief executive officer is satisfied that the documents submitted in support of the application satisfy the requirements of this Act, the registrar may, upon payment by the applicant of the prescribed registration fee, register the applicant and issue a registration certificate authorising the applicant, subject to this Act or any other law, to practise the built environment profession in respect of which he or she applied for registration within the Republic.

(4) If the chief executive officer is not satisfied that the applicant satisfies the prescribed requirements or that the qualification or other documents submitted in support of the application satisfy the requirements of this Act, the chief executive officer must refuse to register the applicant, but must, if so required by the applicant, submit the application to the professional board in question for a decision.

(5) Any person who is not registered in terms of this Act, but who practises a built environment profession in contravention of this section, or who pretends to hold such registration, is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Keeping of registers

24. (1) The chief executive officer must keep registers in respect of persons registered in terms of this Act, and must enter in the appropriate register the name, relevant contact details, qualifications, date of initial registration and such other particulars, including the registration category in which they hold registration and the name of their speciality, professional category or categories, if any, as the relevant professional board may determine, of every person whose application for registration in terms of section 18(2) has been granted.

(2)The chief executive officer must

(a) keep the registers correctly and in accordance with the provisions of this Act;

(b) remove from the registers the names of all registered persons who have died or whose names have to be removed in terms of this Act; and

(c) make the necessary alterations to the entries contemplated in subsection

(1) in respect of registered persons.

(3) Every registered person who changes his or her contact details must in writing notify the registrar thereof within 30 days after such change.

(4) No qualification may be entered in the register unless the chief executive officer is satisfied that the person claiming to possess such qualification is entitled thereto.

(5) *(a)* The chief executive officer must remove from the register any entry which is proven to the satisfaction of the professional board to have been made in error, through misrepresentation or in circumstances not authorised by this Act.

(b) The chief executive officer must enter in the register a record of the reason for every such removal, and the person in respect of whose entry such removal has been made, must be notified thereof by the chief executive officer in the manner contemplated in section 20(2).

(c) Any certificate issued in respect of the registration in question must be regarded as having been cancelled from the date on which notice has been given in terms of paragraph (b).

Removal of name from, and restoration of name to, register

25. (1) The chief executive officer must, if directed by a professional board or committee empowered to do so, or may, if acting on the established policies of the professional board, remove from the register the name of any person—

a. who has requested that his or her name be removed from the register, in which case such person may be required to lodge with the registrar an affidavit to the effect that no disciplinary or criminal proceedings are pending against him or her, or no disciplinary or criminal proceedings are being or are likely to be taken against him or her;
b. whose name has been removed from the register, record or roll of any university from which that person received the qualification by virtue of the holding whereof he or she was registered;
c. who has been found guilty of unprofessional conduct and on whom a penalty of striking off the register has been imposed; or
d. who has been registered in error or through fraud or misrepresentation.

(2) Notice of the removal in terms of subsection (1) of his or her name from the register must be given by the chief executive officer to the person concerned by way of certified mail, facsimile or electronic transmission

addressed to such person at the address appearing in respect of him or her in the register.

(3) As from the date on which the notice has been given in terms of subsection (2)—

(a) any registration certificate issued in terms of this Act to the person concerned must be regarded as having been cancelled; and

(b) such person must cease to practise the built environment profession in respect of which he or she was registered or to perform any act which he or she, in his or her capacity as a registered person, was entitled to perform, until such time as his or her name or the entry removed from the register in terms of section 19(5), as the case may be, is restored to the register.

(4) (a) If it appears to the judge concerned from documents presented to him or her in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002), or if it is brought to his or her notice in any other manner, that the person to whom the document relates is a person registered under this Act, the judge must, if the said person is declared a mentally ill person in terms of the Mental Health Care Act, 2002, direct that a copy of the order declaring such person a mentally ill person be transmitted to the registrar.

(b) The chief executive officer must, upon receipt of the copy of the order, remove the name of the person concerned from the register.

(5) The name of a person whose name has in terms of this section been removed from the register or an entry removed from the register in terms of section 19(5), may be restored to the register by the chief executive officer upon the person concerned

(a) applying on the prescribed form for such restoration;

(b) paying any fee prescribed in respect of such restoration;

(c) in the case where his or her name has been removed from the register in terms of subsection (4), submitting proof to the satisfaction of the professional board of his or her discharge in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002), from the institution in which he or she had been detained;

(d) paying any annual fee which was not paid and payment of such additional fee as may be prescribed; and

(e) complying with such other requirements as the relevant professional board may determine.

Suspension of professionals and revocation of such suspension

26. (1) A relevant professional board or a committee to whom the function has been delegated may authorise the chief executive officer to suspend the registration of any person—

(a) who has failed to pay the prescribed annual fee on the date when it became due for payment;

(b) who has been found guilty of unprofessional conduct and on whom a penalty of suspension has been imposed by the disciplinary committee;

(c) who has failed to comply with the prescribed requirements in respect of continuing professional development; or

(d) who, on the basis of a complaint, charge or allegation lodged with the council or information available at the disposal of council, is posing an imminent threat or danger to the public in terms of his or her professional practice.

(2) The chief executive officer must issue the notice of suspension and send it to the person contemplated in subsection (1) by way of certified mail, facsimile or electronic transmission to the address appearing in respect of such person in the register.

(3) As from the date on which the notice referred to in subsection (2) has been issued—

(a) any registration certificate issued in terms of this Act to the person concerned must be regarded as having been suspended; and

(b) such person must immediately cease to practise the built environment profession in respect of which he or she is registered or to perform any act which he or she may perform in his or her capacity as a registered person, until such time as the suspension of his or her registration is revoked.

(4) The suspension of any person in terms of subsection (1) must be revoked by the chief executive officer upon—

(a) payment of any annual fee which was not paid and payment of such other fees as may be prescribed;

(b) expiry of the suspension period;

(c) compliance with the prescribed requirements in respect of continuing professional development; or

(d) compliance with such other requirements or conditions as the relevant professional board may determine.

Custody and publication of registers

27. The registers must be kept at the office of the council and the chief executive officer must, at intervals determined by the council and according to the instructions and on the authority of the council, cause copies of the registers or of supplementary lists showing all alterations, additions, revisions and deletions made since the last publication of the complete registers, to be printed and published or to be made available in electronic or any other appropriate format approved by the council.

Register as proof of registration

28. (1) A copy of the last published issue of a register or any supplementary list purported to have been printed and published on the authority of the council is *prima facie* proof, in all legal proceedings, of the fact therein recorded, and the absence of the name of any person from such copy is *prima facie* proof, in the absence of evidence to the contrary that raises reasonable doubt, that such person is not registered in terms of this Act: Provided that in the case of any person whose name

a. does not appear in such copy, or whose name has been added to the register after the date of the last published issue thereof, a certified copy under the hand of the registrar of the entry of the name of such person in the register, is proof that such person is registered under this Act; or

b. has been removed from the register since the date of the last published issue thereof and has not been restored thereto, a certificate under the hand of the registrar that the name of such person has been removed from the register is proof that such person is not registered in terms of this Act.

(2) A certificate of registration is evidence of registration for a period of one year only and thereafter an annual practising certificate, which must be issued upon payment of the prescribed annual fee and the submission of such information as may be required by the council to enable it to keep accurate statistics on human resources in the built environment field, must be regarded as proof of registration.

Issue of duplicate registration, certificate of status, extract from register or certificate by ~~registrar~~ CEO

29. (1) If the chief executive officer is satisfied—

a. on proof submitted by the registered person concerned, that a registration certificate has been damaged or destroyed; or

b. by virtue of an affidavit submitted by the registered person concerned, that a registration certificate has been lost, the registrar may issue a duplicate registration certificate to that person upon payment of the prescribed fee.

(2) The chief executive officer may, upon payment of the prescribed fee and after the submission of an affidavit by a registered person that no criminal or disciplinary proceedings are pending against him or her, issue to that person a certificate of status containing particulars relating to—

(a) that person's registration under this Act;

(b) whether or not the person is disqualified in part or totally from practising his or her profession;

(c) whether or not any steps pertaining to unprofessional conduct are pending against the person concerned at the time of issuing the certificate; and

(d) whether or not the person concerned was, in the past, found guilty of any unprofessional conduct, and if so—

(i) the date of such finding;

(ii) the nature of the charges; and

(iii) the sanction imposed.

(3) The chief executive officer may issue a certified extract from the register or a certificate under his or her hand to any registered person upon payment of the prescribed fee.

(4) The chief executive officer may issue a certificate with endorsements of such conditions as may be imposed by the professional board concerned.

Qualification prescribed for registration

30. The Minister may, after consultation with the council, prescribe the qualifications obtained by virtue of examinations conducted by an accredited educational institution or examining authority in the Republic, which, when held singly or conjointly with any other qualification, entitle the holder thereof to registration in a registration category in terms of this Act if he or she has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or such requirements as may be prescribed.

Registration of persons who hold qualifications not prescribed for registration

31. (1) *(a)* The Minister may, after consultation with the council, by regulation provide that any person who holds a qualification contemplated in paragraph *(b)* may be registered by the relevant professional board in terms of such a regulation in the applicable prescribed registration category.

(b) The council may for the purposes of registration contemplated in paragraph *(a)* accept qualifications that indicate a satisfactory standard of professional education and training.

(2) A professional board may require a person contemplated in subsection (1) and who applies for registration in terms of this section, to pass to the satisfaction of the professional board, on a date and at a place determined by the professional board, an examination or evaluation contemplated in subsection (3) before persons appointed by the professional board, for the purpose of determining whether such person possesses adequate professional knowledge, skills and competence and whether he or she is proficient in any of the official languages of the Republic.

(3) The council may determine—

(a) the nature of the examination or evaluation which must be conducted for the purposes of subsection (2), the requirements for admission and any other matter relating to such examination or evaluation including the number of attempts; and

(b) the fees payable by persons who present themselves for such examination or evaluation.

(4) The Minister may, after consultation with the council and the relevant professional board, make regulations relating to the imposition of restrictions on any person registered in terms of subsection (1), subject to which such person may practise the profession in question.

Compliance with certain conditions relating to continuing professional development as prerequisite for continued registration

32. The council may, after consultation with every professional board, make rules which determine—

a. the conditions relating to continuing professional development;

b. the nature and extent of continuing professional development to be undertaken by persons registered in terms of this Act;

c. the criteria for recognition by the professional boards of continuing professional development and of providers offering such activities;

d. the recognition of professionals who offer opportunities for practical training towards the development of graduates and potential graduates; and

e. the offences in respect of, and penalties for, non-compliance with the requirements prescribed under this section.

Registration of certain persons for education and training purposes

33.(1) For the purposes of promoting education or training for practising of a built environment profession in respect of which registration in terms of this Act is a requirement, the relevant professional board may, notwithstanding anything to the contrary in this Act, register any person not permanently resident within the Republic to practice such profession for such period as the council may determine.

(2) A person registered in terms of subsection (1) may give demonstrations at an educational and training institution accredited by the council of techniques in respect of such profession.

Accredited education and training institutions to furnish professional boards with certain particulars

34. (1) Every education and training institution at which a qualification may be obtained which entitles the holder thereof to registration under this Act, must furnish the relevant professional board at the board's request with full particulars as to—

a. the minimum age and proof of compliance with set standards of education and training required of candidates to acquire such qualification;

b. proof of compliance with the set course of study, training and examinations or assessment methodologies required of a candidate before such qualification is granted;

c. the results of any examinations conducted by it; and

d. any other particulars relating to the education and training offered by such institution as the professional board may require for the accreditation of any qualification offered by that institution for the purposes of registration in terms of this Act.

(2) If any institution contemplated in subsection (1) fails or refuses to furnish any particulars requested by the professional board under that subsection or it appears to the professional board that a provision of this Act is not being properly complied with by that institution and that such improper compliance is having or may have an adverse effect on the standards of education and training maintained at that institution, the professional board concerned may, by notice in the *Gazette*, suspend accreditation of such education and training institution until such time as that institution complies with the conditions and terms determined by the professional board.

(3) A professional board may, upon representations made by the affected education and training institution that satisfactory provision has been made for complying with the requirement of this Act by the said institution, reinstate the accreditation of that institution by notice in the *Gazette*.

(4) A qualification specified in a notice issued under subsection (2) which has been granted by an educational and training institution to which such notice relates between the date specified in that notice and the repeal of that notice in terms of subsection (3), does not entitle the holder thereof to registration under this Act.

(5) The relevant professional board may appoint a person to be present whenever tests or examinations are being conducted by any educational and training institution to monitor academic progress made by candidates at such institution and to report to the relevant professional board thereon.

Definition of scope of work for the built environment professions

35. (1) The Minister may, after consultation with the council, the relevant professional board and any relevant voluntary association, by regulation define the scope of work for any built environment profession that may be registered in terms of this Act by specifying the acts which, for the purposes of the application of this Act, must be regarded as acts pertaining to that profession: Provided that such regulations may not be made unless any professional board established in terms of section 15 in respect of any profession which may in the opinion of the Minister be affected by such regulations, has been given an opportunity of submitting, through the council, representations as to the definition of the scope of the profession in question: Provided further that if there is a difference of opinion between the council and such professional board as to the definition of the scope of the profession in question, the council must mention this fact in its recommendation to the Minister.

(2) The Minister may, after consultation with the council, the relevant professional board and any relevant voluntary association, make regulations regarding the registration of persons not registered in terms of any law repealed by section 60 who were immediately before this Act took effect engaged in the practice of any built environment profession in respect of which a professional board has been established.

(3) The regulations contemplated in subsection (2) must at least provide

(a) that a professional board established under section 15 in respect of any built environment profession may, subject to such restrictions in respect of such professional activities as the board may determine, register any person who—

(i) was engaged in the practice of such profession in the Republic for a specified period immediately prior to the date contemplated in subparagraph (iv);

(ii) is dependent, wholly or mainly, for his or her livelihood on the practice of such profession;

(iii) submits a certificate to the professional board stating that he or she is of good character; and

(iv) submits to the professional board an application in the prescribed form containing proof of the facts referred in subparagraphs (i) and (ii), within a specified period, or such longer period as the professional board may allow, after the date on which such professional board was established and the scope of such built environment profession was defined in terms of subsection (1);

(b) for a professional board to conduct an oral or a practical examination for a person contemplated in paragraph *(a)* in order to determine the restrictions contemplated in that paragraph;

(c) that any person registered in respect of any built environment profession to only practise that profession subject to

(i) the restrictions contemplated in paragraph *(a)* in respect of his or her professional activities; and

(ii) the use of such name, title and description in respect of his or her profession as the professional board may determine; and

(d) for a professional board to allow a person contemplated in paragraph *(a)* to sit for an examination and, if such person passes such examination to

the satisfaction of the professional board, to exempt him or her from restrictions imposed in respect of him or her in terms of that paragraph.

Registration prerequisite for practising profession in respect of which professional board has been established

36. (1) Subject to section 30, no person may practise within the Republic any built environment profession the scope of which has been defined by the Minister in terms of section 30(1), unless he or she is registered in terms of this Act in respect of such profession.

(2) Any person who contravenes or fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Registration and use of additional qualifications, registration of specialists, persons in professional categories and additional professional categories

37. (1) A professional board must on application, subject to subsection (2) and upon payment of a prescribed fee—

a. enter into the relevant register any additional qualification in respect of the applicant;
b. register the applicant as a specialist; or
c. register the applicant in a professional category or additional professional category.

(2) Only such additional and specialist qualifications, professional categories or additional professional categories as may be prescribed, is registrable under this section.

(3)No registered person may take, use or publish in any way whatsoever any name, title, description or symbol indicating or calculated to lead people to infer that he or she holds any professional qualification which is not entered in the register in respect of his or her name, nor shall any registered person practise as a specialist or hold him or herself out to be a specialist unless he or she is registered as such specialist.

Prohibition of performance by unregistered persons of certain acts pertaining to built environment professions registrable in terms of this Act

38.No person may perform any prescribed act pertaining to any built environment profession unless he or she—

a. is registered in terms of this Act in respect of such profession;
b. is registered in terms of this Act in respect of any other built environment profession to which such act also pertains; or
c. practices a built environment profession in respect of which the chief executive officer in terms of this Act keeps a register and such act is an act that pertains to such profession.

Pretending to be registered person or to be holder of registrable qualification

39. Any person who is not registered in respect of any built environment profession and who—

a. pretends to be registered in respect of that profession; or
b. uses any name, title, description or symbol indicating, or calculated to lead people to infer, that he or she is the holder of any qualification which by regulation under this Act is recognised by the relevant professional board as acceptable for registration in respect of such profession while he or she is not the holder of the qualification, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.

CHAPTER III

UNPROFESSIONAL CONDUCT BY REGISTERED PERSON

Investigation of charge of unprofessional conduct

40. (1) A professional board must refer any matter brought against a registered person to a committee (hereafter referred to as an investigating committee) if—

a. the professional board has reasonable grounds to suspect that the registered person has committed an act which may render him or her guilty of unprofessional conduct; or
b. a complaint, charge or allegation of unprofessional conduct has been brought against a registered person by any person.

(2) At the request of the professional board, the investigating committee must—

(a) investigate the matter; and
(b) obtain evidence to determine whether or not in its opinion the registered person concerned may be charged and, if so, recommend to the professional board the charge or charges that may be preferred against that registered person.

(3) An investigating committee may not question the registered person concerned unless the investigating committee informs that registered person that he or she—

(a) has the right to be assisted or represented by another person; and
(b) is not obliged to make any statement and that any statement so made may be used in evidence against the registered person.

(4) The investigating committee must, after the conclusion of the investigation, submit a report making its recommendations to the professional board regarding any matter referred to it in terms of this section.

Charge of unprofessional conduct

41. (1) The professional board must, after considering a report of the investigating committee in terms of section 35(2)*(b)* and (4), charge a registered person with unprofessional conduct if sufficient grounds exist for a charge to be preferred against such a registered person.

(2) The professional board must furnish a charge sheet to the registered person concerned by hand or registered mail.

(3)A charge sheet must inform the registered person charged—

(a) of the details and nature of the charge;

(b) that he or she must, in writing, admit or deny the charge;

(c) that he or she may, together with the admission or denial, submit a written explanation regarding the unprofessional conduct with which he or she is charged; and

(d) of the period, which must be reasonable, within which his or her plea in terms of paragraph *(b)* must be submitted to the council.

(4)*(a)* If a registered person charged admits that he or she is guilty of the charge, he or she is considered to have been found guilty of unprofessional conduct as charged, after he or she has explained his or her conduct.

(b) The professional board may, subject to section 39(2), impose any one or more of the penalties contemplated in section 39(3) on a registered person who has admitted guilt in terms of paragraph *(a)*.

(5) The acquittal or the conviction of a registered person by a court of law on a criminal charge is not a bar to proceedings against him or her under this Act on a charge of unprofessional conduct, even if the facts stated in the charge of unprofessional conduct would, if proved, constitute the offence stated in the criminal charge on which he or she was acquitted or convicted or any other offence of which he or she might have been acquitted or convicted at his or her trial on the criminal charge.

Appointment of disciplinary tribunal

42. (1) The relevant professional board must appoint a disciplinary tribunal to hear a charge of unprofessional conduct if the person charged—

a. denies the charge; or

b. fails to comply with section 36(3)*(b)*.

(2) The disciplinary tribunal must consist of at least—

(a) a person who specialises in the professional field concerning the charge;

(b) a professional who has appropriate experience; and

(c) a person qualified in law and who has appropriate experience.

Disciplinary hearing

43. (1) The disciplinary hearing must be conducted by the disciplinary tribunal.

(2) The disciplinary tribunal may, for the purposes of this section, appoint a person to assist it in the performance of its functions.

(3) *(a)* The disciplinary tribunal may, for the purposes of a hearing, subpoena any person—

(i) who in its opinion may be able to give material information concerning the subject of the hearing; or

(ii) who it suspects or believes has in his or her possession or custody or under his or her control any book, document or object which has any bearing on the subject of the hearing, to appear before the disciplinary tribunal at the time and place specified in the subpoena, to be questioned or to produce a book, document or object.

(b)A subpoena issued in terms of paragraph *(a)* must—

(i) be in the prescribed form;

(ii) be signed by the chairperson of the disciplinary tribunal or, in his or her absence, any member of the disciplinary tribunal; and

(iii) be served on the registered person concerned personally or by sending it by registered mail.

(4) The disciplinary tribunal may retain a book, document or object produced in terms of subsection (3) for the duration of the hearing.

(5) The chairperson of the disciplinary tribunal may call upon and administer an oath to, or take an affirmation from, any witness at the hearing who was subpoenaed in terms of subsection (3).

(6)At a hearing the registered person charged—

(a) (i) may personally be present at the hearing of the proceedings;

(ii) may be assisted or represented by another person in conducting the proceedings;

(iii) has the right to be heard;

(iv) may call witnesses;

(v) may cross-examine any person called as a witness in support of the charge; and

(vi) may have access to documents produced in evidence;

(b) (i) may admit at any time before conviction that he or she is guilty of the charge despite the fact that he or she denied the charge or failed to react in terms of section 36(3)*(b)* or *(c)*; and

(ii) may, in the case where he or she makes an admission in terms of subparagraph (i), be deemed to be guilty of unprofessional conduct as charged.

(7)The person referred to in subsection (2) may during a hearing—

(a) lead evidence and advance arguments in support of the charge and

cross-examine witnesses;

(b) question any person who was subpoenaed in terms of subsection (3); and

(c) call anyone to give evidence or to produce any book, document or object in his or her possession or custody or under his or her control which the person referred to in subsection (2) suspects or believes to have a bearing on the subject of the hearing.

(8)*(a)* A witness who has been subpoenaed may not—

(i) without sufficient cause, fail to attend the hearing at the time and place specified in the subpoena;

(ii) refuse to be sworn in or to be affirmed as a witness;

(iii) without sufficient cause, fail to answer fully and satisfactorily to the best of his or her knowledge to all questions lawfully put to him or her; or

(iv) fail to produce any book, document or object in his or her possession or custody or under his or her control which he or she has been required to produce.

(b) A witness who has been subpoenaed must remain in attendance until excused by the chairperson of the disciplinary tribunal from further attendance.

(c) A witness who has been subpoenaed may request that the names of the members of the disciplinary tribunal be made available to him or her.

(d) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or object in a civil trial before a court of law may, with the changes required by the context, apply in relation to the examination of, or the production of any book, document or object to the disciplinary tribunal by, any person called in terms of this section as a witness.

(e) A witness, having been sworn in or having been affirmed as a witness, may not give a false statement on any matter, knowing that answer or statement to be false.

(f) A person may not prevent another person from complying with a subpoena or from giving evidence or producing a book, document or object which he or she is in terms of this section required to give or produce.

(9)The record of evidence which has a bearing on the charge before the disciplinary tribunal, and which was presented before any commission which investigated an event or conduct is admissible without further evidence being led if—

(a) the record is accompanied by a certificate from the chairperson; and

(b) the certificate certifies that the investigation was lawful, reasonable and procedurally fair.

(10) If the unprofessional conduct with which the registered person is charged amounts to an offence of which he or she has been convicted by a court of law, a certified copy of the record of his or her trial and conviction by that court is, on the identification of the registered person as the person referred to in the record, sufficient proof of the commission by him or her of that offence, unless the conviction has been set aside by a superior court.

Proceedings after hearing

44. (1) After the conclusion of the hearing the disciplinary tribunal must, within 30 days—

a. decide whether or not the registered person charged is guilty of unprofessional conduct;

b. if the disciplinary tribunal finds that the registered person charged is guilty of unprofessional conduct, take cognisance of any aggravating or mitigating circumstances;

c. inform the registered person charged and the council of the finding; and

d. inform the registered person of his or her right of appeal in terms of section 40.

(2) A registered person found guilty of improper conduct in terms of this section may—

(a) address the disciplinary tribunal in mitigation of sentence; and

(b) call witnesses to give evidence on his or her behalf in mitigation of the sentence.

(3) If the registered person charged is found guilty of unprofessional conduct, or if he or she admits that he or she is guilty of the charge, the disciplinary tribunal must impose any one or more of the following penalties:

(a) A caution or a reprimand or a reprimand and a caution;

(b) suspension for a specified period from practicing or performing acts specially pertaining to his or her profession;

(c) striking off his or her name from the register;

(d) any prescribed fine;

(e) a compulsory period of professional community service determined by the disciplinary committee; or

(f) the payment of the costs of the disciplinary proceedings or a restitution to complainant or both.

(4) At the conclusion of the hearing the disciplinary tribunal must notify the relevant professional board of its finding.

(5) The professional board must publish the finding and the penalty imposed in terms of subsection (3) in the *Gazette*.

(6) The professional board must give effect to the decision of the disciplinary tribunal.

Appeal

45. (1) *(a)* A registered person found guilty of unprofessional conduct may appeal to the council against a finding of the disciplinary tribunal or against the sentence, or both.

(b) The appeal must be lodged within 30 days after the disciplinary tribunal has informed the registered person of its decision.

(2) The appellant must submit a copy of the appeal against the decision of the professional board and any documents or records supporting such appeal to that professional board and furnish proof of such submission for the information of the council.

(3) The council must appoint an appeal committee consisting of—

(a) a professional who has appropriate experience;

(b) a person qualified in law and who has appropriate experience; and

(c) a person who specialises in the professional field concerning the appeal.

(4) The appeal committee may—

(a) dismiss the appeal against the decision of the disciplinary tribunal and confirm the finding or sentence or both; or

(b) uphold the appeal against the decision of the disciplinary tribunal wholly or in part and set aside or vary the finding or sentence or both.

(5) The appeal committee must decide an appeal within 60 days from the date on which the appeal was lodged, and inform the appellant and the professional board in question accordingly.

(6) If a registered person found guilty of unprofessional conduct lodges an appeal in terms of subsection (1)—

(a) the decision of the disciplinary tribunal under section 39(3); or

(b) the publication in terms of section 39(5), may not be put into effect before the council has decided the appeal.

Effect of suspension or striking-off from register

46. Every person who has been suspended or whose name was struck-off from the register in terms of section 39(3) shall be disqualified from practising his or her profession and his or her registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his or her name is restored to the register by the professional board upon application by the person concerned after at least a period of five years from date of striking-off from the register of his or her name.

Penalty for false evidence

47. Any person who gives false evidence under oath or affirmation at any disciplinary inquiry held under this Chapter knowing such evidence to be false is guilty of an offence and liable on conviction to the penalties prescribed by law for the offence of perjury.

Council to develop code of conduct

48. The council must, in consultation with a professional board, develop a code of conduct for registered persons specifying the acts or omissions in respect of which a professional board may institute a disciplinary inquiry under this Chapter: Provided that the powers of a professional board to institute a disciplinary inquiry into and deal with any complaint, charge or allegation relating to a built environment profession under this Chapter, shall not be limited to the acts or omissions so specified in the code of conduct.

CHAPTER IV

ESTABLISHMENT OF THE BUILT ENVIRONMENT GUARANTEE FUND

49. The Guarantee fund is hereby established.

50. The funds of the Guarantee fund consist of -

a) Annual contributions paid by all built environment professionals; and any interest on, or penalties that may be levied in respect of late contributions;

b) Interest paid to the Guarantee fund in terms of this Act;

c) Money received by or on behalf of the Guarantee fund; and

d) Any other money received by the Guarantee Fund form any other source.

51. Subject to the provisions of this Act, the purpose of the fund shall be liable to reimburse persons who suffer financial loss, not exceeding the amount determined by the Minister from time to time by notice in the Gazette, as a result of the conduct of built environment professionals in the execution of their functions.

52. (1) The fund shall be administered by a board of known as the Guarantee Fund Board.

(2) The board may sue and be sued under its name.

53. (1) The board of control shall consist of—

(a) a single professionally registered built environment professional representing the disciplines regulated by the CBE, and .

(b) a member that is a qualified actuary

(c) a member that is a qualified lawyer

(d) a member that is a risk management specialist

(e) a member that is a qualified business analyst

(f) a member representing the private sector within the built environment

(g) a member representing the department of Public Works and Infrastructure with a finance background

(2) Members of the Board shall be appointed by the Minister following a transparent and publicly advertised nomination process.

54. (1) The Guarantee fund Board shall have the following powers:

a) Invest monies which are not required for immediate use in government and other securities as may be determined by regulation;

b) institute or defend legal proceedings;

c) conclude agreements;

d) insure itself against risk

e) make rules in respect of:

i) quantum of contributions to the Guarantee fund

ii) management of limitation of liability of the Guarantee fund; and

iii) any other matter concerning the Guarantee fund.

(2) The Guarantee fund Board must appointed executive officer to:

a) exercise the powers and functions that the Guarantee fund Board may determine;

b) supervise the employees of the Guarantee fund Board; and

c) account for the assets and liabilities of the Board

55. The term of office of the Guarantee fund Board shall be for a period of three (3) years.

CHAPTER V
REGISTER OF BUILT ENVIRONMENT PROFESSIONAL SERVICES PROVIDERS

Registration of built environment professional practices and services providers that offers independent professional advice, or sub-contract work for which they have the capability to oversee but not capacity to execute. The professional services provider must only be permitted to undertake work or offer work in practices are if they have in their full-time employment professionally registered or credentialed individuals who can offer a service in such area.

National register of Built Environment Professional services providers

56. The Council must, within the first three years of its establishment, establish a national register of built environment professional services providers, (a) indicate the size, (b) number of professionals in their full time employment in each category of professional registration, (c) annual turnover, (d) areas of practice, (e) demographics, (f)levels of professional indemnity, (g)location of the offices and geographic spread, (h)location , and (i)area of specialization. This information should be publicly available.

57. The Minister must in consultation with the CBE prescribe the requirements for registration, taking into account the different stages of built environment for professional services providers, the development of the emerging sector and the objectives of this Act.

58. A built environment professional services providers may, in writing, apply to the Council for registration and the application must be accompanied by the prescribed particulars and prescribed administration fees, which are not refundable.

59. If the Council is satisfied that the applicant is entitled to registration, it must cause the necessary entry to be made in the built environment professional services providers register and the chief executive officer must issue to the applicant a registration certificate in the prescribed form.

60. The Minister may, on the recommendation of the Council, prescribe a fee to be paid annually to the Board by all built environment professional services providers registered with the Council.

Keeping of Register

61. The Council shall keep and maintain a register for the prescribed particulars of built environment professional services providers who are registered with the Council and a registered built environment professional services providers must, in writing, notify the

Council of substantive changes of those particulars within 30 days after such a change,

61. A built environment professional services providers may apply to the Council to amend its category status.

62. Built environment professional services providers must update their particulars annually or every 12 months from the date of registration.

Unregistered built environment professional services providers

63. A built environment services provider may not undertake to carry out or complete any professional services, unless he or she is registered with the Council and holds a valid registration certificate issued by the Council.

64. Any built environment professional services provider who carries out or attempts to carry out any professional services or consulting deemed for built environment services provider and who is not registered with Council in terms of this Act, is guilty of an offence and liable, on conviction, to a fine to be determined by Council.

65. A built environment services provider referred to in subsection (52) must, upon receipt of a written notice by the Council served him or her in the prescribed manner, cease to provide professional services.

66. The Council may order the chief executive officer to remove the name of built environment service provider from the register, if the Council is satisfied that such a service provider has breached the requirements and conditions for registration.

67. Any registration which is proved to the satisfaction of the Council to have been made in error or as a result of misrepresent in circumstances not authorised by this Act, must be removed from the register and the reason for that removal must be communicated with the concerned professional service provider in writing and made publicly in a gazette.

68.A built environment professional services provider whose name is removed from the register be notified by the chief executive officer by prepaid registered post or an email correspondence sent to the address appearing in the register.

CHAPTER VI

GENERAL AND SUPPLEMENTARY PROVISIONS

Investigations of matters relating to an emergency incident or disaster

69.(1) The council is responsible for the coordination of investigations related to built environment emergency incidents, matters reported by the public pertaining to contravention of built environment laws or incidents.

70. The council must develop regulations for the Minister of Public Works and Infrastructure to issue for the built environment, construction, building and structural collapses and emergency incidents to identify processes for:

71. Activation of the investigation within 24 hours working with other government and law enforcement agencies.

72. Identification of professional boards to participate in the investigation in order to initiate discipline specific investigation or enquiry using the code of conduct rules on the conduct of built environment members .

73. Coordination of the submission of investigation reports to the Minister and any other activity necessary for conducting the investigation.

Regulations

75. (1) The Minister may, after consultation with the council, make regulations regarding—

a. standards for green building, energy efficient and climate adaptive infrastructure.

b. Regulations on built environment practices and digital tools;

c. Regulation on the built environment emergency incidents and structural and building collapses

d. Regulations for conducting mandatory construction and building safety inspections involving professionals in the build environment;

e. Regulations on inter-governmental and inter- agency information or data sharing on matters pertaining to built environment;

f. any matter which in terms of this Act is required to be prescribed by regulation; and any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

g. Regulation for credentialing of building environment professionals involved in high risks areas

Rules

76. (1) The council may make rules and adopt policies relating to—

a. the conduct of the business and the procedure at meetings of the council, professional boards and their committees and the manner in which minutes of such meetings must be kept;

b. the manner in which—

contracts must be entered into on behalf of the council;

the accounts of the council must be kept; and

money accruing to council must be disposed of;

c. the professional fees and allowances which may be paid to members of the council or to members of professional boards or to members of committees and subcommittees of the council or professional boards and other persons who render a service to the council and professional boards;

d. any fees payable in terms of this Act, including—

registration fees;

annual fees;

fees payable for restoration of—

a name to a register from which it was removed, and such fees may vary according to the reason for the removal thereof and the period for which it was so removed; and

(bb) a person as a specialist or in a professional category or additional professional category;

fees payable for the issuing of certificates;

fees payable for examinations conducted by or on behalf of professional boards or certification committee; and

fees payable for accreditation of education and training institutions and activities for continuing professional development; and

(a) the qualifications which may be registered as additional qualifications in terms of section 32.

(b) Conducting of investigation in connection with responding to built environment emergency incidents in terms of section 55.

(c) Measure aimed at addressing systemic barriers to entry for black professions into the built environment professions.

(2)The council must, not less than one month before any rule is made or policy adopted in terms of this Act, cause the text of such rule or policy to be published in the *Gazette* together with a notice declaring the council's intention to make such rule or adopt such policy and inviting interested persons to submit to the council any substantiated comments thereon or any representations they may wish to make in regard thereto.

Confidentiality

78. (1) The chief executive officer, staff and all members of the Council may not disclose to any source, outside of the Council, any information classified or that may considered as being confidential, except if—

(a) the other person requires such information in order to perform any function in terms of this Act;

(b) the disclosure is ordered by a court of law; or

(c) the disclosure is in compliance with the provisions of any other law. (2) The information contemplated in subsection (1)(a) can only be disclosed by the chief executive officer"

CHAPTER VI

GENERAL AND SUPPLEMENTARY PROVISIONS

Exemption from operation of provisions of this Act

79. (1) The Minister may, after consultation with council, by notice in the *Gazette* exempt any juristic person or class of juristic persons specified in the notice, either generally or subject to such conditions as may be specified in the notice, from the operation of any of the provisions of this Act, so as to enable such juristic person or class of juristic persons to practise a profession in respect of which registration in terms of this Act is a prerequisite for practising such profession.

(2) Any reference in this Act or any other law to a person registered in terms of this Act to practise a profession referred to in subsection (1) or to a partner of or a partnership or to a director or shareholder of a company or a close corporation in relation to such registered person, must be regarded to include a reference to a juristic person or class of juristic persons referred to in subsection (1) or to a member of such juristic person or class of juristic persons, as the case may be, unless the context otherwise indicates.

Penalty for false representation inducing registration, for false entries in register and for impersonation

80. Any person who—

a. procures or attempts to procure for himself or herself or for any other person registered under this Act, any certificate, order or prescript referred to in this Act by means of a false representation, whether verbally or in writing, or aids or abets any person in so doing;
b. makes or causes to be made any unauthorised entry or alteration in or removal from a register or certified copy thereof or extract therefrom or on any certificate issued under this Act;
c. willfully destroys or damages or renders illegible or causes to be destroyed, damaged or rendered illegible any entry in the register or, without the permission of the holder thereof, any certificate issued under this Act;
d. forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act; or

e. pretends to be a person registered in terms of this Act, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Limitations in respect of unregistered persons

81. (1) No remuneration is recoverable in respect of any act specially pertaining to the profession of a registered person when performed by a person who is not registered under this Act to perform such act.

(2) No person other than a registered person holding the necessary qualifications may hold any appointment to any establishment, institution, body, organisation or association, whether public or private, if such appointment involves the performance of any act which an unregistered person, in terms of the provisions of this Act, may not perform: Provided that nothing in this subsection must be construed as prohibiting the education and training of prospective built environment professionals under supervision of a registered professional, or the employment in any government department or similar institution of any person undergoing training with a view to registration in terms of this Act in respect of any built environment profession, under the supervision of a registered person.

Investigation of matters relating to education and training of certain persons

82. (1) Notwithstanding anything to the contrary contained in any law, any person who has been authorised by a professional board in writing to investigate any matter relating to the education and training of any person who is undergoing such education and training for the purposes of qualifying for the practising of any profession to which the provisions of this Act apply, may, for the purposes of making such investigation, enter any institution or premises utilised in the education and training of any such person.

(2) Any person who prevents any person authorised in terms of subsection (1) from entering any institution or premises referred to in that subsection, or who hinders him or her in the making therein or thereon of any investigation contemplated in that subsection, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Investigations of matters relating to an emergency incident or disaster

83. (1) The council is responsible for the coordination of investigations related to built environment emergency incidents or incidents.

(2) The council must develop rules to identify processes for:

(a) Activation of the investigation.

(b) Identification of professional boards to participate in the investigation.

(c) Coordination of the submission of investigation reports to the Minister and any other activity necessary for conducting the investigation.

Regulations

84. (1) The Minister may, after consultation with the council, make regulations regarding—

(a) (i) the registration by the council of candidates in registrable professions enrolled at any accredited educational institution, the fees payable in respect of such registration and the removal by the council from the register in question of the names of such candidates so registered;

(ii) the standards of general education required of such candidates as a condition precedent to such registration;

(iii) the duration of the curricula to be followed by such candidates at such educational institution;

(iv) the minimum requirements of the curricula and the standards of education, training and examinations to qualify for registration in terms of this Act, which must be maintained at every educational institution offering education and training in any such profession, in order to secure accreditation and recognition under this Act of the qualification in question at such educational institution;

(v) the nature and duration of the training to be undergone by any person who has obtained a prescribed qualification for registration under this Act, but who is not yet registered as a professional, before he or she may be registered as such;

(vi) Standards for competency-based registration and credentialing for specialized expertise.

(b) the conditions under which any registered person may practice his or her profession;

(c) the names and titles which may not be used by unregistered person;

(d) government departments and other institutions at which training of

candidates and other professionals may be undertaken and the accreditation of such departments or institutions for such training;

(e) (i) the registration in terms of section 32 of the specialties or professional categories or additional professional categories of the built environment professions;

(ii) the requirements to be satisfied, including education and training and the experience to be obtained, the nature and duration of the education and training and experience to be undergone and the qualifications to be held by persons before they may be registered as specialist or in any professional category or additional professional category;

(iii) conditions in respect of the practicing of a specialist profession or a profession of a person whose professional category or additional professional category has been registered, including conditions restricting the practice of such a specialist profession or a profession of any such person to the exclusive practice of such specialist person or a person registered in a professional category or additional professional category;

(f) (i) the nomination of members of a professional board required to be appointed in terms of section 15;

(ii) the requirements for a valid nomination of a candidate for appointment by the Minister as a member of a professional board;

(g) (i) the manner in which complaints, charges or allegations brought against a registered person must be lodged;

(ii) the method of summonsing a respondent and the penalties for failure or refusal on the part of any such respondent to respond to or attend or for obstructing or interrupting any part of the disciplinary inquiry proceedings;

(iii) the continuation of a disciplinary inquiry, after a plea has been lodged, by the disciplinary committee, should one or more members of the disciplinary inquiry be unable to continue to serve: Provided that not less than three of the original members of the committee are available to continue with the disciplinary inquiry;

(iv) the procedure to be followed to lodge an appeal with a disciplinary appeal committee;

(v) any other matter relating to the conduct of such disciplinary inquiry;

(h) standards for green building, energy efficient and climate adaptive infrastructure.

(i) guidelines on construction practices and digital tools;

(j) guidelines for conducting mandatory safety inspections;

(k) guidelines on inter-governmental and inter- agency information or data sharing;

(l) any matter which in terms of this Act is required to be prescribed by regulation; and any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

(2) The Minister may, after consultation with the council, amend or repeal any regulations or rule made in terms of this Act.

(3) Any regulation made under this section may prescribe a penalty for any contravention thereof or failure to comply therewith.

(4) *(a)* Before the Minister makes any regulation under this section, he or she must publish a draft of the proposed regulation in the *Gazette* together with a notice calling on interested persons to comment, in writing, within a period stated in the notice of not less than 30 days from the date of publication of the notice.

(b) If the Minister alters the draft regulations, as a result of any comment, he or she need not publish those alterations before making the regulations.

(5) The Minister may, on recommendation of the council and if the public interest requires the immediate publication of a regulation, publish that regulation without consultation contemplated in subsections (1) and (2).

Rules

85. (1) The council may make rules and adopt policies relating to—

a. the conduct of the business and the procedure at meetings of the council, professional boards and their committees and the manner in which minutes of such meetings must be kept;

b. the manner in which—

(i) contracts must be entered into on behalf of the council;

(ii) the accounts of the council must be kept; and

(iii) money accruing to council must be disposed of;

c. the professional fees and allowances which may be paid to members of the council or to members of professional boards or to members of committees and subcommittees of the council or professional boards and other persons who render a service to the council and professional boards;

d. any fees payable in terms of this Act, including—

(i) registration fees;

(ii) annual fees;

(iii) fees payable for restoration of—

(aa) a name to a register from which it was removed, and such fees may vary according to the reason for the removal thereof and the period for which it was so removed; and

(bb) a person as a specialist or in a professional category or additional professional category;

(iv) fees payable for the issuing of certificates;

(v) fees payable for examinations conducted by or on behalf of professional boards; and

(vi) fees payable for accreditation of education and training institutions and activities for continuing professional development; and

e. the qualifications which may be registered as additional qualifications in terms of section 32.

(d) Conducting of investigation in connection with responding to built environment emergency incidents in terms of section 55.

(e) Measure aimed at addressing systemic barriers to entry for black professions into the built environment professions.

(2) The council must, not less than one month before any rule is made or policy adopted in terms of this Act, cause the text of such rule or policy to be published in the *Gazette* together with a notice declaring the council's intention to make such rule or adopt such policy and inviting interested persons to submit to the council any substantiated comments thereon or any representations they may wish to make in regard thereto.

Annual fees payable by registered persons

86. (1) *(a)* The council may, on the recommendations of a professional board, by notice in the *Gazette* prescribe a fee to be paid annually to the council by registered persons.

(b) The council may differentiate between persons according to whether they have been registered before or after a date specified in the notice and may vary such fee according to the profession and registration category in which the registered person holds registration and whether it is paid before or after a specified date.

(2) If any person liable to pay any annual fee prescribed in terms of subsection (1) fails or refuses to pay such fee within the period specified in the notice in question, the council may recover such fee by action in a competent court.

(3) If a person's name has been removed from the register in terms of section 20, it shall be a condition precedent for the restoration of his or her name to the register that he or she pays the outstanding annual fee and such restoration fees as may be prescribed.

(4) A professional board may by resolution exempt for an indefinite or a definite period any registered person specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

Delegation of powers

87. (1) The Minister may delegate any of his or her powers in terms of this Act, excluding the power to appoint the members of council, to the Director General or any other official of the department.

(2) The council may delegate any of its powers in terms of this Act to a committee, a staff member or a member of the council or any other person or body of persons excluding the power to hear an appeal in terms of section 40.

Transitional provisions

88.(1) For the purposes of this section—

a. **''commencement date''** means the date on which this Act or a section or a Chapter of this Act comes into operation; and
b. **''effective date''** means the date of the first meeting of the council in terms of this Act.

(2) The following councils, namely the—

(a) South African Council for the Architectural Profession, established by the Architectural Profession Act, 2000 (Act No. 44 of 2000);

(b) South African Council for the Project and Construction Management Professions, established by the Project and Construction Management

Professions Act, 2000 (Act No. 48 of 2000);

(c) Engineering Council of South Africa, established by the Engineering Profession Act, 2000 (Act No. 46 of 2000);

(d) South African Council for the Landscape Architectural Profession, established by the Landscape Architectural Profession Act, 2000 (Act No. 45 of 2000);

(e) South African Council for the Property Valuers Profession, established by the Property Valuers Profession Act, 2000 (Act No. 47 of 2000);

(f) South African Council for the Quantity Surveying Profession, established by the Quantity Surveying Profession Act, 2000 (Act No. 49 of 2000); and

(g) Council for the Built Environment, established by Council for the Built Environment Act, 2000 (Act No. 43 of 2000),

continues to exist, and may perform their functions, after the commencement date until the effective date.

(3) The councils referred to in subsection (2)*(a)* to *(f)* must within 30 days from the date of commencement of section 15, invite nominations for the first appointment of members of professional boards under this Act.

(4) The chief executive officer of the council referred to in subsection (2)*(g)* is the acting registrar of the council until a registrar is appointed.

(5) From the effective date, all rights, obligations, assets and liabilities acquired or incurred by the councils referred to in subsection (2)*(a)* to *(g)* vest in the council and the council must be regarded as having acquired or incurred those rights, obligations, assets and liabilities in terms of this Act.

(6) From the effective date and subject to the Labour Relations Act, 1995 (Act No. 66 of 1995), all employees of the councils referred to in subsection (2) must be regarded as being employees of the council.

(7) Any act performed, decision taken or rule made or purported to have been so performed, taken or made in terms of the laws establishing the councils referred to in subsection (2)*(a)* to *(g)* remains valid unless repealed under this Act.

(8) Any notice issued or exemption granted by the Minister in terms of any of the laws establishing the councils referred to in subsection (2)*(a)* to *(g)* remains valid unless repealed under this Act.

(9) Any person who at the commencement date is registered in terms of any of the laws establishing the councils referred to in subsection (2) *(a)* to *(f)* must be regarded as having been registered in the corresponding category provided

for in this Act.

(10) From the effective date, any register maintained and kept in terms of any of the laws establishing the councils referred to in subsection (2) *(a)* to *(f)*, must be regarded as having been incorporated in and must be considered to form part of a register to be maintained and kept in terms of this Act.

(11) Any action taken in terms of any of the laws establishing the councils referred to in subsection (2)*(a)* to *(g)*, which is pending at the commencement of this Act, must be finalised in terms of the relevant provision of the law in question.

(12)The registrar of deeds concerned must, at the request of the council and on submission of the relevant title deeds and other documents, make the necessary entries and endorsements in respect of the relevant register, title deed and other document in his or her office in order to give effect to any transfer in terms of subsection (4), and no transfer duty, stamp duty or other fee is payable in respect of such transfer, entry or endorsement.

Repeal of laws

89. Subject to section 60, the laws specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

Short title and commencement

90. This Act is called the Built Environment Professions Act 2026, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE COUNCIL FOR BUILT ENVIRONMENT BILL, 2026

1.1 **Chapter IV** provides for the establishment of the national register of built environment professional services providers to ensure accountability and mitigate risks; reduce the administrative burden associated with the procurement of built environment professional services providers; regulate the conduct of practitioners.

2. CONSULTATION

In March 2008, the Department published a draft policy document outlining its proposals for the realignment of the regulatory framework of the built environment professions and inviting written comments. Consultative meetings were held in March and April 2008 with members of the public, industry stakeholders and public sector stakeholders. Written and oral comments were received, including from the Department of Education and the National Treasury.

Since the tabling of this Bill in 2008, the DPWI has undertaken a series work to review the CBE Act in 2008, 2014 DPWI Built Environment Policy for Public Comment, DPWI Concept Document for the Reintroduction of the SACBE Bill, 18 July 2016, and 2017 CBE Draft Bill. The insight from this body of work were incorporated the 2026 CBE Bill which will be introduced and gazette for public comments to solicit comments, ensure alignment with latest development in the built environment and factor in the recommendations arising from the George Building and River Ranch Temple structural, artificial intelligence, register of professional provider providers, built environment guarantee fund, credentialing scheme, building information modelling, to provide an opportunity for input.

SCHEDULE

LAWS REPEALED

(Section 60)

No. and Year of Law	Title of Law	Extent of repeal
Act No. 43 of 2000	Council for the Built Environment Act, 2000	The whole
Act No. 44 of 2000	Architectural Profession Act, 2000	The whole
Act No. 45 of 2000	Landscape Architectural Profession Act, 2000	The whole
Act No. 46 of 2000	Engineering Profession Act, 2000	The whole
Act No. 47 of 2000	Property Valuers Profession Act, 2000	The whole
Act No. 48 of 2000	Project and Construction Management Professions Act, 2000	The whole
Act No. 49 of 2000	Quantity Surveying Profession Act, 2000	The whole

MEMORANDUM ON THE OBJECTS OF THE BUILT ENVIRONMENT PROFESSIONS BILL, 2008

3. BACKGROUND

In 2000, seven pieces of legislation were approved by Parliament in order to regulate the built environment; six of them regulating the various professions and the seventh establishing the Council for the Built Environment.

Eight years into the regulatory model established by the 2000 legislation, both the Department and the regulated professions have grappled with issues of access to the professions, transformation, the lack of a macro-strategy for the built environment professions and other shortcomings in the present regulatory model. It is these challenges that necessitate a revision of the present regulatory model.

4. OBJECTS OF BILL

4.1 The objects of the Bill are to—

- establish the South African Council for the Built Environment (''the Council'') and professional boards;
- regulate the built environment professions in order to promote growth and transformation;
- provide for registration of persons within the built environment professions;
- provide for the protection of the public against unprofessional conduct by registered persons;
- provide for the repeal of the laws establishing the current seven councils; and
- promote and maintain the standards of education and training in the built environment professions.

4.2 **Chapter I** seeks to establish the Council as a juristic person, which will be subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999). It also seeks to—

- set out the functions, constitution and circumstances of dissolution of the Council;
- provide for the appointment of the Registrar;
- provide for the Minister's authority to establish, change or reconstitute professional boards with regard to any built environment profession regulated in the Bill, as well as the functions of the said professional

boards.

4.3 **Chapter II** provides for the Council's power of control and the exercise of authority over all education and training, having as its object to qualify any person for the practicing of any built environment profession to which the provisions of this Bill apply, and for the professional boards to be education and training quality assurers for their built environment professions. The Chapter provides for compulsory registration with the Council as a pre-condition to practice a profession regulated by the Bill, sets out the mechanisms for such registration and criminalises failure to do so. The Chapter also gives the Minister the authority, after consultation with the Council, to prescribe the qualifications necessary for registration and to define the scope of any built environment profession that may be registered.

4.4 **Chapter III** provides for the investigation and prosecution of, as well as the sanction for, unprofessional conduct on the part of registered persons.

4.5 **Chapter IV** provides for the establishment of the Guarantee fund to establish a mechanism to facilitate compensation for losses caused by professionals without requiring court action.

4.6 **Chapter V** provides for the establishment of the Registration of built environment professional practices and services providers that offers independent professional advice, or sub-contract work for which they have the capability to oversee but not capacity to execute.

4.7 **Chapter VI** provides for the Minister's competence to exempt any juristic person from the operation of any of the provisions of the Bill, and to make regulations on a range of matters designed to expedite the attainment of the objects of the Bill. The Council is empowered to make rules and adopt policies regulating its internal functioning. Also provided for is the prohibition of the recovery of remuneration in respect of any act specially pertaining to the profession of a registered person by an unregistered person and the prohibition against the holding by an unregistered person of an appointment that involves the performance of any act which an unregistered person may not perform.

Transitional arrangements include the vesting in the Council of all rights, obligations, assets and liabilities acquired or incurred by the existing councils on the date of the first meeting of the Council constituted under this Act and the continued registration in a corresponding category of any person registered in terms of any of the Acts establishing the professional councils existing as at the commencement of this Act.

5. CONSULTATION

In March 2008, the Department published a draft policy document outlining its proposals for the realignment of the regulatory framework of the built environment professions and inviting written comments. Consultative meetings were held in March and April 2008 with members of the public, industry stakeholders and public sector stakeholders. Written and oral comments were received, including from the Department of Education and the National Treasury. The comments have been considered in the drafting of the Bill.

6. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

All of the current employees of the existing councils will be deemed to be employees of the Council in terms of the Bill. It is envisaged that the chief executive officer of the Council for the Built Environment will continue as the acting chief executive officer of the Council until the Council is in a position to appoint a new chief executive officer.

7. FINANCIAL IMPLICATIONS FOR STATE

It is not envisaged that the Bill will have any financial implications for the State. It is envisaged that the Council will generate its funds through, inter alia, fees accruing to it in terms of the Bill, donations, grants, contributions and interest on investments.

8. PARLIAMENTARY PROCEDURE

8.1 The State Law Advisers and the Department of Public Works are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

8.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)*(a)* of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.