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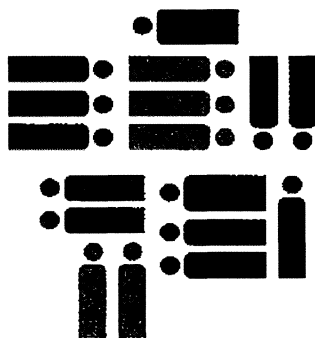
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## GENERAL NOTICE

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NOTICE 1230 OF 2013



The South African  
Council *for* Planners  
**S A C P L A N**

**NOTICE – SACPLAN NO 1 OF 2013**

**SOUTH AFRICAN COUNCIL FOR PLANNERS**

**PLANNING PROFESSIONAL ACT, 2002 (ACT No 36 OF 2002)**

**RULES**

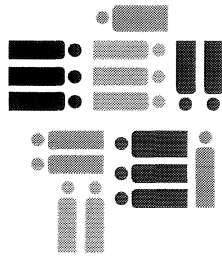
**AND**

**CODE OF CONDUCT**

Under Section 30(2) of the Planning Profession Act, 2002 (Act No 36 of 2002, I, Nontsundu Ndonga, Chairperson of the South African Council for Planners (SACPLAN), hereby notifies that the SACPLAN has made Rules in terms of Section 30(2) of the Planning Profession Act, 2002. Included in these Rules is a Code of Conduct as is required in terms of Section 18(1) of the Planning Profession Act, 2002.

These Rules and Code of Conduct come into effect on the date of proclamation of this notice.

  
**MS N NDONGA, Pr.PIn A/080/2008**  
**CHAIRPERSON: SOUTH AFRICAN COUNCIL FOR PLANNERS**  
**DATE: 09/12/2013**



The South African  
Council *for* Planners  
S A C P L A N

## **PLANNING PROFESSION ACT: RULES**

### **PREAMBLE**

To provide for procedures and matters in respect of which rules are required or permitted in terms of the Planning Profession Act, 36 of 2002 with specific regard to the office of the Registrar, establishment of Council Committees and delegation of functions and powers to such committees, specific rules applicable to the Education and Training Committee, the manner of convening general and special council meetings, provisions pertaining to the registration of persons as candidate planners, technical planners and professional planners, to determine and provide for mechanisms in terms of which annual fees, application, registration and other fees can be determined and prescribed by Council from time to time, procedures relevant to the assessment, acceptance and registration of different categories of planners, the identification of work for registered persons, the procedures relevant to the establishment of voluntary associations and recognition of such associations under the Act, the introduction of a code of conduct that will apply in parallel to Section 18 of the Act, provisions pertaining to the investigation of improper conduct, the charging of registered persons with improper conduct, the noting of appeals and to provide for related matters.

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## **CHAPTER 1**

### **INTRODUCTORY RULES**

#### **1 Definitions**

- (1) In these Rules, unless contrary to the context, any expression or word to which a meaning has been assigned in the Planning Profession Act (Act 36 of 2002), shall bear the same meaning as in these Rules:
- (a) **“act”** or **“the act”** means the Planning Profession Act (Act 36 of 2002);
  - (b) **“annual fee”** means a fee payable by a registered person to Council in order to continue to be a registered person as contemplated in Section 13 of the Act;
  - (c) **“appeal”** means an appeal noted in terms of Chapter 6 of the Act read with Rule 31;
  - (d) **“applicant”** means an applicant for registration contemplated in Section 13(4) of the Act read with Chapter 3 of these Rules;
  - (e) **“Board”** means the Appeal Board referred to in Chapter 6 of the Act and Rule 31;
  - (f) **“candidate planner”** means a Candidate Planner referred to and registered in terms of Section 13 of the Act, and includes the sub-categories of candidate planner established through these rules namely:
    - (i) **“candidate planner (student)”** means a Candidate Planner registered in terms of Section 13 of the Act and registered as a student in an accredited planning educational programme.
    - (ii) **“candidate planner”** means a Candidate Planner registered in terms of Section 13 of the Act and that has completed and obtained an accredited planning educational programme qualification at level 6 of the National Qualifications Framework, or higher.
  - (g) **“Code of Conduct”** means the code referred to in Section 18 of the Act and Chapter 5 of the Rules, attached hereto as Schedule 1;
  - (h) **“Council”** means the South African Council for Planners established in terms of Chapter 2 of the Act and **“SACPLAN”** shall have a similar meaning;
  - (i) **“day”** means a calendar day, and when any number of days are prescribed for the doing of any act, it must be calculated by excluding the first day and

including the last day, however, if the last day falls on a Saturday, Sunday or Public Holiday, the last day will be the first working day thereafter;

- (j) **“information”** in relation to the disciplinary proceedings contemplated in Chapter 8, means any book, document, object whether it be in electronic or printed format and will include physical objects, maps, charts, written documents, models and the like, irrespective of the format in which it was produced;
- (k) **“investigating officer”** means an investigating officer duly appointed by Council in terms of Section 19 of the Act;
- (l) **“member”** means a member of the Council established in terms of Section 3 of the Act;
- (m) **“planners”** or **“planning profession”** means candidate planners, technical planners and professional planners, referred to collectively;
- (n) **“planning profession work”** means work contemplated in Rule 21 read with the Regulations;
- (o) **“professional planner”** means a Professional Planner referred to and registered in terms of Section 13 of the Act;
- (p) **“prosecutor”** means a person appointed in terms of Rule 26(1) and shall include, where applicable, the practising lawyer or advocate duly appointed to assist such person;
- (q) **“public holiday”** means the public holiday referred to in Section 1 and proclaimed as such under Section 2 of the Public Holidays Act, 1994 (Act 36 of 1994) from time to time;
- (r) **“Registrar”** means the Registrar appointed in terms of Section 8(1)(a) of the Act;
- (s) **“registered person(s)”** means any person or persons registered in terms in Section 13 of the Act;
- (t) **“respondent”** means a registered person against whom a complaint has been brought as contemplated in Rule 25;
- (u) **“rules”** means these rules and includes the schedules and forms attached hereto, referred to herein or displayed on the website;
- (v) **“serve”** or **“notify”** means to serve in accordance with Rule 4(4), 4(5) or 6 and **“service”** or **“to give notice”** or **“deliver”** shall have corresponding meanings;



- (w) **“technical planner”** means a Technical Planner referred to and registered in terms of Section 13 of the Act;
- (x) **“Tribunal”** means the tribunal contemplated in Chapter 5 of the Act and Chapter 6 of the Rules;
- (y) **“Voluntary association”** means a voluntary association as contemplated in the Act;
- (z) **“website”** means the internet based website as established by Council as contemplated in Rule 35 hereof. The web address of which shall be [www.sacplan.org.za](http://www.sacplan.org.za) or such other address as may be published by Council in the Gazette.

## **2 Use of definitions**

- (1) If a word or concept is not defined in these Rules, the definitions as incorporated in the Act, will apply.
- (2) The definitions as listed in these Rules and the Act also apply to words and phrases incorporated in the schedules or forms attached hereto or to forms referred to herein.

## **3 Application of the Rules**

These Rules have been published in terms of Section 30(2) of the Act and shall apply to the planning profession, the Council, its employees, the Tribunal, the Board, and registered persons as contemplated in the Act and in these Rules, and where a complainant or appellant, referred to in Chapter 6 is a person or body other than a registered person, these Rules shall also apply to that person.

## **4 Address and office hours of the office of the Registrar, filing of documents and delegation**

- (1) The office hours of the office of the Registrar, shall be determined by Council and will be published on the Council's website.
- (2) The address of the office of the Registrar, which will also be the Head Office of the Council, shall be determined by Council by publication on the Council's website.
- (3) The Council may vary or amend the address of its Head Office and office for delivery of documents by notice on the Council's website.

- (4) A document must be filed with the Registrar by:
  - (a) handing the document to the Registrar;
  - (b) sending a copy of the document by registered post;
  - (c) faxing the document; or
  - (d) forwarding the document by e-mail.
- (5) A document is deemed to have been filed with the Registrar on the date –
  - (a) on which the document was handed to the Registrar;
  - (b) 7 (seven) days after the document was dispatched by registered post;
  - (c) were forwarded by telefax or by e-mail, on date of completion of the whole of the transmission thereof.
- (6) Notwithstanding any provision to the contrary contained in these Rules, where the filing of an original document is prescribed in terms of these Rules, the date of delivery of such an original document shall be the day of hand delivery of the document as contemplated in Rule 4(5)(a).
- (7) Notwithstanding anything to the contrary contained in these Rules, the onus to prove delivery of a document as contemplated herein, will be on the person who gives notice, delivers a document or transmits same.
- (8) The Registrar may delegate any power or duty conferred or imposed on him or her by the Act or these Rules to any official in the employ of Council.

## **5 Receipt and correction of documents**

- (1) Where any document filed with the Registrar contains a patent defect or error which may materially affect the matter to which it relates, the Registrar shall –
  - (a) request the person responsible for the filing of the document in terms of these rules, to correct the document; or
  - (b) at the written request from the person referred to in paragraph (a), permit the correction of such document.
- (2) Where the person referred to in sub-rule (1)(a) refuses to correct the document, the Registrar may refuse to accept the document.

- (3) Should the Registrar be of the view that a document delivered to him/her does not comply with the provisions of these Rules or is incomplete, the Registrar shall deliver the request contemplated in Rule 5(1)(a) to the relevant person within 14 (fourteen) days after date of filing thereof failing which the document shall be deemed to be substantially complete.
- (4) When requesting a person to rectify, the Registrar must inform the person who delivered the document of his/ her reasons for rejection of the document and must prescribe a reasonable period of time for an amended, supplementary or amplified document to be delivered to his or her office.

## **6 Notices given by the Registrar**

The provisions of Rule 4(4) and (5) shall, with the necessary changes, also apply to any notice given by the Registrar to any person contemplated in the Act or the Rules.

## **CHAPTER 2**

### **COMMITTEES OF COUNCIL, DELEGATION, MEETINGS AND SPECIFIC PROVISIONS APPLICABLE TO THE EDUCATION AND TRAINING COMMITTEE**

## **7 Establishment of and Delegation to Committees**

- (1) The following committees contemplated in Section 6 of the Act, have been established by Council:
  - (a) Executive Committee
  - (b) Communication and Liaison Committee
  - (c) Disciplinary Committee
  - (d) Education and Training Committee
  - (e) Finance Committee
  - (f) Registration Committee
  - (g) Rules Committee
  - (h) Transformation and Development Committee
- (2) Save for the Education and Training Committee, Council shall be entitled to revoke the establishment of any of the above committees, to consolidate any of the above

committees or to establish such further committees as Council may deem necessary or appropriate.

## **8 Membership and delegation of powers to committees**

- (1) With reference to the establishment of any further or alternative committees, contemplated in Rule 7, Council may, at a meeting contemplated under Section 9 of the Act, determine the following:
  - (a) Members of each committee.
  - (b) Chairperson of each committee.
  - (c) Clear description of powers delegated to the said committee and adopted by Council.
  - (d) Clear determination whether the committee will enjoy the powers to make final decisions or only recommendations to Council.
  - (e) Duration of delegation.
  - (f) Procedures relevant to the amendment, variation of or withdrawal of the delegation.
  - (g) Generally, all matters necessary for or incidental to the exercise of the delegated powers by the said committee.
- (2) The Council may subject to compliance with the provisions of Section 10 of the Act, revoke, amend, amplify the terms of delegation to any committee and replace the Chairperson or any member.

## **9 Provisions applicable to Education and Training Committee**

- (1) In addition to the matters contemplated in Section 6(3) of the Act and notwithstanding the determination of any delegation contemplated in Sub-Rule 8(1), the Education and Training Committee may, in addition, determine the procedures and methodology to be followed with regard to the matters contemplated in Section 8(4) of the Act and may submit same in respect of each sub-category contemplated in Section 8(4) to Council for approval at a meeting contemplated in Section 9.
- (2) Once approved by Council, the contemplated procedures and methodology will be binding on the relevant committee and may only be amended, altered, amplified or revoked by Council at a meeting contemplated in Section 9 of the Act.

- (3) The powers enjoyed by Council and the Education and Training Committee relevant to the assessment of persons contemplated in Section 13(4) of the Act, will be subject to the provisions of Rule 16.

## **10 Meetings of Council**

- (1) All members of Council must be notified of a council meeting contemplated in Section 9(2) of the Act, in writing substantially in accordance with the form approved by Council.
- (2) Notice of a special meeting, requested in terms of Section 9(4) of the Act, must be given to all members in writing substantially in the form approved by Council and such notice to indicate, *inter alia*, specific issues that are to be discussed at the said meeting.
- (3) The notices contemplated in sub-sections (1) and (2) shall be given to the members no less than 21 days before the date of the scheduled meeting.
- (4) Where Council decides to postpone a meeting scheduled in terms of this rule before commencement thereof, no less than 7 (seven) days notice of the date of the postponed meeting, will be given to all members and such notice shall likewise be in writing and substantially in the form approved by Council .

## **11 Procedures at Council meetings**

- (1) In addition to the provisions of Sections 9 and 10 of the Act, the following Rules pertaining to the procedures relevant to Council meetings shall apply:
  - (a) The Chairperson of Council shall, after consultation with the Registrar, determine the location, times and places where meetings are to be held.
  - (b) If a member of Council who is present at a meeting of Council does not agree with a resolution of Council passed at such a meeting, he or she may request that his or her dissention, with or without reasons therefore, be recorded in the minutes and the person presiding at such meeting must ensure that such request be so recorded.
  - (c) At least 7 days before one of the bi-annual meetings contemplated in Section 9(2) of the Act, the Chairperson's report together with the annual financial statements of the Council, duly signed by the auditor or auditors in respect of the preceding financial year, shall be published on the website and copies of the afore going shall accompany the notification of the meeting given to all members of the Council.

- (d) The business to be transacted at a Council meeting, shall be, at least:
- (i) the confirmation of the minutes of the previous Council meeting and any special meeting;
  - (ii) the consideration and adoption of the Chairperson's report together with the annual financial statements of the Council for the preceding years, at least once a year;
  - (iii) the appointment of the auditor or auditors and the fixing of the amount of his/her or their remuneration, at least once a year;
  - (iv) the consideration and transaction of any business which the Council may deem expedient to submit at the meeting, subject thereto that such business or matters were identified in the notice contemplated in Rule 10;
  - (v) the consideration and transaction of any business or matter in respect of which due notice was given by a member to the Registrar no less than 7 (seven) days before the scheduled meeting date.
- (e) In the event of a special meeting, special business or matters shall be considered, subject thereto that due notice as provided in Rule 10 read with Rules 11(d)(iv) and (v), which shall apply with the necessary changes, has been given.

## **12 Minutes of Council Meetings**

- (1) The minutes of the preceding general meeting and of all intervening special meetings shall be read, or taken as read, if the meeting so decides, and confirmed.
- (2) The draft minutes of all meetings shall be prepared by the Registrar and circulated to all members of Council no later than 30 days after date of conclusion of the applicable meeting.
- (3) Once the draft minutes have been circulated to members of Council, the said members must provide comments on the accuracy of the minutes of the issues discussed and agreed upon during the said meeting, within a period of seven (7) days from date of dispatching of the said minutes. In the event that no comments are received, the draft minutes shall be deemed to be final and accepted as such by all Council members present at the said meeting.

**13 Extraordinary meetings and deviations to deal with urgent matters**

Notwithstanding any provision to the contrary contained in these Rules, Council may deviate from the procedures contemplated in these Rules relevant to the notification of meetings, applicable time periods, procedures to be followed at the meetings and matters incidental thereto, subject to the majority of members present at the meeting, voting in support of the applicable deviation.

**CHAPTER 3****REGISTRATION OF PERSONS IN TERMS OF SECTION 13 OF THE ACT AND  
CANCELLATION OR SUSPENSION THEREOF AND DEALING WITH ALL MATTERS  
RELATING TO THE CONTINUING REGISTRATION OF PERSONS****14 Form of application for registration and registration certificate**

- (1) An application for registration as a candidate planner, technical planner or professional planner must be substantially in the form published for such purposes on the website.
- (2) When registering as a candidate planner, registration will happen in one of the sub-categories established through these Rules, i.e. sub-category candidate planner (student) and candidate planner.
- (3) An application for registration, contemplated in Rule 14(1), shall be accompanied by the documents prescribed for such purposes on the website.
- (4) After registration of an applicant in the relevant category, Council shall issue a registration certificate to such applicant substantially in the form published for such purpose on the website.
- (5) Council shall notify a prospective candidate planner (student) or candidate planner, prospective technical planner or prospective professional planner of its decision on a substantially complete application for registration within 120 (one hundred and twenty) days after date of submission of such application for registration to the Registrar or, where an assessment (practical examination), contemplated in Rule 16 hereunder has to be undertaken by such applicant, the applicant will be notified of such decision within 120 (one hundred and twenty) days after date of completion of the said assessment.

**15 Practical Training Requirements for purposes of registration**

- (1) The basic requirement for any category of registration is a SACPLAN accredited academic planning qualification relevant to each of the categories of registration.

- (2) To be registered as a technical planner or a professional planner a person is required to have both a recognised academic planning qualification and have completed a period of practical training.
- (3) The practical training must be for a total period of at least 24 months.
- (4) The period of 24 months practical training must be undertaken after obtaining the relevant planning qualification.
- (5) The practical training must be undertaken under the guidance of a registered professional planner in respect of a person registering as a professional planner, or under the guidance of a technical or professional planner for a person registering as a technical planner.
- (6) In addition, it is necessary to have been registered as a candidate planner for at least two (2) years.
- (7) In respect of sub-rule 15(4) and 15(6), the period of two years starts on registration as a candidate planner after obtaining a recognised planning qualification or from the date of obtaining the recognised qualification if the person was registered as a candidate planner prior to obtaining the recognised planning qualification, whichever date is the latest.
- (8) In special circumstances the Council may reduce the requirements in Sub-Rules 15(3), 15(4), 15(5), and 15(6). In exceptional circumstances, such as an applicant from outside South Africa, the Council may exempt an applicant from this requirement.
- (9) The Council may publish on its website guidelines for practical training, which may include different types of planning work, different categories of planning work, minimum periods of experience required within the different categories and types of planning work, as well as the minimum number of required categories across a spectrum of planning experience.

**16 Assessment of applications for registration of technical planners and professional planners**

- (1) The Education and Training Committee may submit to Council its recommended procedures and methodology pertaining to examinations to be undertaken by prospective technical planners and/or professional planners.
- (2) Council shall consider the report submitted to it by the Education and Training Committee and, should the report be accepted and a resolution adopted whereby it is determined that prospective technical planners and prospective professional



planners must undergo an examination, Council shall issue directives pertaining to the following to the Education and Training Committee and Registrar:

- (a) The applicable disciplines and subjects to which the practical examination will relate.
  - (b) The identity of two (2) or more examiners or an institution that will be responsible for arranging, controlling and conducting of examinations.
  - (c) The required average percentage pass rate.
  - (d) The nature of the examinations.
  - (e) All other matters necessary for or incidental to the examinations as a pre-registration requirement applicable to prospective technical and professional planners.
- (3) Once the directives contemplated in Sub-Rule 16(2) have been issued by the Council, no person shall be registered as a technical planner or professional planner without passing the applicable practical examination.

## **17 Determination of supervision over candidate planners**

- (1) Subject to the provisions of sub-rule 17(2) hereunder, Council shall, in general, not approve an application for registration by a candidate planner, unless it is satisfied that such candidate planner shall engage in planning work under the control and supervision of a duly registered technical or professional planner with a minimum of three (3) years post technical or professional registration experience:
- (a) In the case of registration as a Technical Planner the Candidate Planner must have worked under the control and supervision of a duly registered Technical or Professional Planner;
  - (b) In the case of registration as a Professional Planner the Candidate Planner must have worked under the control and supervision of a duly registered Professional Planner;
  - (c) The Candidate Planner must within a period of 30 days from the date of registration as a Candidate Planner submit for approval by Council the name(s) of his/her supervisor(s), and/or change in supervisor:
    - (i) Accompanied by a clear identification and full particulars of the supervisor under which the candidate planner shall serve his/her 2 year period; and

- (ii) Written acceptance by the intended supervisor of the duties pertaining to the proposed supervision and such other requirements as Council may deem reasonable.
- (2) Council may, subject to such conditions as may be appropriate, waive the requirement contemplated in Rule 17(1) under the following circumstances:
  - (a) A positive report in support of such waiver be received from the Education and Training Committee; and
  - (b) Full motivation and disclosure by an applicant why the requirement should be waived.
  - (c) Council being satisfied that, having regard to the circumstances of the specific case, the Applicant will gain sufficient practical experience during the relevant 2 year period contemplated in Section 13(4) of the Act, in order to enable such candidate planner to pass the assessment contemplated in Rule 16 and that he/she will thereafter possess the necessary skills to practise competently as either a technical or professional planner.
- (3) When Council waives compliance, as contemplated in Rule 17(1) and after due compliance with Rule 17(2), Council shall determine in clear terms the nature of the practical training and experience that the candidate planner shall undergo.
- (4) Where Council has waived the requirement contemplated in Rule 17(1) at any time before registration of a candidate planner or before registration as a technical or professional planner, the practical experience specified by Council as per Rule 17(3) shall constitute due compliance with Sections 13(4)(b)(ii) or 13(4)(c)(ii) of the Act, as the case may be, subject to due compliance by the candidate planner with all provisions of this Rule and Council being satisfied that the candidate planner complied with all conditions and determinations imposed by Council issued upon the initial registration of the candidate planner concerned.

## **18 Rules relating to Continuing Professional Development**

- (1) The Council must develop Continuing Professional Development Guidelines, criteria and procedures for the planning profession and publish it on its website.
- (2) A person registered as a technical or professional planner, must obtain the minimum number of Continuing Professional Development (CPD) points within the prescribed period to maintain his/her registration status, in line with the guideline so published from time to time.

**19 Cancellation, suspension and reinstatement of registration**

- (1) Where Council considers cancelling or suspending the registration of a registered person under circumstances contemplated in Section 14(1) of the Act, Council shall afford the affected person no less than 30 days to make representations, before the date of consideration of the matter.
- (2) Where the registration of any registered person under this Act is suspended or cancelled for whatever reason and such person re-applies for reinstatement on grounds other than those contemplated in Section 14(6) of the Act, Council may waive compliance with any of the requirements contemplated in Rules 14, 15, 16 and 17 of these Rules.

**CHAPTER 4****IDENTIFICATION OF PLANNING PROFESSION WORK****20 Consultation with persons, bodies or voluntary associations pertaining to determination of work reserved for professional and technical planners**

Council shall be entitled to, from time to time, amend, vary, amplify or revoke categories of work reserved exclusively for technical and professional planners and to which the provisions of Section 16(3) of the Act shall apply, subject thereto that the associations, persons or bodies contemplated in Section 16(1) of the Act and such other persons, associations or bodies that may have a material interest in the matter shall be consulted before such amendments or alterations are submitted to Council for its consideration.

**21 Reservation of work exclusively for professional and technical planners**

The reservation of work exclusively for professional and technical planners is dealt with in the regulations to the Act.

**CHAPTER 5****PROFESSIONAL CONDUCT****22 Adoption of Code of Conduct**

- (1) A Code of Conduct, duly approved by Council, is attached hereto as Schedule 1.
- (2) Failure to comply with the Code of Conduct and the provisions of Section 18(3) of the Act shall constitute improper conduct as contemplated in Section 19 of the Act and

may result in the institution of disciplinary proceedings, contemplated in Sections 20, 21, 22 and 23 of the Act against a registered person who has made himself or herself guilty of such improper conduct.

- (3) The Code of Conduct shall form part of these Rules and the provisions of Section 30(3)(a) of the Act, relevant to the amendment of the Rules, shall apply to the amendment of the Code of Conduct.

## **23 Inter-relationship between the Code of Conduct and Section 18 of the Act**

- (1) The provisions of Section 18(3) of the Act shall apply in addition to the Code of Conduct and shall be deemed to form part of the Code of Conduct.
- (2) Where a discrepancy exists between the Code of Conduct and Section 18(3) of the Act, the provisions of Section 18(3) shall prevail.

## **CHAPTER 6**

### **INVESTIGATION, PROSECUTION AND APPEALS: IMPROPER CONDUCT**

## **24 Provisions pertaining to appointment of investigating officers**

- (1) The appointment of an investigating officer may relate to a specific complaint or allegation only or may relate to a general appointment for a specified duration of time pertaining to one or more matters referred to Council.
- (2) Should the appointment of an investigating officer be for a specific matter, such appointment shall be in writing and shall contain all relevant information pertaining to the complaint, charge or allegation contemplated in Section 19(2)(a) and 19(2)(b) of the Act, respectively.
- (3) Should an investigating officer be appointed for one or more unspecified charges, same will constitute a general appointment, the said appointment will be in writing and will be accompanied by complete terms of reference including the duration of the said appointment.

## **25 Provisions pertaining to complaints brought against registered persons**

- (1) A complaint, charge or allegation of improper conduct may be submitted to the Registrar by any member of the public or government or private institution, or may be submitted to the Registrar by Council should reasonable grounds to suspect improper conduct exist.

- (2) After receipt of a complaint, charge or allegation of improper conduct the Registrar must forward the complaint, charge or allegation to the registered person, within a period of thirty (30) days, and the registered person shall then be afforded a period of thirty days to respond to such a complaint, charge or allegation.
- (3) The Registrar shall consider the complaint, charge or allegation and, should *prima facie* reasonable grounds exist to suspect that a registered person is guilty of improper conduct, forthwith refer the matter to an investigating officer to investigate the matter.
- (4) If the Registrar is of the view that further investigation by the investigating officer will not contribute to the prosecution of the respondent, refer the matter to Council with a recommendation as to whether the registered person must be prosecuted or not.
- (5) An investigating officer shall, whilst investigating the matter, ensure due compliance with the provisions of Section 19 of the Act.
- (6) Council must within 30 days of date of receipt of the report from the investigating officer, contemplated in Section 19(5) of the Act or the direct referral from the Registrar, contemplated in Rule 25(4), as the case may be:
  - (a) refer the matter back to the investigating officer to conduct further investigations or procure further information; or
  - (b) decide whether the registered person must be formally charged or not.

## **26 Charge of improper conduct and charge sheet**

- (1) Where Council decides to charge a registered person with improper conduct after consideration of the referral or report, as the case may be, referred to in Rule 25, it must appoint a member of Council or a registered professional planner to act as prosecutor. The person so appointed may with the consent of Council and on terms acceptable to Council, appoint a practising attorney or advocate with experience of no less than 10 years, assisting him or her with the prosecution of the respondent.
- (2) The prosecutor shall prepare a charge sheet substantially in accordance with the form published for such purposes on the website relevant to this Sub-Rule and same shall be served on the respondent together with a copy of the investigation report, if applicable, and a copy of the Rules and provisions of the Act applicable to the relevant proceedings.
- (3) Should the Registrar decide not to refer the matter to Council for further action as contemplated in Rule 25(4), or should Council decide not to prosecute after having considered the matter under circumstances contemplated in Rule 25(3), the complainant shall be notified of the said decision and also be furnished with reasons for the decision.

- (4) Where the registered person accused of improper conduct has been interviewed or questioned by the investigating officer under circumstances contemplated in Section 19(4) of the Act or where a registered person is charged and Council subsequently resolves to withdraw the charge, the aforesaid provisions pertaining to notification of a decision not to prosecute, shall with the necessary changes also apply to the registered person so accused.
- (5) Once the registered person so accused has been notified of a charge as contemplated in Rule 26, the provisions of Section 20 of the Act shall find application, subject thereto that the registered person so accused shall be afforded a period of no less than 30 days to submit the document contemplated in Section 20(3)(c) of the Act to Council.

## **27 Subpoenas**

Any subpoena shall be in accordance with the form published for such purposes on the website.

## **28 General provisions pertaining to disciplinary hearing**

- (1) Council may elect not to conduct a hearing under circumstances contemplated in Section 20(4) of the Act.
- (2) Where a hearing is held, at the election of Council or when prescribed, the registered person charged:
  - (a) must be present at the hearing of proceedings. If the registered person charged fails to attend the hearing after reasonable notice has been given, and no reason for his/her absence is provided to the satisfaction of Council within the period prescribed by Council in terms of the notice issued, the Council shall be entitled to conduct the hearing in the absence of such a registered person;
  - (b) may be assisted or represented by another person in conducting the proceedings;
  - (c) has the right to be heard;
  - (d) may call witnesses, subject thereto that should any expert witnesses be called, due notice thereof must be given to the Prosecutor and Registrar no less than 7 (seven) days before the hearings;
  - (e) may cross examine any person called as witness in support of the charge;

- (f) may have access to information produced in evidence;
  - (g) may produce information subject that due notice of his or her intention to use such information was given to the Prosecutor and Registrar no less than 7 (seven) days before the hearing and that the information was clearly identified in such notice;
  - (h) may admit at any time before conviction that he or she is guilty of the charge or a component thereof despite the fact that he or she initially denied the charge or failed to react thereto.
- (3) The prosecutor may during a hearing:
- (a) lead evidence and advance arguments in support of the charge and cross examine witnesses;
  - (b) question any person subpoenaed in terms of Section 22(2)(b)(iii);
  - (c) call upon anyone to give evidence, subject thereto that where the evidence will be of an expert nature, due notice, inclusive of a brief summary of the evidence to be given, must be provided to the accused and Registrar no less than 7 (seven) days before the date of the hearing.
  - (d) may produce any information in his or her possession or custody which he or she may believe to have a bearing on the subject matter of the hearing, subject thereto that where such information is in the custody of the prosecutor, due notice of his or her intention to use such information was given to the accused and Registrar no less than 7 days before the hearing and that the information was clearly identified in such notice.
- (4) Save for as far as these Rules or the Act, in specific terms, prescribe any procedures to be followed by the Tribunal, the Tribunal may determine its own procedures.
- (5) Where notice is given by either party to the other pertaining to any information which the one party intends using at the hearing of the Tribunal, the person to whom such notice is given may request copies of such information to be made available to him or her within a reasonable period of time before the hearing.
- (6) Should it be deemed necessary by the Tribunal, it may, at anytime, conduct an inspection of any site or thing or occurrence.
- (7) The Tribunal may *mero motu* and/or upon good cause having been shown, condone the failure to comply with any provision of this Chapter 6 by any of the persons to whom such provisions apply.

- (8) The Registrar may, at any time before the decision of the Tribunal is delivered, apply to the Tribunal for the amendment of the charge brought against the registered person and the Tribunal may, subject to such conditions as it may deem reasonable, inclusive of a postponement of the matter, approve or decline such application.
- (9) Where a person is subpoenaed in terms of Section 22(2)(b), the reasonable travelling disbursement incurred by such person shall be paid by the Council, subject thereto that any cost order granted in terms of Section 23(3)(c), may include such disbursements.
- (10) The record of proceedings to be kept by the Registrar shall include, but not be limited to:
  - (a) any decision of the Tribunal;
  - (b) sentence or sanction imposed by the Tribunal;
  - (c) all evidence given to the Tribunal;
  - (d) the charge sheet and report by the investigating officer;
  - (e) records of any on site inspection and other matter recorded as a result thereto;
  - (f) the proceedings of the Tribunal generally.
- (11) The provisions of Section 26 of the Act pertaining to remuneration and allowance of members of the appeal board shall apply with the necessary charges to remuneration of members of the Tribunal.

**29 Procedures relevant to the imposition of sanctions and sentencing of registered persons found guilty**

- (1) Where a registered person is found guilty, the Tribunal must, before imposing any sanction contemplated in Section 23(3)(a) of the Act, afford the registered person a fair opportunity to make representations to establish any mitigating circumstances which such Tribunal must consider in determining in an appropriate sanction.
- (2) Under the circumstances contemplated in Section 23(3)(a)(iii) and (iv) of the Act, the Tribunal shall convene a hearing upon reasonable notice and afford the registered person who was found guilty a fair opportunity to appear at such hearing to make submissions, present evidence and call witnesses in mitigation of sentence, before consideration is given to a sentence or sanction.



- (3) The prosecutor may present argument, evidence or call witnesses to rebut any argument or evidence contemplated in Rule 28(3) or to support a contention for aggravation of sentence.

### **30 Cost awards, determination thereof and enforcement thereof**

- (1) A Tribunal may award costs on either the High Court or Magistrate's Court scale and the costs may be awarded on a basis as between party and party or attorney and client.
- (2) The award of costs may include qualifying fees of any expert witnesses as well as travelling costs and expenses incurred by any parties to the proceedings.
- (3) Costs shall be taxed by the taxing master of either a Magistrate's Court, where costs were awarded on the Magistrate's Court tariff, or a High Court, where costs were awarded on the High Court tariff.

### **31 Provisions applicable to the noting and prosecution of appeals**

- (1) Any appeal must be noted substantially in the form published for such purposes on the website.
- (2) The appeal document shall clearly state the subject matter of the appeal, the grounds of appeal, whether the appeal relates to findings of fact or law and, where an appeal is noted against a decision of the Tribunal, whether the appeal is noted against the finding of guilty on a charge of improper conduct, the sentence imposed, or both.
- (3) Where the appeal is noted against a decision of the Tribunal, the record of proceedings before the Tribunal must be made available by the Registrar within 30 days before the date of the hearing.
- (4) Where the appeal is noted against a decision of the Tribunal, the appeal shall be considered by the Board afresh (*de novo*) and the Board shall have due regard to the following:
  - (a) Where applicable, the record of proceedings prepared by the Registrar as contemplated in Rule 28(10).
  - (b) Any further evidence presented by any of the parties to the Board or any witness subpoenaed by the Board.
  - (c) Any inspection conducted by the Board.
  - (d) Any information submitted by any of the parties to the Board or subpoenaed by the Board.

- (e) The Board may of its own motion take cognisance of any matter, document or information which would, in its opinion, assist in its consideration of the appeal before it.
- (5) Where the appeal is noted against a decision of the Tribunal, a hearing must be held and the provisions of the following rules pertaining to proceedings before the Tribunal shall apply, with the necessary changes, to the procedures followed by the Board and proceedings before it:
  - (a) Rule 27
  - (b) Rule 28(2)(a) to (h)
  - (c) Rule 28(3)(a) to (d)
  - (d) Rule 28(4), (5), (6), (7), (8) and (10)
- (6) Where the appeal is noted under circumstances contemplated in Sections 27(1)(b) or (c) of the Act, the following provisions of the Rules, pertaining to procedures before a Tribunal, shall apply, with the necessary changes, to the proceedings before the Board:
  - (a) Rule 27
  - (b) Rule 28(1) in that the Board may elect not to conduct a hearing
  - (c) Rule 28(2)(a) to (h)
  - (d) Rule 28(3)(a) to (d)
  - (e) Rule 28(4), (5), (6), (7), (9) and (10)

Subject thereto that any reference to the "*prosecutor*" in the above rules be substituted by "*the committee member*" duly appointed by Council as provided for in Rule 31(7).

- (7) Notwithstanding anything to the contrary contained in this Rule, Council will be represented by the prosecutor in proceedings before the Board where an appeal is noted against the decision of the Tribunal, and where an appeal is noted against a decision contemplated in Section 27(1)(b) or (c) of the Act, by any member of Council, duly appointed.

## **CHAPTER 7**

### **GENERAL PROVISIONS**

#### **32 Application for the recognition of voluntary associations**

- (1) An application for the recognition of a voluntary association shall be in the form published for such purposes on the website and shall be accompanied by all documents listed in the said form, and such additional information as the Council may determine in each specific case.
- (2) If, after consideration of an application referred to in rule 32(1), the Council is satisfied that the association meets the relevant requirements for recognition as set out in Section 17 of the Act, the Council must recognise such association as a voluntary association, and issue it with a certificate of recognition.
- (3) The certificate of recognition is valid for a period of five years from the date of issue, which date is deemed to be the date on which the Council resolves to recognise the voluntary association.
- (4) The voluntary association must display its certificate of recognition in a prominent place at its head office and may display Council's logo on its stationery as an indication of its recognition status.
- (5) The Council must, within 30 days from the date on which it recognises a voluntary association, publish the name of such voluntary association on its website, and thereafter make it known in such other manner as it may deem appropriate.
- (6) The recognition of a voluntary association remains in effect for as long as it meets the requirements for recognition in terms of these rules and the Act.
- (7) The recognition of a voluntary association lapses –
  - (a) if that voluntary association no longer complies with the requirements set out in these rules; or
  - (b) at the expiry of the five-year period referred to in Rule 32(3).
- (8) A voluntary association must at least three months prior to the expiry of its recognition, apply in the prescribed manner to the Council for the renewal thereof.
- (9) Every voluntary association must provide the Council, by no later than 3 months prior to the expiry date contemplated in rule 32(3), with information as required from Council to enable the Council to monitor whether the requirements for recognition are still being met.

- (10) Every voluntary association must advise Council of any changes to its constitution and/or by-laws, within 60 days of the date on which the changes were approved.
- (11) If at any time during the period of five years referred to in Rule 32(3), a voluntary association becomes aware that it no longer complies with the requirements, it must notify the Council forthwith in writing of such fact and provide the reasons for it.
- (12) If the Council is satisfied that a voluntary association has ceased to comply with the requirements specified in these rules, the recognition of such voluntary association lapses on the date on which the Council resolves that the voluntary association ceased to comply.
- (13) If the Council at any stage decides to amend the requirements for recognition referred to in rules, the Council must:
  - (a) inform all voluntary associations of this decision and provide them with the proposed amendments; and
  - (b) call for comment on the amendments from the voluntary associations.
- (14) If an amendment of the requirements so prescribed results in a voluntary association ceasing to comply with the requirements, that voluntary association must, within twelve months from the date on which the amended requirements have been prescribed, take the necessary steps to comply with the amended requirements, and provide the Council with proof that it does comply.
- (15) The Council may at its discretion extend the period of 12 months by an additional period not exceeding 12 months, if the Council is satisfied that the voluntary association in question has taken definite steps to comply with the requirements, but has nevertheless not succeeded in the time allowed.
- (16) If a voluntary association fails or refuses to comply with any of the amended requirements within the period allowed, its recognition as a voluntary association lapses on the day when the Council resolves that the voluntary association ceased to comply with the requirements.

**33 Professional fees, fees, levies and other amounts payable in terms of the Act and the Rules**

- (1) Council may annually, determine fees, levies or any other amounts that will be charged by Council from a specified future date in terms of Section 8(3) of the Act and must publish such fees, levies and charges on the website, in respect of the following:
  - (a) Application charges for registration;

- (b) Annual fees payable by registered persons;
  - (c) Fees payable in respect of any assessment referred to in Section 13(4) read with Rule 16;
  - (d) Any fees payable in respect of the lodging of an appeal; and
  - (e) Any other fee or levy that it considers necessary.
- (2) Council may annually, but must at least every three years, in terms of Section 29 of the Act determine guideline professional fees as required, and publish a notice setting out such fees in terms of Section 29(1) of the Act;
- (a) Upon receipt of any comments, consideration of such comments and upon the adoption of a resolution to that effect, Council shall publish a notice setting out the finally determined guideline professional fees in the Government Gazette;
  - (b) In respect of Rule 33(2) and in support of any hourly tariff, the Council may publish guideline fee calculation formulas.
  - (c) Council shall publish the guideline professional fees on its website.

#### **34 Consultation with registered persons**

- (1) Council shall within 180 (one hundred and eighty) days of the date upon which the Rules came into operation, develop a draft policy and procedures relevant to the manner in which registered persons shall be consulted and the manner in which the views, opinions, input and concerns of registered person will be brought to the attention of Council when the interests of such members may be affected by any decision taken or action undertaken by Council.
- (2) The draft policy and procedures, shall be published on the website for comment by all affected registered persons and regard shall be had to such comments when Council considers the adoption of the relevant policy and procedures.
- (3) Once adopted, Council shall be bound to follow the said policy and procedures where the interest of the general body of registered planners may be affected.
- (4) Consultation with registered persons shall include consultation with the voluntary associations referred to in Rule 32 of these Rules.
- (5) The above provisions shall apply, with the necessary changes, whenever the applicable policy or procedures are to be amended.

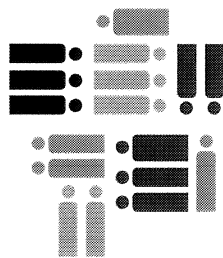
**35 The Council website**

- (1) Council shall establish and maintain a website to deal with all matters and provided for in these Rules.

- (2) The website address shall be:

[www.sacplan.org.za](http://www.sacplan.org.za) or such alternative address as Council may decide from time to time, subject thereto that due notice of such alternative address shall be given in the Government Gazette and publish on the website before introduction of the amendment.

- (3) Council shall ensure that under circumstances where the website is not operative, accessible or available, updated hard copies of the website content be made available to any person who may have a legitimate expectation or entitlement to such information, alternatively same may be made available by other means, including via an e-mail transmission.



The South African  
Council *for* Planners  
S A C P L A N

## **CODE OF CONDUCT FOR REGISTERED PERSONS**

**Published under the Planning Profession Act, 2002 (Act 36 of 2002)**

### **SCHEDULE 1**

#### **1. Objectives**

The objectives of this Schedule are to ensure that Registered Persons-

- (1) apply their knowledge and skill in the interest of humanity, of the public and of the environment and ensure that our natural and cultural environment is taken into account in planning decisions;
- (2) execute their work with competence, honesty, integrity, sincerity and in accordance with generally accepted norms of professional conduct;
- (3) respect the interests of their fellow beings and honour the standing of the planning profession;
- (4) continuously improve their professional skills and those of their subordinates and employees;
- (5) fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- (6) discharge their duty to their employers, clients, colleagues and others with due care and diligence in accordance with the provisions of this Code of Conduct;
- (7) encourage excellence within the Planning Profession;
- (8) do not bring the profession, SACPLAN or any other organisation affiliated to the planning profession into disrepute;

- (9) strive towards the transformation of the planning profession in order to achieve the objectives of the Constitution in bringing about a non-racial society, an open democracy and to comply with all applicable empowerment legislations; and
- (10) promote social and environmental justice in the built environment.

## 2. Definitions

Any expression or word to which a meaning has been assigned in the Planning Profession Act, 2002 or in this Schedule, hereinafter referred to as "the Act and Schedule" shall bear the same meaning unless the context otherwise indicates-

- (1) **'act'** means the Planning Professions Act, 2002 (Act 36 of 2002).
- (2) **'agreement'** means documents listed in the schedule which together form the agreement between the client and the registered person;
- (3) **'allied profession'** means a recognized and regulated profession, members of which may from time to time co-operate with planners and may include, but is not limited to Registered Land Surveyors, Engineers, Architects and Attorneys.
- (4) **'candidate planner'** means a person registered in terms of the Planning Profession Act, 2002 under the specific category of registration as provided for in Section 13 of the Act;
- (5) **'category of registration'** means the categories in which a person may be registered as provided for by Section 13(1)(a) to (c) of the Act:
  - (a) Candidate Planner (sub-categories – Candidate Planner, Candidate Planner – Student)
  - (b) Technical Planner;
  - (c) Professional Planner;
- (6) **'client'** means a person or party appointing a registered person to perform a service or any part thereof referred to in this document and is also referred to as the employer;
- (7) **'contract'** means an agreement entered into by a client for the performance of a service or part thereof by a registered person;



- (8) **'Council'** shall mean the South African Council for Planners established under Section 3 of the Act;
- (9) **'information'** includes drawings, designs, records, reports, specifications, calculations, contractual documents, plans and any other documents, including electronic data, that form part of any of the records relating to work;
- (10) **'planner'** means a person registered as a Professional Planner, or Technical Planner as defined in Section 13 the Planning Profession Act, 2002;
- (11) **'planning practice'** means any company or firm practicing as planners, as envisaged in the Act, including planning departments, sections, or persons in multi-disciplinary firms;
- (12) **'planning profession'** means the profession regulated in terms of the Act.
- (13) **'professional conduct'** means the conduct described in this Schedule.
- (14) **'professional planner'** means a person registered in terms of the Planning Profession Act, 2002 under the specific category of registration as provided for in Section 13 of the Act;
- (15) **'project'** means the development or assignment for which the registered person is appointed;
- (16) **'registered person(s)'** means any person registered in terms of the Act;
- (17) **'Registrar'** means the office of and the person appointed as Registrar of the South African Council for Planners in terms of Section 8(1)(a) of the Act;
- (18) **'SACPLAN'** means the South African Council for Planners, the statutory Council governing the planning profession;
- (19) **'technical planner'** means a person registered in terms of the Planning Profession Act, 2002 under the specific category of registration as provided for in Section 13 of the Act;
- (20) **'work'** means any planning profession work normally carried out by Registered Persons in the practice of the planning profession.

### **3. Rules of Conduct: Ethics**

Registered Persons in fulfilling the objectives contemplated in clause 1 hereof must comply with the following rules-

#### **Competency and Integrity**

##### **3(1) Registered Persons-**

- (a) must discharge their duties to their employers, clients, associates and the public effectively with skill, efficiency, professionalism, knowledge, competence, due care and diligence;
- (b) may not undertake or offer to undertake work of any nature for which their education, training and experience have not rendered them competent to perform;
- (c) must, when carrying out work, engage in and adhere to acceptable practices and accepted norms of professional conduct as contained in the objectives;
- (d) must discharge their duties to their employers, clients, associates and the public with integrity, fidelity and honesty;
- (e) must disclose to their employer(s) and client(s), or prospective employers or client(s), in writing-
  - (i) any interest, whether financial or otherwise, which they may have in any business undertaking, or with any person, and which is related to the work for which they may be or have been appointed or employed;
  - (ii) particulars of any royalty or other benefit which accrues or may accrue to them as a result of the work performed for the client or employer concerned;
  - (iii) the status pertaining to professional indemnity insurance cover where required;
- (f) may not, either directly or indirectly, receive any gratuity, commission or other financial benefit on any item or process used in or for the purpose of the work in respect of which they are appointed or employed, unless such gratuity, commission or other financial benefit has been authorised in writing by the employer or client concerned;

- (g) must avoid any perceived, real or potential conflict of interest;
- (h) may not knowingly misrepresent, or permit misrepresentation of their own academic or professional qualifications or competency or those of any other person involved with their work, nor knowingly exaggerate their own degree of responsibility for any work or that of any person;
- (i) must provide planning decisions, recommendations or opinions that are honest, objective and based on facts that are used in reaching recommendations or opinions given to clients or employers;
- (j) may neither personally nor through any other person, improperly seek to obtain work, or by way of commission or otherwise, make or offer to make payment to a client or prospective client for obtaining such work;
- (k) may not, unless required by law or by these Rules, and in terms of the Act, divulge any information of a confidential nature which was obtained in the exercise of their duties;
- (l) must notify Council immediately if they become aware of a violation of these Rules by any other registered person, or if they become aware of any person who is not registered in terms of the Act is performing planning work, or is not authorised in terms of the Regulations to do so;
- (m) must notify Council immediately if they become insolvent;
- (n) must without delay notify Council if they become aware of any registered person who is subject to one or more of the following:
  - (i) removal from an office of trust on account of improper conduct;
  - (ii) being convicted of an offence and sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
- (o) must display their registration certificates or certified copies thereof in a prominent place in their offices.

## Environment

### 3(2) Registered Persons must at all times-

- (a) have due regard for, enhance and sustain the natural, physical, social and human environments as required in terms of the Constitution and

other legislation and in terms of planning principles, norms and standards;

- (b) have due regard for and in their work, avoid adverse effects on the culture and heritage of the community; and
- (c) adhere to generally accepted principles of sustainable development, as defined in the relevant legislation.

### **Dignity of the Profession**

#### **3(3) Registered Persons-**

- (a) must order their conduct so as to uphold the dignity, standing and reputation of the planning profession;
- (b) may not, whether practising their profession or otherwise, intentionally injure the professional reputation or business of any other registered person;
- (c) must provide work or services of quality and scope, and to a level, which is commensurate with accepted standard and practices in the planning profession;
- (d) may not knowingly attempt to endeavour to be appointed in stead of another registered person in a particular engagement after a client has employed such registered person;
- (e) may not advertise their professional services in a laudatory manner that is derogatory to the dignity of the planning profession;
- (f) may not review for a particular client work of another registered person, except:
  - (i) with the prior knowledge of the other registered person, who must be afforded a reasonable opportunity to submit comments to the client on the findings of the review; or
  - (ii) after receipt of a notification in writing from the client that the engagement of the other registered person has been terminated; or
  - (iii) where the review is intended for purposes of a court of law or other legal proceedings, including proceedings arising from these Rules.

- (g) practising outside of South Africa shall order their professional conduct in such a way as to uphold the status and integrity of the South African Council for Planners and the planning profession;
- (h) must, in the practising of their profession, be diligent and ensure that the quality of the work performed and advice given, manifest itself in professionally responsible outcomes;
- (i) shall give due respect and sensitivity to community cultures and heritage and its multiple meanings.

### **Professional Responsibilities**

#### **3(4) Registered Persons shall only-**

- (a) undertake to perform work where the registered person has clearly set out in writing the terms of the appointment, which *inter alia* must include the following:
  - (i) the scope of the work;
  - (ii) the services to be provided;
  - (iii) the allocation and limitation of responsibilities;
  - (iv) the professional fee payable for the work or services, the method of calculating it (if appropriate) and the stage(s) at which the professional fee will be payable either in whole or incrementally;
  - (v) the budget (if applicable) or other cost limit for the work or service and the method and implication of estimating costs;
  - (vi) the provisions for termination of the agreement;
  - (vii) the details of their professional indemnity insurance (where required);
  - (viii) the provisions for dispute resolution.
- (b) issue any plans, drawings, specifications, reports or documents in respect of work performed by them (whether in the private practice or in the public service) or by a person in their employ or by a member or employee of the planning practice of which they are members, which

bear their names and/or registration numbers or the name of their planning practice;

- (c) sign or otherwise identify as having been issued by them (whether in the private practice or in the public service) any planning document of which they or their planning practice is the *bona fide* author or has prepared such or other document under his/her direct supervision.

**3(5) A Registered Person shall-**

- (a) not receive, directly or indirectly, any commission or remuneration for recommending a particular service provider to a client for work on any project, unless they have notified their employer or client, in writing, of such commission or other remuneration;
- (b) not receive, directly or indirectly any royalty, gratuity, commission, or other remuneration on any item associated with the purpose of the work in respect of which they are employed, unless they have notified their employer or client, in writing, of such royalty, gratuity, commission or other remuneration;
- (c) not practice as a planner and / or do any work as defined herein during any period in respect of which his/her registration has been suspended;
- (d) report any illegal practices to the Council where a person contravenes clause 3(5)(c), as soon as it comes to his/her knowledge;
- (e) not use or copy the work of any other registered person without due reference to the source of such work;
- (f) take all reasonable steps to maintain his/her professional competence throughout his/her working life and shall comply with the Council's Continuing Professional Development Rules as amended from time to time;
- (g) not make or subscribe to any statement or report which may be contrary to his/her own bona fide professional opinion and shall not knowingly enter into any contract or agreement which requires him/her to do so.

**3(6) Establishment of a planning practice and carrying on of a business**

- (a) Any registered person who is a principal of a planning practice in any form shall, within 30 days of the establishment of the planning practice, inform the Council thereof in writing, giving full details of the practice name, address from which the practice is conducted, type of practice and names of partners, shareholders, directors or members.
- (b) In the event that a planning practice was established prior to the promulgation of these rules and code of conduct, the registered person who is a principal of the planning practice shall, within 120 days from the promulgation of these rules and code of conduct, inform the Council in writing, giving full details of the name of the practice, address of the planning practice from which work is conducted, type of practice and names of partners, shareholders, directors or members;
- (c) The Council shall be informed of any changes in name, type, address, composition of a planning practice and its termination, within 30 days of the relevant occurrence.
- (d) The registered persons who are principals of a planning practice shall display their registration certificates or certified copies thereof in a prominent place in their office.
- (e) A registered person shall not, except with the permission of the Council and under such conditions as the Council may prescribe, enter into any professional planning practice or business with any person who is not a registered person of a closely allied profession or a registered person in terms of Section 13 of the Act.

Permission will not be granted if the person concerned-

- (i) is disqualified from registration under any provisions of the Act or from membership of any closely allied profession;
  - (ii) is qualified to register under any category provided for under the Act but has not done so.
- (f) Registered persons may not describe their practice as primarily rendering planning work, unless effective control in terms of majority shareholding, members interest or voting powers is in the hands of registered persons in terms of the Act;

- (g) Effective control of any multi-disciplinary professional firm, which also practises planning, shall be in the hands of registered persons and of registered professionals of closely allied professions;
- (h) Every office established for the purpose of conducting a planning practice shall be under the continuous, direct and personal supervision of a registered professional planner or a registered technical planner, provided that in a case where the planning practice is under the direct and personal supervision of a Technical Planner, the scope of work of such a planning practice shall be subject to such work as identified and published from time to time by the Council.

### **3(7) Company Documentation and Letterheads**

- (a) The letterhead of a planning practice and all documents completed by a planning practice shall display the following:
  - (i) name of the planning practice and the type of practice (if applicable);
  - (ii) the names of the principals and their registration numbers;
  - (iii) the category of registration of the principals, including the prescribed abbreviation:
    - Professional Planner (Pr. Pln and registration number);
    - Technical Planner (Tch. Pln and registration number);
  - (iv) the professional designation and qualification of all principals of the planning practice who are registered with the Council;
  - (v) physical and postal address, telephone, fax and email, Company and VAT registration numbers, if applicable;

## **4. Administrative**

### **Registered Persons-**

- (a) may not without satisfactory reasons destroy or dispose of, or knowingly allow any other person to destroy or dispose of, any document or information within a period of 5 (five) years after completion of the work concerned;



- (b) may not enter into contracts or place orders, or be the medium of payments, on their employer's or client's behalf without the written authority of the employers or clients;
- (c) may not issue any information in respect of work prepared by them or by any other person under their direction or control, unless-
  - (i) such information bears the name of the party concerned; and
  - (ii) information so issued is dated and signed by the registered person concerned or another appropriately qualified and authorised person;
- (d) must order their conduct in connection with work outside the borders of the Republic of South Africa in accordance with these Rules in so far as they are not inconsistent with the laws of the country concerned, provided that where there are recognised standards of professional conduct in a country outside the Republic, the registered person must adhere to those standards in as far as they are not inconsistent with these Rules;
- (e) must always ensure adequate supervision of, and take responsibility for, work carried out by their subordinates, regardless if they are employed in the private or public sector;
- (f) must ensure that, while engaged as partners, directors, members or employees of a business undertaking which performs work, the control over the work is exercised, and the responsibility in respect thereof is carried out by a registered person other than a person registered as a candidate planner in terms of Section 13(1) and 13(4)(a) of the Act;
- (g) must, when requested by the Council to do so, in writing provide the Council with all the information requested in respect of any investigation, which may enable the Council to establish which registered person was responsible for any act which the Council may consider *prima facie* to be improper conduct as contemplated in Section 19 of the Act;
- (h) must notify Council without delay of any change of their physical address;
- (i) must within 30 days respond to correspondence received from clients, colleagues and Council in so far as it relates to work or proceedings in terms of these Rules of Code of Conduct.

**5. Unprofessional, dishonourable, unworthy or improper conduct on the part of a Registered Person means the following:**

- (a) The performing of work reserved for registered persons in connection with any matter which is the subject of a dispute or litigation, on condition that payment for such work will only be made if such dispute or litigation ends in favour of the person for whom such work is performed, (a so called contingency fee).
  - (b) The performing of work reserved for registered persons during any period of suspension under the Act;
  - (c) Being found guilty of an offence by a court of law in the performance of his or her work as a registered person;
  - (d) Accepting remuneration for the performance of work reserved for registered persons from any person other than his/her client or employer without the prior approval of such client or employer or failing to comply with all the provisions of the Act;
  - (e) Accepting remuneration for work done based on professional fees that are not commensurate with the professional fees referred to in Section 29 of the Act and in terms of Rule 33 of the Rules, and which charged fees, in the discretion of Council, can be regarded as overreaching.
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