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BOARD NOTICE --- OF 2009

SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION

CALL FOR PUBLIC COMMENT: PROPOSED AMENDMENT TO THE CODE  
OF PROFESSIONAL CONDUCT

*The South African Council for the Architectural Profession is proposing to amend the Code of Professional Conduct that governs the behaviour of persons registered in terms of section 18 of the Architectural Profession Act (No.44 of 2000). This gazette thus calls for public comment in respect of the proposed amendment. Submissions to SACAP can be made either via email to [paregistrar@sacapsa.com](mailto:paregistrar@sacapsa.com) or by Fax to 086 637 4170 or by post to The Registrar, P O Box 408, Bruma 2026 or hand delivered to 1<sup>st</sup> floor Lakeside Place, Cnr Ernest Oppenheimer and Queen Street, Bruma, Johannesburg ; by Tuesday 30 June 2009.*

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Notice is hereby given that the South African Council for the Architectural Profession has in terms of the requirements of section 27(1) of the Architectural Profession Act 2000 (Act 44 of 2000) made the rules set out in the Schedule hereto in terms of section 36(1) of the said Act.

**SCHEDULE**

**DEFINITIONS**

In these rules, unless contrary to the context, any expression or word to which a meaning has been assigned in the Architectural Profession Act, 2000 (Act 44 of 2000) shall bear the same meaning and –

‘**architectural practice**’ means the business of a registered person conducted within the architectural profession as a sole proprietorship, partnership, company, close corporation or other juristic person and where the word ‘**practice**’ is used on its own in these rules it shall bear the same meaning;

‘**principals**’ are the members, partners and shareholders of the **practice**

‘**registered principals**’ are the shareholders in a practice who are registered persons in terms of the Act;

**‘registered person’** means a person registered under one of the categories referred to in section 18 of the Act;

**‘the Council’** means the South African Council for the Architectural Profession as contemplated in the Architectural Profession Act No. 44 of 2000;

**‘the type of practice’** means the category in which the **registered principals** in the **practice** can practise architecture;

**‘member of a closely allied profession’** means a person registered in terms of the  
Architectural Profession Act No 44 of 2000.  
Engineering Profession Act No 46 of 2000.  
Landscape Architectural Profession Act no 45 of 2000.  
Project and Construction Management Professions Act No 48 of 2000.  
Quantity Surveying Profession Act No 49 of 2000.

**‘the Act’** means the Architectural Profession Act, 2000 (Act 44 of 2000)

## **PREAMBLE**

This preamble as far as is relevant, forms part of these rules

Registered persons are subject to the disciplinary supervision of **the Council**. The rules lay down standards of professional conduct and practise which must be complied with. Failure to comply would lead to investigation which could result in a disciplinary hearing.

It is an overriding obligation under the rules that, in carrying out professional work, a registered person is expected to act with due skill, competency and integrity. In this context, **the Council** will investigate any complaint of unacceptable professional conduct as set out in these Rules.

If a registered person is in breach of any provision or of any rule published in terms of the Act, which constitute improper or unprofessional conduct, in the carrying on of his profession, as a natural person in private practice, **the Council** shall proceed jointly against the **registered principals** of the practice.

## **RULE 1 UNPROFESSIONAL CONDUCT**

- 1.1 A registered person shall refrain from
- 1.1.1 conduct which falls short of the standard required of a person registered in terms of the Act;
  - 1.1.2 conduct which would in the opinion of **the Council** be detrimental to the esteem, dignity, and/or professionalism of the architectural profession;
  - 1.1.3 conduct which would tend to bring the architectural profession into disrepute.
- 1.2 A registered person shall notify **the Council** without delay if he/she becomes subject to any disqualification as contemplated in section 19(3) of the Act.

## **RULE 2 TECHNICAL COMPETENCE AND PROFESSIONAL WORK\***

- 2.1 A person who is registered in any category referred to in section 18 of the Act, may not undertake **architectural work** unless such work is identified for the relevant category of registration in accordance with the regulation currently in force.
- provided that a person registered in any particular category may perform the work identified in any lower category;
  - provided that a person who is registered in the category of candidate, must perform such work in the service of, under the direction, control, continual supervision of or in association with a registered person entitled to perform the work and who must assume responsibility for any work so performed.
- 2.2 A registered person shall only undertake work for which he/she is technically competent, qualified and trained, and for which he/she is able to provide adequate professional, financial and technical resources.
- 2.3 A registered person shall regularly engage in continuing professional development activities in order to ensure that he/she keeps up to date with the latest technology, legislation, standards and trends and also to ensure the development of deeper and specialised knowledge that will in turn enhance and maintain his/her professional competence.

*\*Rule 2 to be amended appropriately once the proposed Identification of work Framework is approved for implementation by the Council for the Built Environment and the Competitions Commission*

## **RULE 3 PROMOTION OF SERVICES**

- 3.1 A registered person may only promote his/her professional services in a truthful and responsible manner.
- 3.2 Credit for work done during a period as a principal or employee of another **architectural practice** should make reference to such **practice** and be clearly described.

- 3.3 The name under which an **architectural practice** operates should not be misleading, or capable of being confused with that of another **practice**.
- 3.4 Services offered shall be described in a factual manner that is related only to the work of the professional disciplines and categories of registration represented in a **practice**.
- 3.5 A registered person shall declare to any potential client any business interests, including any interests in the business of trading in land or business of property developers, property auctioneers, estate agents, building contractors, subcontractors, suppliers in or to the building industry, or in a design - and - build **practice**, the existence of which interest, if not declared, would raise or may be likely to raise doubts about her integrity and impartiality as an independent professional.

#### **RULE 4 MANAGEMENT OF PROFESSIONAL WORK**

A **registered person** shall not:

- 4.1 undertake to perform work for remuneration unless the registered person has clearly set out the terms of the appointment, which must inter alia include the following:
- the scope of the work;
  - the allocation of responsibilities;
  - the limitation of responsibilities;
  - fee payable for the work or services, the method of calculating it (if appropriate) and the stage(s) at which it will be payable;
  - the budget (if applicable) or other cost limit for the project, work or service, and the method and implication of estimating costs;
  - provisions for termination of the agreement; and
  - details of professional indemnity insurance
  - provision for dispute resolution;
- 4.2 issue any drawings or specifications or documents in respect of work performed by himself/herself or by some person in his/her employ or by a member or employee of the **architectural practice** of which he/she is a member unless the same bear his/her name and/or registration number or the name of his/her **architectural practice**;
- 4.3 sign or otherwise identify as having been issued by his/her any building plan or document unless his/her **architectural practice** is the bona fide author or has prepared such building plan or document under her direct supervision;
- 4.4 submit plans to the local or other authority for approval unless such submission is done under cover of an architectural compliance certificate as provided for in the annexure hereto;
- 4.5 directly or indirectly receive any commission or remuneration for recommending a particular contractor to a client for work on a building project;
- 4.6 directly or indirectly receive any royalty, gratuity, commission, or other remuneration on any article, fitting, installation or process used in or for the purpose of the work in

- respect of which he/she is employed, unless he/she has notified her employer or client, in writing, of such royalty, gratuity, commission or other remuneration;
- 4.7 practice architecture during any period in respect of which his/her registration has been suspended;
- 4.8 negligently issue any certificate in connection with any building project on which he/she is professionally engaged.

## **RULE 5 ESTABLISHMENT OF AN ARCHITECTURAL PRACTICE AND CARRYING ON OF A BUSINESS**

- 5.1 Any registered principal who practices architecture in any form shall within 30 days of the establishment of a business 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.
- 5.2 **The Council** shall be informed of any changes in name, type, address, composition of a **practice** and its termination, within 30 days of the relevant occurrence.
- 5.3 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 relationship or association with any person who is not a registered person or a member of a closely allied profession. Permission will not be granted if the person concerned:
- 5.3.1 is disqualified from registration under any provisions of the Act or from membership of any closely allied profession;
- 5.3.2 is qualified to register under any category provided for under the Act but has not done so.
- 5.4 Registered person(s) may not describe his/her **practice** as solely practicing architecture unless effective control in terms of majority shareholding, members interest or voting powers is in the hands of persons registered in terms of the Act.
- 5.5 Effective control of any multi-disciplinary professional firm, which also practices architecture, shall be in the hands of **registered persons**.
- 5.6 Every office established for the purpose of conducting an **architectural practice** shall be under the continuous, direct and personal supervision of a registered person: provided that the registrar may give permission for such office to be supervised on an intermittent basis for such period of time as the registrar may, at her discretion, determine, provided that a registered person shall be present in such office for at least one full day per week during normal office hours and that the time of attendance is prominently displayed outside the office. Permission may be granted to allow time for the replacement of a registered person who has resigned or who has left for some reason or to allow time for the employment of staff where an office has to be established in an area because of the award of a project.
- 5.7 **The Council** may order that the **practice** be dissolved if any partner, member or shareholder who is not a registered person but eligible for registration, has been guilty of any act which, had he/she been a registered person, would have constituted a breach of any provision of the Act or these rules.

5.8 **The type of practice** is determined by the most senior category of registered person actively practising in the practice. The name 'professional' can be omitted from the trading name of the practice. The practice shall not use a type which portrays itself to be in a more senior category than the **registered principals** of the practice.

## 5.9 Letterheads

The letterheads of the practice shall display the following:

- 5.9.1 Name of the **architectural practice** and category of SACAP registration;
- 5.9.2 The names of the **principals** and their registration numbers;
- 5.9.3 the category of registration, using the prescribed abbreviation viz
  - Professional Architectural Draughtsperson (PrArchDraught)
  - Professional Architectural Technologist (PrArchT)
  - Professional Senior Architectural Technologist (PrSArchT)
  - Professional Architect (PrArch)
- 5.9.4 The professional designation and qualification of all **principals** who are not registered with **the Council**
- 5.9.5 Physical address, telephone, fax and email, CIPRO registration number, if applicable, and VAT.

The letterheads and corporate stationery of the practice shall not display:

- 5.9.6 The SACAP logo which is copyrighted to **the Council** as an independent statutory entity

## RULE 6 INTERNATIONAL WORK

- 6.1 A registered person shall in connection with work outside the borders of South Africa order her conduct in accordance with the officially recognised standards and rules of professional conduct in the country concerned: provided that where there are no officially recognised standards or rules of professional conduct in such country, these rules shall apply.
- 6.2 **Registered persons** undertaking work in a foreign country, whether his/her work is a result of a government to government agreement or a requirement of funding institution or a project from the private sector, shall associate and work [in conjunction] harmoniously with consultants or professionals of the country where the project is located.

## 6.3 DISCIPLINARY PROCEDURES

Disciplinary procedures are set out in sections 28 to 33 of the Act and in the Rules for Disciplinary Proceedings published under Board Notice 14 of 2006 in Government Gazette no. 28605 of 17 March 2006.

## REPEAL OF PREVIOUS RULES

The rules published under Board Notice 28 of 2004 are hereby repealed.