

**BOARD NOTICE 154 OF 2009****SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****THE CODE OF PROFESSIONAL CONDUCT**

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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 and/or other juristic person and where the word **'practice'** is used on its own in these rules it shall bear the same meaning;

**'complaint'** means any information or allegation regarding improper conduct by a person registered in terms of the Act, which comes to the attention of the registrar or **the Council**;

**'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.

Planning Professions Act No.36 of 2002;

Property Valuers Profession Act No 47 of 2000

**'principals'** are the sole practitioners, members, partners, shareholders and/or other juristic persons having control of the **practice**;

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

**'registered professional'** means a person registered in one of the categories of professionals referred to in section 18 of the Act;

**'registered person'** means a person registered in one of the categories of professionals and candidates referred to in section 18 of the Act;

**'the Act'** means the Architectural Profession Act, 2000 (Act 44 of 2000) and any amendments thereto;

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

**'type of practice'** means the category in which the **registered principals** in the practice can practise architecture.

#### **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 practice 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** must 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 **registered person** shall only undertake architectural work which is identified for the category of registration in which he/she is registered in terms of section 18 of **the Act** and in accordance with the registration categories in force.
- 2.2 Where work is carried out by a registered candidate, on behalf of a **registered professional, such registered professional** shall be responsible for ensuring that the person doing the work is competent to perform the task, and if necessary, appropriately registered and is adequately supervised.
- 2.3 A person registered in the category of candidate must perform work in the category for which he/she is registered under the direction, control and/or continual supervision of a **registered professional** entitled to perform such work and who must assume responsibility for any such work performed by the candidate.
- 2.4 A **registered person** shall regularly engage in continuing professional development activities in order to ensure that he/she keeps up to date with developments in the practice of architecture and to enhance and maintain his/her professional expertise and competence.

**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 his/her integrity and impartiality as an independent professional.

#### **RULE 4 PROFESSIONAL RESPONSIBILITIES**

A registered person shall only:

- 4.1 undertake to perform architectural work where the registered person has clearly set out in writing the terms of the appointment, which must inter alia include the following:
- 4.1.1 the scope of the work;
  - 4.1.2 the services to be provided;
  - 4.1.3 the allocation and limitation of responsibilities;
  - 4.1.4 fee payable for the work or services, the method of calculating it (if appropriate) and the stage(s) at which it will be payable;
  - 4.1.5 the budget (if applicable) or other cost limit for the project, work or service, and the method and implication of estimating costs;
  - 4.1.6 provisions for termination of the agreement;
  - 4.1.7 details of the professional indemnity insurance; and
  - 4.1.8 provision for dispute resolution.
- 4.2 issue any drawings, specifications or documents in respect of work performed by him/her or by a person in his/her employ or by a member or employee of the **architectural practice** of which he/she is a member, which bears 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 him/her any building plan or document of which he/she or his/her **architectural practice** is the bona fide author or where such building plan or document has been prepared under his/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;

A registered person shall:

- 4.5 not receive, directly or indirectly, any commission or remuneration for recommending a particular contractor to a client for work on a building project;
- 4.6 not receive, directly or indirectly 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 his/her

- employer or client, in writing, of such royalty, gratuity, commission or other remuneration;
- 4.7 not practice architecture during any period in respect of which his/her registration has been suspended;
- 4.8 not 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 The registered principals of a practice shall display their registration certificates in a prominent place in their office.
- 5.4 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 registered professional 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.
- 5.5 Registered person(s) may not describe their **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.
- 5.6 Effective control of any multi-disciplinary professional firm, which also practices architecture, shall be in the hands of **registered professionals** and of registered professionals of closely allied professions.
- 5.7 Every office established for the purpose of conducting an **architectural practice** shall be under the continuous, direct and personal supervision of a **registered professional**. However 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 his/her discretion, determine, provided that a **registered professional** 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 professional** who has left the practice or for the

employment of staff where an office has to be established to provide services for a project.

- 5.8 **The Council** may order that an architectural **practice** be dissolved if any partner, member or shareholder who is not a registered person but is 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.
- 5.9 **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.

#### 5.10 Letterheads

The letterheads of the practice shall display the following:

- 5.10.1 Name of the **architectural practice** and **type of practice**;
- 5.9.2 The names of the **principals** and their registration numbers;
- 5.9.3 The category of registration of the **principals**, using the prescribed abbreviation:
- 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 and postal address, telephone, fax and email, CIPRO and VAT registration numbers, if applicable,.

Practices or registered professionals may not display the Council's logo on any corporate stationery or letterheads, as it is copyrighted.

#### **RULE 6 INTERNATIONAL WORK**

- 6.1 A registered person shall in connection with work outside the borders of South Africa order his/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 in which they are not appropriately registered, whether their work is a result of a government to government agreement or a requirement of a funding institution or a project from the private sector, shall collaborate with a local architect to ensure that proper and effective understanding is given to legal, environmental, social, cultural and heritage factors. The conditions of

the association should be determined by the parties alone in accordance with international ethical standards and local statutes and laws and must be committed to writing, giving effect to Rules 4.1 to 4.7.

### **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.