

**DEPARTMENT OF PUBLIC WORKS
DEPARTEMENT VAN OPENBARE WERKE**

No. 915

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REGULATIONS FOR THE CHARGING OF MEMBERSHIP FEES IN TERMS OF
THE COUNCIL FOR THE BUILT ENVIRONMENT ACT, 2000 (ACT NO. 43 OF
2000)

I, Stella N Sigcau, Minister of Public Works, have in terms of section 4(s) read with section 22 of the Council for the Built Environment Act, 2000 (Act No. 43 of 2000), made the regulations contained in the Schedule.

SCHEDULE

Definitions

1. In these regulations, any word or expression defined in the Act, has that meaning, and unless the context otherwise indicates –

“council” means the Council for the Built Environment established under section 2 of the Act;

“councils for the professions” means the –

- (i) South African Council for the Architectural Profession, established by the Architectural Profession Act, 2000;
- (ii) South African Council for the Project and Construction Management Professions, established by the Project and Construction Management Professions Act, 2000;
- (iii) Engineering Council of South Africa, established by the Engineering Profession Act, 2000;
- (iv) South African Council for the Landscape Architectural Profession, established by the Landscape Architectural Profession Act, 2000;
- (v) South African Council for the Property Valuers Profession, established by the Property Valuers Profession Act, 2000; and
- (vi) South African Council for the Quantity Surveying Profession, established by the Quantity Surveying Profession Act, 2000;

“financial year” means the period 1 April in any year to 31 March of the following year as determined in section 18(3) of the Act;

“membership fees” means the membership fees that the council may charge the councils for the professions in terms of section 4(s) of the Act;

“professions’ Acts” means the -

- (i) Architectural Profession Act, 2000 (Act No. 44 of 2000);
- (ii) Landscape Architectural Profession Act, 2000 (Act No. 45 of 2000);
- (iii) Engineering Profession Act, 2000 (Act No. 46 of 2000);
- (iv) Property Valuers Profession Act, 2000 (Act No. 47 of 2000);
- (v) Project and Construction Management Professions Act, 2000 (Act No. 48 of 2000); and
- (vi) Quantity Surveying Profession Act, 2000 (Act No. 49 of 2000);

“the Act” means the Council for the Built Environment Act, 2000 (Act No. 43 of 2000); and

“VAT” means Value-Added Tax in terms of the Value-Added Tax, 1991 (Act No. 89 of 1991).

Calculation of membership fees

2. (1) The councils for the professions must, at least 120 days before the end of each financial year of the council, inform the council in writing of -

- (a) the number of persons who had registered for the first time in the applicable financial year in the different categories determined in the professions’ Acts;
- (b) the number of registered persons who had either paid their annual fees or renewed their registration, as the case may be, in the applicable financial year; and
- (c) an estimation for the following financial year of the number of persons who will register, retain their registration and renew their registration.

(2) The council must determine its priorities relating to the compliance with its statutory objectives in terms of the Act for the following financial year and attach a cost to achieving that compliance.

(3) Upon determination of the costs of the activities for the following financial year and after receipt of the information referred to in subregulation (1), the council must calculate the membership fees, *pro rata* to each of the registered persons of the councils for the professions according to their category of registration, based on the estimations given by the councils for the professions in terms of subregulation (1)(c).

(4) The council must complete the determination of the membership fees payable by the councils for the professions no later than 60 days before the end of each financial year and inform the councils for the professions in writing of the membership fees payable for the following financial year.

(5) The membership fees charged by the council must include VAT.

Payment of membership fees

3. (1) Each of the councils for the professions is responsible to the council for the payment of their respective membership fees.

(2) Payment may be made directly into the bank account of the council or be made in any other way that the council and the councils for the professions or a particular council agree to.

(3) When a registered person pays, partially or in full, his or her registration fees, annual fees or renewal of registration fees, levied in terms of the professions' Acts, the councils for the professions must deduct the full membership fee calculated per registered person from that payment.

(4) Membership fees collected in a particular month by the councils for the professions in terms of subregulation (3), must be paid to the council no later than 30 days after the end of that particular month.

(5) The council must supply the councils for the professions with the necessary VAT invoices for all payments made by the councils for the professions.

(6) The councils for the professions may not withhold, defer, or make any deduction from any payment due to the council.

(7) The councils for the professions are liable for interest on all overdue amounts payable to the council under these regulations at a rate per annum 2% (two percent) above the prime overdraft rate per annum of First National Bank from time to time, calculated from the due dates of the respective amounts until they are paid.

Duty of councils for the professions at end of financial year

4. Within 30 days after the end of the financial year, the councils for the professions must give the council notice in writing setting out -

- (a) in the form of an itemised statement, the number of persons who actually registered and renewed their registration; and
- (b) the amount by which the total payments made by the councils for the professions in terms of regulation 3 exceeded or fell short of the estimation provided in regulation 2(1)(c).

Disputes regarding membership fees

5. (1) Any dispute between the council and the councils for the professions concerning any of the councils for the professions' liability for any amount claimed by the council in terms of these regulations, whether related to reasonableness or any other factor or fact, must be determined by the council's auditors acting as experts and not as arbitrators and such auditors must make such determination in good faith and after taking all reasonable measures to verify the relevant information.

(2) If the council or one of the councils for the professions is not satisfied with the determination of the council's auditors in terms of subregulation (1), it may, within 30 days from the date of receipt of that determination, apply to the Minister for an evaluation and final determination of that dispute.

Applicability of regulations

6. These regulations do not apply to registered persons who are pensioners or who have been absolved from the payment of registration fees or renewal fees by any of the councils for the professions.

Short title

7. These regulations are called the Charging of CBE Membership Fees Regulations, 2003.