

BOARD NOTICE 14 OF 2004**SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION**

Notice is hereby given that the South African Council for the Architectural Profession, in terms of the requirements of section 27 of the Architectural Profession Act, 2000 (Act 44 of 2000) intends to draw up a code of professional conduct for registered persons. The proposed rules are published in terms of section 36(2)(a) of the Act for comment in the schedule hereto.

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;

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

'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 47 of 2000,
Quantity Surveying Profession Act No 49 of 2000,
Planning Profession act No 36 of 2002

'the Act' means the Architectural profession Act, 2000 (Act 44 of 2000).

PRE-AMBLE

This pre-amble as far as is relevant, forms part of these rules.

Registered persons and architectural practices are subject to the disciplinary supervision of the council.

The rules lay down standards of professional conduct and practice and whereas not every non-compliance with a provision may necessarily constitute grounds for disciplinary proceedings, failure to follow the guidance of the rules, will be taken into account should it become necessary to examine the conduct or competence of a **registered person**.

It is an overriding obligation under the rules that in carrying out professional work, a **registered person** is expected to act competently and with integrity.

The fact that a course of conduct is not specifically referred to in the rules does not mean that it cannot form the basis of disciplinary proceedings. In this context, the council will investigate any complaint of unacceptable professional conduct i.e. conduct which falls short of the standard required of a **registered person**, or of serious professional incompetence.

It is therefore expected that a **registered person** shall refrain from conduct, which would in the opinion of the council be detrimental to the esteem, dignity and/or professionalism of the architectural profession or would tend to bring the architectural profession into disrepute.

If an **architectural practice** is in breach of any provision of or any rule published in terms of the Act which would have constituted improper or unprofessional conduct if committed by a **registered person** in the carrying on of his or her profession as a natural person in private practice, the council shall proceed against the principal officer of the **practice**.

The council shall consider any **complaint** in terms of these rules whether such conduct took place before or after their promulgation.

RULE 1 TECHNICAL COMPETENCE AND PROFESSIONAL WORK

- 1.1 A **registered person** shall only undertake professional work for which he or she is qualified and trained and able to provide adequate professional financial and technical resources.
- 1.2 Where work is carried out on behalf of a **registered person** by an employee or by anyone else acting under a **registered person's** direction or control, such **registered person** shall be responsible for ensuring that that person is competent to perform the task and, if necessary, is adequately supervised.

RULE 2 PROMOTION OF SERVICES

A **registered person** may only promote his or her professional services in a truthful and responsible manner.

- 2.1 In advertising or promoting his or her services, a **registered person** shall not make untruthful or misleading statements.
- 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.
- 2.2 The business style of an **architectural practice** should not be misleading or capable of being confused with that of another **practice**.
- 2.3 Services rendered shall be described in a factual manner that is related only to the work of the professional disciplines represented in a **practice**.
- 2.4 In offering a service combining consulting services with contracting services, it should be made clear to a potential client that the consulting services are not independent of the combined services.
- 2.5 A **registered person** shall declare to any potential client any business interest, including any interest in the business of trading in land or business of property developers, property auctioneers, estate agents or building contractors or subcontractors or of suppliers in or to the building industry, or in a design/build **practice** the existence of which interest, if not so declared, would raise or may be likely to raise doubts about his or her integrity as an independent professional person.

RULE 3 MANAGEMENT OF PROFESSIONAL WORK

A **registered person** shall not:

- 3.1 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;
 - the fee or method of calculating it;
 - provisions for termination; and
 - details of professional indemnity insurance
- 3.2 issue any drawings or specifications or documents in respect of work performed by himself or herself or by some person in his or her employ or by a member or employee of the **architectural practice** of which he or she is a member unless the same bear his or her name and registration number or the name of his or her **architectural practice**;
- 3.3 sign or otherwise identify as having been issued by him or her any building plan or document of which he or she or his or her **architectural practice** is not the *bona fide* author or which has not been prepared under his or her direct supervision;
- 3.4 directly or indirectly receive any commission or remuneration for recommending a particular contractor to a client for work on a building project;
- 3.5 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 or she

is employed, unless he or she has notified his or her employer or client, in writing, of such royalty, gratuity, commission or other remuneration;

- 3.6 practise architecture during any period in respect of which his or her registration has been suspended.

RULE 4

ESTABLISHMENT OF AN ARCHITECTURAL PRACTICE AND CARRYING ON OF BUSINESS

- 4.1 Any **registered person** who practises architecture in any form shall within 30 days of the establishment of the business inform the council thereof in writing, giving full details of the address from which the **practice** is conducted, type of **practice** and names of partners, shareholders, directors or members.
- 4.2 The council shall be informed of any changes in style or address, changes in the constitution of a **practice** and of its termination within 30 days of the relevant occurrence.
- 4.3 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:
- 4.3.1 is disqualified from registration under any provision of **the Act** or from **membership of any closely allied profession**;
- 4.3.2 is qualified to register under any category provided for under **the Act** but has not done so.
- 4.4 A **practice** may not be described as solely practising architecture unless effective control in terms of shareholding, members' interest or voting powers is in the hands of persons registered in terms of **the Act**.
- 4.5 Effective control of any multidisciplinary professional firm, which also practises architecture, shall be in the hands of registered persons and of **registered members of closely allied professions**.
- 4.6 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, in his or her discretion, determine. Conditions for such permission are 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 will normally 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.
- 4.7 **The council may order that a practice be dissolved if any partner, member or shareholder who is not a registered person has been guilty of any act which, had he or she been a registered person, would have constituted a breach of any provision of the Act or these rules.**
- 4.8 A **registered person in architectural practice** shall not undertake architectural work without adequate and appropriate professional indemnity cover.
- 4.9 **Letterheads**
- 4.9.1 Letterheads of a **practice** shall display the names of sole principals, partners of a partnership, directors of a company or members of a close corporation, as the case may be.

In addition to the names, the registration status, i.e. the category in which registered must be shown using the prescribed abbreviation.

A partner, director or member who is not registered with the council should indicate his or her professional designation and qualification.

RULE 5 **INTERNATIONAL WORK**

A **registered person** shall in connection with work outside the borders of South Africa order his 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.

DISCIPLINARY PROCEDURES

In the event of a **complaint**, the disciplinary procedures set out in the Act are to be followed as follows:-

Section 28 Investigation of a charge of improper conduct.

Section 29 Charge of improper conduct.

Section 30 Appointment of disciplinary tribunal.

Section 31 Disciplinary hearing.

Section 32 Proceedings after hearing.

Section 33 Appeal against decision of disciplinary tribunal.

REPEAL OF PREVIOUS RULES

The rules published under Board Notices 76 of 1987 dated 11 December 1987, 32 of 1989 dated 31 March 1989 and 86 of 1990 dated 14 December 1990, are hereby repealed.

Interested persons or organisations are invited to submit written comments regarding the rules within a period of thirty (30) days from the date of publication of this notice to –

**The Registrar
SACAP
Private Bag X02
Randpark Ridge 2156**

**M KNOETZE
Registrar**