

**BOARD NOTICE 190 OF 2012****SACAP : CALL FOR PUBLIC COMMENT****SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****Proposed amendment to the Rules for requirements for recognition as a  
Voluntary Association.  
in terms of Section 36(1) the Architectural Profession Act, No 44 of 2000**

The South African Council for the Architectural Profession as in terms of section 36 (1) of the **Architectural Profession Act, 2000 (Act 44 of 2000)** made the rules, as set out in the Schedule, in relation to the recognition of Voluntary Associations as contemplated in Sections 14 (d) and 25 of the Act.

The South African Council for the Architectural Profession hereby advises interested and affected persons that the proposed **rules for requirements for recognition as a Voluntary Association**, are hereby gazetted for public comment in terms of Section 12 (1) of the **Architectural Profession Act, Act No. 44 of 2000**.

**Closing date for public comment is: 12h00 on 24 December 2012.**

**Submission details:**

The Registrar

c/o Communication, Corporate and Stakeholder Relations Unit

email: [registrar.rp@sacapsa.com](mailto:registrar.rp@sacapsa.com)

Tel: 011 479 5000

Fax: 011 479 5100

Postal address: South African Council for the Architectural Profession (SACAP), P.O. Box 408, Bruma, 2026.

Delivery address: 1<sup>st</sup> Floor, Lakeside Place, Cnr Ernest Oppenheimer and Queen Streets, Bruma

**Note:**

1. Final rules for requirements for recognition as a Voluntary Association, once published per Board Notice in the Government Gazette and will replace and supersede the Board Notice 153 of 2009.
2. Existing and recognised Voluntary Association that were recognised in terms of the previous board notice and/or condition as set out by the Council maintain their current status for the remaining duration of their recognition. However, the latter will be required to meet criteria of new board notice or such condition as determined by the Council on re-application.

---

**RULES IN TERMS OF SECTION 36(1) REQUIREMENTS FOR RECOGNITION AS A VOLUNTARY ASSOCIATION****SCHEDULE****1. DEFINITIONS**

In these rules, and unless the context otherwise indicates, any expression or word to which a meaning has been assigned in the Architectural Professions Act, 2000 (Act 44 of 2000), bears the same meaning and -

- (1) **"Annual fees"** means the fees determined by the Council in terms of section 12(1)(c) of the Act;
- (2) **"Built Environment Councils"** means a Council referred to in section 1(iv) a-f of the Council for the Built Environment Act, 2000 (Act No. 43 of 2000);
- (3) **"Council for the Built Environment"** abbreviated as CBE, as established under the Council for the Built Environment Act, 2000 (Act No. 43 of 2000);
- (4) **"Code of Professional Conduct"** means the code of conduct drawn up by the Council in terms of section 27(1) of the Architectural Professions Act, 2000 (Act 44 of 2000);
- (5) **"Council"** means South African Council for the Architectural Profession established by Section 2 of the Architectural Professions Act, 2000 (Act 44 of 2000);
- (6) **"Governing body"** means the highest authority of a voluntary association charged with controlling the affairs of the voluntary association;
- (7) **"In Good Standing"** means that a member of an association who is not regarded by such an association as being in default of its constitution, by-laws and any relevant statutory requirements;
- (8) **"Minister"** means the Minister responsible for Public Works in terms of section 1 (ix) of the Architectural Professions Act, 2000 (Act 44 of 2000);
- (9) **"Non- Recognised Voluntary Association"** means an association not recognised by the Council as a Voluntary Association in terms of section 25 of the Act, but whom may be considered by Council in terms of section 3 (1) (c) and 4 (2) of the Act.
- (10) **"Non-Voting"** member means a member of a Voluntary Association who is not eligible to vote in terms of its constitution.
- (11) **"Recognised Voluntary Association"** means an association recognised by the Council as a Voluntary Association in terms of section 25 of the Act, and
- (12) **"Registered Persons"** means persons registered in any of the categories of registration referred to section 18(1) of the Act;
- (13) **"Relevant Statutory Requirements"** means statutory requirements as determined by the SACAP Council from time to time;
- (14) **"The Act"** means the Architectural Profession Act, 2000 (Act No.44 of 2000) as signed by the President of the Republic of South Africa.
- (15) **"Voting Member"** means a member of a Voluntary Association who is entitled to vote in terms of its constitution;
- (16) **"Voluntary Association"** for purposes of these rules means an institute, institution, association, society or federation of natural persons engaged in the architectural profession and/or built environment within any of the categories of registration as specified in **section 18 (1)** of the Act and with the association established by Architectural practitioners to promote their collective professional and/ or business interests;

### 3. REQUIREMENTS WITH WHICH AN ASSOCIATION MUST COMPLY TO QUALIFY FOR RECOGNITION AS A VOLUNTARY ASSOCIATION

Any association wishing to be recognised as a Voluntary Association must comply with the following requirements:

- (1) the association shall be established as a juristic person with the main objects of promoting the architectural profession and the professional interests of its members.
- (2) The association must be governed by a formally accepted constitution which –
  - a. is not in conflict with the Constitution of the Republic of South Africa;
  - b. is not in conflict with the Act or any policies and rules of the Council; and
  - c. does not obligate its members to adhere to a code of conduct, which is in conflict with the Council's current Code of Professional Conduct, or any applicable code of practice published by the Council;
  - d. provides for its management structure, nomination procedure and requirements with which members nominated for office shall comply;
  - e. defines its powers in general and for the enrolments of members, termination of membership and associated matters;

- f. defines its requirements for membership in different classes/categories and rules for cancellation and reinstatements thereof;
  - g. defines the voting rights of the categories of membership;
  - h. defines a system of disciplinary procedures which includes appropriate sanctions when the code is contravened.
- (3) The association must be of South African origin and its governing body must be independent of direct influence by any foreign body.
- (4) The association must adhere strictly to its constitution, and be able to satisfy the Council of such adherence.
- (5) Transformation is driven through the B-BBEE Act, 2003 (No. 53 of 2003) and its subsequent amendments – Codes of Good practice. Each Voluntary Association should develop its own transformation agenda and priorities, but consider a shared vision with that of the Council, developing strategies and creating a conducive environment that supports transformational change.
- (6) an Association wishing to be recognised as a Voluntary Association must also comply with the following requirements:
  - a. The Voluntary Association must have as one of its core missions, the promotion of the interests of its members and the architectural profession;
  - b. The Voluntary Association must have at least 100 voting members, who are in good standing;
  - c. All elected office bearers of the Voluntary Association shall be registered with the Council or any other statutory body within the built environment where, the Voluntary Association is a multi-disciplinary association of the architectural profession;
  - d. The majority of at least 75% of the members of the Voluntary Association shall be registered with the Council in terms of Section 19 of the Act, or any other statutory body within the built environment where the Voluntary Association is multi-disciplinary association of the architectural profession within the built environment.

#### **4. APPLICATION FOR RECOGNITION**

- (1) Any Voluntary Association wishing to be recognised as a Voluntary Association by SACAP, must submit an application to the Council in the prescribed format as determine by Council in terms of section 14 (d) of the Act.

#### **5. RECOGNITION AS A VOLUNTARY ASSOCIATION AND DURATION OF RECOGNITION**

- (1) If, after consideration of an application, the Council is satisfied that the Voluntary Association meets the relevant requirements for recognition as determined in terms of section 14 (d), the Council may recognise that association and issue a certificate of recognition in terms of section 25(3) of the Act.
- (2) A 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.
- (3) A Voluntary Association must display its certificate of recognition in a prominent place at its head office and may display the prescribe Council logo on its stationery, as an indication of its recognition status
- (4) The Council must, within 30 days from the date on which it recognises a Voluntary Association, publish the name of such Voluntary Association in the Government Gazette and on its website, and thereafter make it known in such other manner as it may deem appropriate.
- (5) Recognised Voluntary Associations must enter into a Memorandum of Understanding with the Council,

- (6) Recognised Voluntary Associations must submit reports as defined by the Council,
- reporting shall include Annual Reports of the Voluntary Association to be submitted to Council by 28 February of every year;
  - reporting and statistical data on CPD category one (1) activities with regards to validation procedures, validations completed, activities, certification and records of attendance submitted quarterly;
  - annual submission of paid-up membership list by no later than 28 February of the year;
  - transformation strategies and statistics;
  - other reporting that Council may request from time to time.

**Existing and recognised Voluntary Association that were recognised in terms of the previous board notice and/or condition as set out by the Council maintain their current status for the remaining duration of their recognition. However, the latter will be required to meet criteria of new board notice or such condition as determined by the Council on re-application.**

## **6. RENEWAL AND LAPSING OF RECOGNITION**

- The recognition of a Voluntary Association remains in effect for as long as it meets the requirements for recognition in terms of these rules.
- The recognition of a Voluntary Association lapses in terms of section 25(6)(a) and (b) of the Act;
  - if the association no longer complies with the requirements contemplated in section 14 (d) ; or
  - at the expiry of the five-year period referred to in subsection (4).
- 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.
- A Voluntary Association must advise Council of any changes to its constitution and/or by-laws, within 30 days of the date on which the changes were approved.
- If at any time during the period of five years referred to in section 25 (4), 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.
- If the Council is satisfied that a Voluntary Association has ceased to comply with the requirements as specified in section 25, the recognition of such Voluntary Association will lapse in terms of section 25(6)(a) of the Act, on the date on which the Council resolves that the Voluntary Association ceased to comply.
- A Voluntary Association that has not submitted annual reports to **Council** by 28 February in line with the Council's reporting processes will be considered as having ceased to comply with the requirements and may lose its recognition.

## **7. AMENDMENT OF THE REQUIREMENTS FOR RECOGNITION**

- If the Council at any stage decides to amend the requirements for recognition, the Council may, by notice in the Gazette and in terms of Section 36 of the Act
  - Inform all Voluntary Associations of this decision and provide them with the proposed amendments;
  - A formal call for comment will be made by the Council whereby the proposal with amendments will be published for comments from the public and interested parties through the Government Gazette for consideration of such comment before the final Board Notice is gazetted for implementation.
- If an amendment of the requirements so prescribed results in a Voluntary Association ceasing to comply with the requirements, that Voluntary Association must, within 3 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.

- (3) The Council may, at its discretion, extend the period of 3 months by an additional period not exceeding 6 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.
- (4) 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.

## 8. RETURN OF RECOGNITION CERTIFICATE

- (1) A Voluntary Association whose recognition has lapsed must, within 30 days from the date on which it is so directed in writing by the Council, return its certificate of recognition in accordance with Section 25 (8) of the Act

## 9. RIGHTS AND OBLIGATIONS OF COUNCIL AND VOLUNTARY ASSOCIATIONS

- (1) The Council is obliged to consult with the Voluntary Association in terms of the following sections of the Act:
  - Section 3 (1) (a) (i) and Section 4 (1) - Nominating persons as members of Council
  - Section 13 (d) - Determining Competency Standards
  - Section 13 (k) - Determining Continuing Professional Development (CPD) requirements
  - Section 26 (1)(a) - Identification of work
  - Section 27 (1) - Drafting of Code of Professional Conduct
  - Section 34 (1) & (2) – Determining of Professional Fees
- (2) The Council undertakes to -
  - a. Consider persons nominated by a Voluntary Association for purposes of appointment as members of its committees: Provided that this provision may not be construed as precluding Council from engaging in constructive cooperation with any other association, institute, society or interested group in sourcing suitable persons;
  - b. Promote a greater awareness among registered persons of the advantages of membership of a Voluntary Association.

## 10. REPEAL OF PREVIOUS RULES

- (1) The published rules under Board Notice 153 of 2009 are hereby repealed.