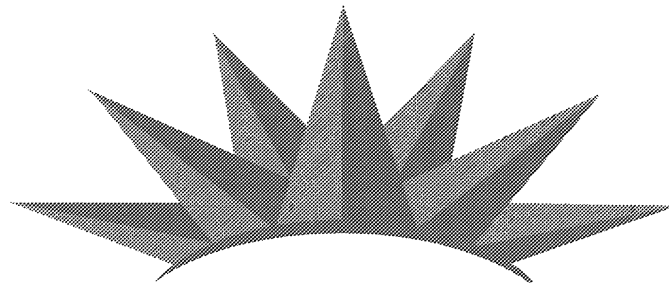

BOARD NOTICE 142 OF 2013



THE SOUTH AFRICAN COUNCIL
for the
QUANTITY SURVEYING PROFESSION
Established in terms of the Quantity Surveying Profession Act 2000 (Act 49 of 2000)

**CODE OF PROFESSIONAL
CONDUCT**

**PUBLISHED IN TERMS OF THE QUANTITY SURVEYING PROFESSION
ACT 2000 (ACT NO 49 OF 2000)**

(Revised March 2013)

Adopted by Council 7th March 2013

CODE OF PROFESSIONAL CONDUCT

In terms of the requirements of Section 27 (of the Quantity Surveying Profession Act, 2000 (Act No. 49 of 2000), and Section 4 of the Rules of the Council, the South African Council for the Quantity Surveying Profession hereby makes known that it has determined the code of professional conduct as set out in the schedule hereunder.

SCHEDULE

1. DEFINITIONS

In these rules, unless the context indicates otherwise, any expression or word to which meaning has been assigned in the Quantity Surveying Profession Act, 2000 (Act No. 49 of 2000) shall bear the same meaning and –

‘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 at least one of the following Acts:

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

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

‘registered persons’ means persons registered in terms of *the Act*

‘the Act’ means the Quantity Surveying Profession Act 2000 (No. 49 of 2000) including any Regulation, Notice, Order or rule issued or made in terms of the Act

2. OBJECTS

The objects of this Schedule are to ensure that registered persons or quantity surveying practices-

- 2.1 uphold and promote the dignity, standing and reputation of the profession;
- 2.2 discharge their duties in a competent and efficient manner and with complete integrity and without prejudice to their client's or employer's interests and their professional responsibilities;
- 2.3 respect the interest and professional reputation of any other registered person or quantity surveying practice.

3. RULES OF CONDUCT

Registered persons and quantity surveying practices are subject to the disciplinary supervision of the council. The rules lay down standards of professional conduct and practice and 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.

The code of conduct forms the basis of disciplinary proceedings. The council will investigate any complaint of unacceptable professional conduct or of serious professional incompetence.

If a quantity surveying practice is in a breach of any provision of *the Act* or any rule published in terms of *the Act*, which would have constituted improper or unprofessional conduct if committed by registered persons in the carrying out of their profession as natural persons in private practice, the council shall proceed against the principal officer of the practice.

In fulfillment of the objects stated in 2, registered persons, –

- 3.1 must have due regard to public safety, public health and the public interest generally;
- 3.2 must discharge their duties to their respective employers or clients effectively and competently;
- 3.3 must discharge their duties to their respective employers or clients with integrity, fidelity and honesty;
- 3.4 must order their conduct so as to uphold the dignity, standing and reputation of the profession;
- 3.5 may not undertake or offer to undertake *professional work* for which their education, training and experience have not rendered them competent to perform;
- 3.6 must ensure that where work is carried out on behalf of a registered Professional Quantity Surveyor by an employee or by anyone else acting under a registered Professional Quantity Surveyor's direction or control, such registered person shall be responsible for ensuring that the person is competent to perform the task, and if necessary, is adequately supervised;
- 3.7 must provide work or services of a quality, scope, and to a level, which are commensurate with accepted standards and practices in the profession;
- 3.8 must disclose to their respective employers or clients, or prospective employers or clients, in writing –

- 3.8.1 any interest, whether financial or otherwise, which they may have in any company, firm, or organization, or with any person, which is related to the work for which they have been or may be employed; and
- 3.8.2 particulars of any royalty or other benefit which accrues or may accrue to them as a result of such work;
- 3.9 may not, subject to paragraph 3.8 receive, either directly or indirectly, any gratuity, commission or other financial benefit on any article or process used in or for the purpose of the work in respect of which they are employed, unless such gratuity, commission or other financial benefit has been authorised in writing by the employer or client concerned;
- 3.10 may not, whether practicing their profession or otherwise, injure the professional reputation or business of any other *registered person*;
- 3.11 may not knowingly attempt to supplant another registered Professional Quantity Surveyor in a particular appointment after the client has employed the other registered Professional Quantity Surveyor;
- 3.12 may not advertise their professional services in a self-laudatory manner or in a manner that is misleading or inaccurate or derogatory to the dignity of the profession;
- 3.13 may not knowingly misrepresent, or knowingly permit misrepresentation of, their own academic or professional qualifications or those of any other person involved with *quantity surveying work*, nor knowingly exaggerate their own degree of responsibility for *quantity surveying work* or that of any other person involved in it;
- 3.14 may not review for a particular client, the *quantity surveying work* of another registered Professional Quantity Surveyor except -
 - 3.14.1 with their prior knowledge and written consent, which such consent shall not be unreasonably withheld. of the other *registered Professional Quantity Surveyor*. Furthermore, the must be afforded a reasonable opportunity to submit their comments to the client on the findings of the review;
 - 3.14.2 after receipt of a notification in writing from the client, that the engagement of the other registered Professional Quantity Surveyor has been terminated; or
 - 3.14.3 where the review is intended for purposes of a recognized and competent court of law in the Republic of South Africa or legal proceedings;

Such review may only be undertaken, following the full settlement by the client who is mandating that the quantity surveyors work be reviewed. [Drafting Note: the dispute could pertain to the quality of bad work that the client disputes is due and payable – Council to discuss]

Accordingly, the above provisions will not waive any lien or right of retention that the quantity surveyor whose work is being reviewed, may have held or hold, in respect of the work that they have undertaken;

- 3.15 may not without satisfactory reasons, destroy or dispose of; or knowingly allow any other person to destroy or dispose of, any calculations, drawings or contractual documents within a period of 5 years after completion of the project concerned;
- 3.16 may not place contracts or orders, or be the medium of payments, on their respective employer's or client's behalf without the written authority of the employer or client concerned;

- 3.17 may not issue any reports, specifications, documents or drawings in respect of *quantity surveying work* prepared by them or by any other person under their direction or control, unless –
- 3.17.1 such reports, specifications, documents or drawings bear the name of the organisation concerned;
- 3.18 may not either directly or indirectly deal in construction projects and / or property development for his / her own account or for any consideration where:
- (a) such dealings in construction projects and / or property development conflict with his / her responsibilities to his / her client or employer; or
- (b) he / she has privileged or confidential information concerning such construction projects and / or property development as a result of any quantity surveying work undertaken by him / her: Provided further that he / she shall not make any personal use of or divulge to others, privileged or confidential information related to the quantity surveying work undertaken by him / her
- 3.19 may neither personally nor through any other person improperly seek to obtain *quantity surveying work*, or by way of commission or otherwise, make or offer to make payment to a client or prospective client for obtaining such work;
- 3.20 must order their conduct in connection with *quantity surveying work* outside the borders of the Republic of South Africa in accordance with these rules in so far as they are not inconsistent with the law of the country concerned: Provided that where there are recognised standards of professional conduct in a country outside the Republic, they must adhere to those standards;
- 3.21 must ensure that, while engaged as partners, directors, members or trustees of a quantity surveying practice operating under the style of a sole proprietorship, a partnership, a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), or a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984) (or any legislation which subsequently repeals or supersedes these Acts) and which performs *quantity surveying work* of a nature generally performed in a *quantity surveying practice*, the control over the *quantity surveying work* of the organisation is exercised, and the responsibility in respect of it is carried, by a *registered Professional Quantity Surveyor*;
- 3.22 must give the Registrar notice in writing within one month of any change of physical and postal addresses of business and residence;
- 3.23 must, when requested by the council to do so, in writing provide the council with all the information available to them which may enable the council to determine which *registered person* was responsible for any act which the council considers **prima facie** to be improper conduct;
- 3.24 In addition to the abovementioned rules, registered Candidate Quantity Surveyors -
- 3.24.1 shall not practice for their own account,
- 3.24.2 shall not practice in partnership, as a director of a company, as a member of a close corporation or trustee of a trust, performing quantity surveying work except with the prior written approval of the Council and subject to any condition which the Council may impose,
- 3.24.3 shall not perform any quantity surveying work other than under the direct and continuous supervision of a registered Professional Quantity Surveyor, except under such circumstances as the Council may approve in writing.

4. ESTABLISHMENT OF A QUANTITY SURVEYING PRACTICE AND CARRYING ON OF BUSINESS

- 4.1 A registered Professional Quantity Surveyor who practices *quantity surveying* in any form shall obtain the prior written approval of the council to do so and 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, members or trustees.
- 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 The use of impersonal names shall be submitted to the Registrar of the council for approval.
- 4.4 A registered Professional Quantity Surveyor 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 Professional Quantity Surveyor, or a member of a closely allied profession.
- Permission will not be granted if the person concerned –
- 4.4.1 is disqualified from registration under any provision of *the Act* or from membership of any closely allied profession;
- 4.4.2 is qualified to register under any category provided for under *the Act* but has not done so.
- 4.5 A quantity surveying practice shall be controlled by two-thirds registered Professional Quantity Surveyors in terms of number, shareholding, directorship and voting power.
- 4.6 A multidisciplinary professional practice, that also practices *quantity surveying work*, shall be controlled by registered members of closely allied professionals, and the quantity surveying division / section shall be under the fulltime supervision of a registered professional Quantity Surveyor.
- 4.7 Any office established for the purpose of conducting a *quantity surveying practice* shall be under the continuous, direct and personal supervision of a registered Professional Quantity Surveyor: 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 Professional Quantity Surveyor shall be present in such office for a 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 Professional Quantity Surveyor 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.
- 4.8 The council may order that a practice be dissolved if any partner, trust, 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.
- 4.9 Letterheads of a practice shall display the names of sole principals, partners, directors, trustees or close corporation members, as the case may be, together with their registration status using the prescribed abbreviations.

Partners, directors or members who are not registered with the council should indicate their professional designations and qualifications

- 4.10 A practice must, when requested by a client to do so, provide the client in writing with all information pertaining to the juristic nature, style and composition of the practice, staffing levels and professional indemnity cover.
- 4.11 A practice must, in terms of their appointment for the provision of quantity surveying services, ensure that all quantity surveying work undertaken by the practice will be under the control of a registered Professional Quantity Surveyor and must provide full disclosure to the client of the level of supervision provided by the registered Professional Quantity Surveyor.

5. 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

6. REPEAL OF PREVIOUS RULES

The regulations pertaining to Code of Professional Conduct and Improper Conduct published under Notice No. R 208 dated 4 February 1983 are hereby repealed, subject to section 12 (2) of the Interpretation Act, 1957 (Act No. 33 of 1957).