

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
GEOMATICS PROFESSION BILL**

[B 4—2013]

(As agreed to by the Portfolio Committee on Rural Development and Land Reform)

[B 4A—2013]

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PROPOSED AMENDMENTS TO

GEOMATICS PROFESSION BILL
[B 4—2013]

CLAUSE 1

1. On page 4, in line 13, to omit “surveying and” and to substitute “surveying,”.
2. On page 4, in line 14, after “science” to insert “, hydrographic surveying and photogrammetric surveying”.

CLAUSE 2

1. On page 5, in line 38, to omit “transformation,”.
2. On page 5, in line 43, to omit “and”.
3. On page 5, in line 45, after “development” to insert “and”.
4. On page 5, after line 45, to add the following subparagraph:
 - (v) strive to transform the profession in order to reflect the demographics of the country and to redress the imbalances of the past.

CLAUSE 4

1. On page 6, in line 2, to omit “11” and to substitute “13”.
2. On page 6, in line 3, to omit “14” and to substitute “15”.
3. On page 6, in line 11, to omit “five but not more than seven” and to substitute “seven but not more than eight”.
4. On page 6, from line 13, to omit “and of whom one must represent professional land surveyors”.
5. On page 6, in line 15, to omit “four but not more than five” and to substitute “six but not more than seven”.
6. On page 6, in line 15, after associations to insert “equitably”.
7. On page 6, in line 45, to omit “and”.
8. On page 6, in line 47, after “representation” to insert “and”.
9. On page 6, after line 47, to add the following paragraph:
 - (e) the need to broadly reflect the different branches of the geomatics profession.

CLAUSE 5

1. On page 7, in line 41, to omit the second “or”.
2. On page 7, in line 42, to omit “or more”.

3. On page 7, in line 43, after “Council” to insert “; or”.
4. On page 7, after line 43, to add the following paragraph:
 - (e) has allowed his or her registration with the Council to lapse or if such member’s name has been removed or suspended from the register: Provided that this paragraph does not apply to persons appointed in terms of section 4(1)(c) or (d).
5. On page 7, after line 45, to add the following subsections:
 - (4) The Minister may in the prescribed manner remove any member of the Council from office on the grounds of misconduct or incompetence.
 - (5) (a) The Minister may dissolve the Council if the Minister, on good cause shown, loses confidence in the ability of the Council to perform its functions effectively and efficiently.
 - (b) The Minister may dissolve the Council only—
 - (i) after having given the Council a reasonable opportunity to be heard; and
 - (ii) after having afforded the Council a hearing on any submissions received.
 - (c) If the Minister dissolves the Council, the Minister—
 - (i) may appoint an administrator to take over the functions of the Council and to do anything which the Council might otherwise be empowered or required to do by or under this Act, subject to such conditions as the Minister may determine; and
 - (ii) must, as soon as it is feasible but not later than three months after the dissolution of the Council, replace the members of the Council in the same way as the way in which they were appointed.
 - (6) (a) The costs associated with the appointment of an administrator shall be for the account of the Council.
 - (b) The appointment of the administrator terminates when the Council members have been replaced in terms of subsection (5)(c)(ii).

CLAUSE 8

1. On page 9, from line 32, to omit subparagraph (iii) and to substitute:
 - (iii) may, subject to the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), recognise specific qualifications or part qualifications as requirements to be registered as a geomatics practitioner;
2. On page 9, from line 39, to omit subparagraph (vi) and to substitute:
 - (vi) may, subject to the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), enter into an agreement with any person or body, within or outside the Republic, with regard to the recognition of any examination or qualification for the purposes of this Act;

CLAUSE 13

1. On page 12, in line 21, after “person” to insert “of the same discipline”.

CLAUSE 14

1. On page 13, in line 51, after “in” to insert “the”.

NEW CLAUSE

1. That the following be a new clause:

Carrying on of geomatics profession by company

17. (1) Notwithstanding any provision of this Act to the contrary, a company may practise as and perform the work of a geomatics professional if the company has been incorporated or recognised as a personal liability company in terms of the Companies Act, 2008 (Act No. 71 of 2008), and its Memorandum of Incorporation provides—

- (a) that the main object of the company is to perform the work of a geomatics professional;
- (b) that only natural persons who are geomatics professionals, or other natural persons approved by the Council in writing, may be shareholders of the company;
- (c) that every shareholder of the company must be a director thereof and that only a shareholder of the company may be a director thereof;
- (d) that a shareholder may not transfer any share, or any rights or benefits attaching to a share, to any person other than a person referred to in paragraph (b);
- (e) that in the event of a shareholder’s death or of his or her ceasing to comply with a requirement of paragraph (b), his or her estate or he or she himself or herself, as the case may be, may continue to hold his or her shares in the company as from the relevant date for a period of six months or for such longer period as may have been approved by the Council, and that during such period any voting rights attaching to such shares may be exercised by any other shareholder of the company whom the first-mentioned shareholder may have nominated in writing before his or her death or disqualification for the purposes of this paragraph or, failing such nomination, by the company’s board.

(2) (a) The holder of a share referred to in subsection (1)(e) may not act as a director of the company in question, or directly or indirectly receive any directors’ fees or remuneration from that company.

(b) Such shares as are not in accordance with the company’s Memorandum of Incorporation transferred within the period referred to in subsection (1)(e) to any person referred to in subsection (1)(b), may be acquired by the company itself.

(c) Any transfer of shares in a company referred to in this section, or of any rights and benefits attaching thereto, in conflict with subsection (1)(e), shall be void.

(3) Subject to the provisions of section 11 of the Companies Act, 2008 (Act No. 71 of 2008), the name of a company referred to in this section must, unless the Council in any particular case approves of any other name, consist solely of the name or names of any of the present or past members of the company or of a person or persons who conducted, either for his, her or their own account or in partnership, any practice which may reasonably be regarded as a predecessor of the practice of the company.

(4) Any—

- (a) act performed, with or without a particular intent, by or on instructions or with permission, express or implied, given by a director or employee of a company referred to in this section; and
- (b) omission, with or without a particular intent, of any act which ought to have been but was not performed by or on instructions given by a director or employee of a company, in the exercise of his or her powers or in the performance of his or her duties as such director or employee or in furthering or endeavouring to further the interests of that company, and which would have constituted improper conduct if it had been performed or omitted by a geomatics professional carrying on his or her profession or calling as a natural person in practice must, for the purpose of this Act, be regarded as having been performed or omitted by every shareholder, director or employee of such company practising as a geomatics professional, unless it is proved that such geomatics professional did not take part in the performance of the act or the omission and that he or she could not have prevented it.

(5) A company referred to in this section which, otherwise than under an exemption granted in terms of this Act, entrusts work reserved under section 16 for a geomatics professional to any person, whether a shareholder, director or employee of the company or not, other than a geomatics professional, is guilty of an offence and liable on conviction to a fine not exceeding R10 000.

(6) Any person who—

- (a) not being a nominee or board referred to in subsection (1)(e), exercises any voting rights contemplated in that subsection during the period referred to therein; or
 - (b) contravenes a provision of subsection (2)(a),
- is guilty of an offence and liable on conviction to a fine not exceeding R1 000.

(7) (a) The provisions of section 16 apply with the changes required by the context in respect of a company referred to in this section.

(b) The payment in accordance with the provisions of this Act by a company referred to in this section on behalf of a geomatics professional who carries on his or her profession as a member, shareholder, director or employee of that company, of any annual fee or levy, must for the purposes of this Act be regarded as a payment by such geomatics professional.

(8) The Council may cancel the registration as a geomatics professional of any shareholder or director of a company referred to in this section, if the company is liquidated or wound up.

CLAUSE 17

1. On page 14, in line 41, after “in” to insert “the”.

CLAUSE 20

1. On page 16, from line 33, to omit subsection (4) and to substitute:

(4) If a registered person charged in terms of subsection (1) has admitted that he or she is guilty of the charge and a sanction contemplated in section 24(4)(a) or (b) may be imposed in respect of such charge, the Council may—

- (a) find such registered person guilty without referring the charge to a disciplinary tribunal; and
- (b) impose an appropriate sanction contemplated in section 24(4)(a) or (b).

CLAUSE 22

1. On page 17, in line 33, to omit the second “a” and to substitute “the”.

CLAUSE 35

1. On page 22, from line 25, to omit subsection (8).

CLAUSE 36

1. On page 23, in line 6, to omit “maintained” and to substitute:
other than that mentioned in subsection (3) maintained by the South
African Council for Professional and Technical Surveyors or

ARRANGEMENT OF ACT

1. On page 3, after line 8, to insert the following item:

17. Carrying on of geomatics profession by company

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