

BOARD NOTICE 7 OF 2021
SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION



CODE OF CONDUCT FOR REGISTERED PERSONS

Architectural Profession Act 44 of 2000

In terms of section 36 of the Architectural Profession Act 44 of 2000 (“the Act”), the South African Council for the Architectural Profession (“SACAP” or the “Council”) hereby makes known that in compliance with section 27 of the Act, it made the Rules for Professional Conduct set out hereunder.

Preamble

The overriding objectives for the Code of Conduct is to strive for excellence in the Architectural Profession, to protect the environment against unsound architectural practices and the delivery of services to the public with due care, skill, diligence and integrity, applying all relevant knowledge in the process.

Should these objectives not be met, Registered Persons are subject to the disciplinary supervision of the Council. The Rules lay down standards of professional conduct and practice which must be complied with. Failure to do so could lead to an investigation which may result in a disciplinary hearing.

Section 27 of the Act requires Council to draw up a Code of Conduct (“Code”) for Registered Persons. All such persons shall comply with the Code and failure to do so may constitute improper conduct.

Any failure to comply with the provisions of this Code shall be dealt with in line with the disciplinary procedures as set out in the Act.

Where a particular conduct is not specifically stipulated in this Code it does not mean that such conduct cannot form the basis of disciplinary proceedings. Each case shall be judged on its merits, and there may be circumstances in which unacceptable or improper conduct or serious professional incompetence is found even where there has been no breach of the express terms of this Code. The rules in this Code are not exhaustive.

A disciplinary order may be made against any Registered Person convicted of a criminal offence that has material relevance to such person’s fitness to practise as a Registered Person.

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1 Definitions

In these Rules, unless the context indicates otherwise –

- (a) any word or expression to which a meaning has been assigned in the Act shall bear the same meaning; and
- (b) the use of the masculine gender shall include the feminine and/or neuter genders and the singular shall include the plural, and vice versa, and the word “person” shall include any corporation, firm, partnership or other form of association.

‘The Act’ means the Architectural Profession Act 44 of 2000;

‘architectural practice’ means the business of a Registered Architectural Professional conducted within the architectural profession as a sole proprietorship, partnership, and/or any other legal entity. Where the word ‘practice’ is used on its own in these Rules, it shall bear the same meaning;

‘architectural work’ includes but is not limited to, planning, design, drawings, specifications, technical documentation, contract administration, and inspection of construction work;

‘Practicing architecture’ means to actively practise architectural work on an ongoing basis in one of the categories contemplated in section 18, and includes a person qualified in the architectural profession who is employed by any sphere of government or an educational institution;

‘candidate’ means a person who is registered in terms of section 19(2)(b) of the Act and who is undergoing practical vocational training with the intention to become a Registered Professional;

‘complaint’ means any applicable information or allegation regarding improper conduct by a Registered Person that comes to the attention of the Council;

‘code of conduct’ means this document, which describes the set of rules and standard of professional conduct required of a Registered Persons when performing their architectural work;

‘Council’ means the South African Council for the Architectural Profession, established by section 2 of the Act, also referred to as “SACAP”;

‘information’ means architectural documents and data produced or relied upon by a Registered Person in the performance of architectural work, which documents or data forms a material part of the project records, including, but not limited to, designs, specification, design calculation drawings, and inspection certificates, whether in electronic format or otherwise;

‘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 48 of 2000.

Property Valuers Profession Act 47 of 2000.

Quantity Surveying Profession Act No 49 of 2000

'Registered Professional' means a person registered in one of the categories of professionals referred to in section 19(2)(a);

'Registered Person' means a person registered in one of the categories of professionals and candidates referred to in section 18 of the Act;

'Registered Principal' means the Registered Person in control and management of any architectural practice registered as such with the Council; and

'Type of practice' means the category in which the registered principal of the practice can practise architecture.

2 Application

The Code of Conduct applies to a Registered Person in whatever capacity they may work or act in, as a natural person, whether in private or public practice, as sole practitioner, partner, director or employee (whether as a professional or a candidate) and whether in the employ of another Registered Person or not.

If a Registered Person fails to comply with any provision of the Act or Rule published in terms thereof, which is deemed by the Council to constitute improper conduct, it shall proceed with disciplinary action against such Registered Person.

In the event of any improper conduct committed prior to the effective date of this Code of Conduct, the Council shall have authority to charge a registered person under the Code of Conduct applicable at time of the incident.

Rule 1 Integrity

Registered Persons –

1.1 shall take into consideration the standard of honesty and integrity that underpin this Code of Conduct when performing architectural work;

- 1.2 shall at all times act with honesty and integrity and avoid any action or situation which may be detrimental to the esteem and dignity of the profession; or conduct which brings the profession into disrepute.
- 1.3 shall not make any statement which is contrary to their professional opinion or which they know or ought to have known to be misleading, unfair to others or discreditable to the profession;
- 1.4 shall not knowingly undertake work in circumstances or under conditions or terms that would compromise their ability to carry out their responsibilities and fulfil their commitments to their clients.
- 1.5 shall not misrepresent, or knowingly permit misrepresentation of their own or any other persons' academic or professional qualification or competency, nor exaggerate their degree of responsibility for any architectural work;
- 1.6 shall not negligently issue any certificate in connection with any building project on which they are professionally engaged in;
- 1.7 shall notify Council without delay if they become subject to any disqualification as contemplated in section 19(3) of the Act as failure to do so may be deemed by Council as improper conduct;
- 1.8 shall not receive, directly or indirectly, any commission or remuneration for recommending a particular product, supplier, service provider or contractor to a client for work on a building project; without informing the client in writing.
- 1.9 shall declare to any potential client any business interests, including any interest in the business of trading in land or business of property developers, property auctioneers, estate agents, building contractors, subcontractors, suppliers in or to the building industry, or in a design-and-build practice, the existence of which interest, if not declared, could raise or may be likely to raise doubts about their integrity and impartiality as independent professionals;
- 1.10 shall remain bound by these rules, even after the occurrence of non-payment of the annual registration fees and after suspension of registration in terms of section 20(1)(a)(iii) of the Act, due to failure to pay prescribed annual registration fees;
- 1.11 shall not practice architecture during the period in which their registration has been suspended in terms of section 20(1)(a)(iii) of the Act, due to failure to pay prescribed annual registration fees.
- 1.12 shall not practice architecture after their registration has been suspended in terms of section 32(3)(iii) of the Act due to being found guilty of improper conduct by a disciplinary tribunal;

- 1.13 shall not practice architecture after their registration has been cancelled in terms of section 32 (3) (a) (iv) of the Act due to being found guilty of improper conduct by a Disciplinary Tribunal;
- 1.14 shall not practice architecture after their registration has been cancelled in terms of section 20(1)(a) of the Act;
- 1.15 shall treat clients and fellow registered persons with due dignity, respect, and courtesy;
- 1.16 shall in giving advice, exercise impartiality and independent professional judgement; and
- 1.17 shall not engage in any act of dishonesty, corruption or bribery.

Rule 2 Competency

Registered Persons –

- 2.1 shall discharge their duties to the employer, client, agent, associate, and the public with due skill, diligence and competence;
- 2.2 shall where reasonably possible, make appropriate arrangements for the fulfilment of professional obligations in the event of incapacity and/or absence from work, and/or inability to perform work;
- 2.3 shall only undertake architectural work which is identified for the category of registration in which they are registered in terms of section 18 of the Act and in accordance with the registration categories in force;
- 2.4 shall, where work is carried out by a registered candidate under their supervision, take responsibility for ensuring that such candidate is appropriately registered, competent to perform the task, and is adequately supervised;
- 2.5 shall ensure that registered candidates do not have any financial interest in an architectural practice or multidisciplinary practice that performs architectural work other than in respect of bona fide remuneration for their services; and
- 2.6 a registered candidate must perform work under the direction, control and/or continual supervision of a registered professional entitled to perform such work and who must assume responsibility for any such work performed by the candidate.
- 2.7 shall regularly undertake continuing professional development activities in order to ensure that they keep up to date with developments in the practice of architecture and to enhance and maintain their professional expertise and competence.

Rule 3 Promotion of services**Registered Persons –**

- 3.1 may only communicate and promote themselves and their professional services with honesty, describing both in a manner that is related only to the work of the professional categories of registration represented in a practice;
- 3.2 shall credit the architectural work done during a period as a principal or employee of another architectural practice and shall make clear reference and description to such practice;
- 3.3 shall ensure that the name under which an architectural practice operates is not misleading or capable of being confused with that of another practice; and
- 3.4 shall not use the architectural work prepared by another registered professional without written authority from the originating registered professional.

Rule 4 Administrative functions**Registered Persons –**

- 4.1 shall ensure that before they undertake any professional work, they have entered into a written agreement with the client which must, inter alia, include:
 - (a) proof of professional registration;
 - (b) the scope of architectural work;
 - (c) the scope of service to be provided;
 - (d) the allocation and limitation of responsibilities;
 - (e) the fees payable for the architectural work or services, the method of fee calculation (if appropriate), and the stage(s) at which fees will be payable;
 - (f) the budget, if applicable, and other cost limit for the project, work or service and the method and implication of estimating costs;
 - (g) provision for dispute resolution;
 - (h) termination of the agreement;
 - (i) details of professional indemnity insurance; including –
 - (i) name of the insurer;
 - (ii) the name of the insured;
 - (iii) amount of cover;
 - (iv) policy number; and
 - (v) validity period.

- 4.2 shall not change the terms of appointment including the scope of work without the written instruction or approval of the client;
- 4.3 shall ensure that at the completion of each milestone the client signs off where the scope of work involves more than one stage;
- 4.4 shall only issue any drawings, specifications or documents in respect of work performed or administered by them or by a person in their employ which bears their name and/or registration number or the name of their architectural practice;
- 4.5 shall sign or otherwise identify as having been issued by them any building plan or document of which their architectural practice is the bona fide author or where such building plan or document has been prepared under their direct supervision;
- 4.6 shall attend to all corrections requested by the local authority on the drawings prepared by them within a reasonable time;
- 4.7 shall issue certificates that are based on the correct facts on site;
- 4.8 shall take adequate and appropriate professional indemnity insurance to cover all architectural work undertaken;
- 4.9 shall, when requested by the SACAP, provide evidence of professional indemnity insurance within a specified time;
- 4.10 shall, within 30 (thirty) days of change of personal details, such as email address, physical and postal addresses, telephone and numbers of the practice, inform Council in writing thereof and ensure that such details are kept updated;
- 4.11. shall keep all plans, records, certificates, and/or drawings commencing from the start of work and up to a period of 5 (five) years from date of final completion;
- 4.12. shall not disclose confidential information obtained from clients except with written permission and in compliance with the Protection of Personal Information Act;
- 4.13 shall carry out professional work within the agreed time or within a reasonable time;
- 4.14 shall keep their clients informed in writing about the progress on work undertaken on their behalf within a reasonable time and of any issue which may significantly affect its quality or cost, and any other considerations which may substantially affect the project; and
- 4.15 shall take responsibility for work carried out by their subordinates, including persons registered as candidates.

Rule 5 Establishment of an architectural practice

- 5.1 Any registered principal who practices architecture in any form shall within 30 (thirty) days of the establishment of the practice, register it with Council, giving full details of the practice name, address from which the practice is conducted, type of practice supported with corresponding registration details, and names of partners, shareholders, directors, and employees undertaking architectural work in the practice.
- 5.2 The Council shall be informed in writing of any changes in name, type, address, and composition of a practice and its termination, within 30 (thirty) days of the relevant occurrence.
- 5.3 The registered principals of a practice shall display their registration certificates in a prominent place in their physical and/or virtual work place.
- 5.4 Registered professionals and multidisciplinary practices shall not describe or name their practices as architectural practices unless the majority shareholding or voting powers are held by registered architectural professionals.
- 5.5 In any multi-disciplinary professional firm which also practises architecture, a registered principal shall be responsible for the architectural work, all provisions under the Code of Conduct shall apply to all multidisciplinary practices.
- 5.6 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 for purposes of performing architectural work with any person who is not a registered person or a registered professional of a closely allied profession. Permission will not be granted if the person concerned:
- 5.6.1 is disqualified from registration under any provisions of the Act or from membership of any closely allied profession;
- 5.6.2 is qualified to register under any category provided for under the Act but has not done so.
- 5.7 Every office established for the purpose of conducting an architectural practice shall be under the continuous, direct, and personal supervision of a Registered Professional who shall continually review and oversee the work of the practice. The Registered Professional shall be in attendance for a period of at least 8 hours per week. The Registered Professional shall prominently display office hours, and contact details on electronic platforms or place of operation.

- 5.8 The type of practice shall be determined by the registration category of a registered principal actively engaged in the practice.
- 5.9 The practice shall not use a type which portrays itself by name to be in a higher category than that of registered principals who owns the practice.
- 5.10 A person registered in the category of a candidate shall not establish an architectural practice, act as a principal or a shareholder in an architectural practice.
- 5.11 Letterhead

The letterheads of the practice shall display the following:

- (a) Name of the architectural practice, practice number, and type of practice; and the names of the principals and their registration numbers;
- (b) The category of registration of the principals, using the prescribed titles:
 - (i) Professional Architectural Draughtsperson (PrArchDraught)
 - (ii) Professional Architectural Technologist (PrArchT)
 - (iii) Professional Senior Architectural Technologist (PrSArchT)
 - (iv) Professional Architect (PrArch)
- (c) The professional designation and qualifications of all principals who are not registered with the Council.
- (d) Physical and postal address, telephone, email, Companies and Intellectual Property Commission (CIPC) and value-added-tax (VAT) registration numbers, if applicable;
- (e) Registered persons shall use their titles and SACAP registration number in all architectural reports and other documentation relating to their work in the architectural profession, prepared by or for them.
- (f) Practices or registered professionals may not display the Council's logo on any corporate stationery or letterheads, as it is protected in terms of trade mark laws.

Rule 6 Public interest and environmental protection

Registered Persons –

shall, in the performance of their duties –

- 6.1 take all reasonable measures to the best of their knowledge/expertise to minimise any adverse impact on the environment;
- 6.2 respect the constitutional rights of individuals and communities that could be affected by their work;

- 6.3 comply with the National Building Regulations and Standards Act 103 of 1977, Town Planning Schemes, National Heritage Resources Act 25 of 1999 and any other built environment laws or any other applicable law governing the works;
- 6.4 Where appropriate, advise a client in writing how best to conserve and enhance the quality of the environment and its natural resources; and
- 6.5 when providing professional advice to a client or employer, and such advice is not accepted, inform them in writing of any consequences which may be detrimental to the health, safety or interests of the public.

Rule 7 Foreign architectural professionals

- 7.1 All foreign architectural persons must comply with the Architectural Profession Act 44 of 2000 to practice architecture lawfully in South Africa.
- 7.2 No foreign architectural persons shall be authorised to practise architecture in South Africa unless they have applied and have been granted registration by Council for the duration of the specific contract.

Rule 8 Disciplinary procedures

Disciplinary procedures are set out in sections 28 to 33 of the Act and in the Investigations and Disciplinary Hearings and Appeal procedure published under Board Notice

Repeal of Rules

The Rules published under Board Notice 154 of 2009 are hereby repealed, subject to section 12(2) of the Interpretation Act 33 of 1957.

Short Title

This Schedule is called the Code of Conduct for Registered Persons.